

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Burdekin Shire Council Certified Agreement 2018* [2021] QIRC 377

PARTIES: **Burdekin Shire Council**

AND

Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland

Construction, Forestry, Mining and Energy Industrial Union of Employees, Queensland

Plumbers & Gasfitters Employees' Union Queensland, Union of Employees

Queensland Services, Industrial Union of Employees

The Australian Workers' Union of Employees, Queensland

CASE NO.: CB/2021/51

PROCEEDING: Application for termination of an agreement

DELIVERED ON: 5 November 2021

HEARING DATE: 5 November 2021

MEMBER: Merrell DP

HEARD AT: Brisbane

ORDER: ***The Burdekin Shire Council Certified Agreement 2018 is terminated.***

CATCHWORDS: INDUSTRIAL LAW - QUEENSLAND - AGREEMENTS - application for termination of agreement after nominal expiry date - requirements for termination - agreement terminated

LEGISLATION: *Industrial Relations Act 2016*, s 189 and s 228

APPEARANCES:

Ms N. Todd of the Local Government Association of Queensland for the Burdekin Shire Council.

Mr S. Boman for the Queensland Services, Industrial Union of Employees.

Mr D. Marr for The Australian Workers' Union of Employees, Queensland.

Reasons for Decision

- [1] On 14 October 2021, the Burdekin Shire Council ('the Applicant') applied, pursuant to s 228(1) of the *Industrial Relations Act 2016* ('the Act'), to terminate the *Burdekin Shire Council Certified Agreement 2018* ('the certified agreement').
- [2] The certified agreement has a nominal expiry date of 30 April 2021.
- [3] Section 228(3) of the Act provides:
- (3) The commission must approve the termination if, and must refuse to approve the termination unless, satisfied subsection (2) has been complied with and-
 - (a) for an agreement or determination that provides that it may be terminated if particular conditions are met-the conditions have been met; or
 - (b) for an agreement or determination that does not provide for the way it may be terminated-
 - (i) the other parties to the agreement or determination agree to it being terminated; and
 - (ii) termination of the agreement or determination is not contrary to the public interest.
- [4] I have had regard to:
- the submissions made by the parties who appeared today; and
 - the affidavit of Mr Terry Brennan, Chief Executive Officer of the Applicant.
- [5] The certified agreement does not provide that particular conditions need to be met before it may be terminated.
- [6] I am satisfied that the Applicant has given the requisite notice of its intention to apply to terminate the certified agreement.
- [7] On 14 October 2021, the Applicant made an application, pursuant to s 189 of the Act, to certify the *Burdekin Shire Council Certified Agreement 2021*.
- [8] The Applicant and the following employee organisations have agreed to the terms of the *Burdekin Shire Council Certified Agreement 2021* which will replace the certified agreement:
- Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland;

- Construction, Forestry, Mining and Energy Industrial Union of Employees, Queensland;
- Plumbers & Gasfitters Employees' Union Queensland, Union of Employees;
- Queensland Services, Industrial Union of Employees; and
- The Australian Workers' Union of Employees, Queensland.

[9] I am satisfied that:

- all parties to the certified agreement agree to it being terminated; and
- the termination of the certified agreement is not contrary to the public interest.

[10] Section 228(4) of the Act provides that termination takes effect when the Commission's approval takes effect.

[11] I approve the termination of the *Burdekin Shire Council Certified Agreement 2018* with effect from 5 November 2021.

[12] I make the following order:

The *Burdekin Shire Council Certified Agreement 2018* is terminated.