

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Fraser Coast Regional Council Certified Agreement 2018 [2022] QIRC 094*

PARTIES: **Fraser Coast Regional Council**

AND

Queensland Services, Industrial Union of Employees

The Australian Workers' Union of Employees, Queensland

Construction, Forestry, Maritime, Mining & Energy, Industrial Union of Employees, Queensland

Automotive Metals, Engineering, printing & Kindred Industries Industrial Union of Employees Queensland

The Association of Professional Engineers, Scientists and Managers Australia

The Electrical Trade Union of Employees, Queensland

Plumbers and Gasfitters Employees Union of Queensland, Union of Employees

CASE NO: CB/2022/12

PROCEEDING: Termination of an agreement

DELIVERED ON: 16 March 2022

HEARING DATE: 16 March 2022

MEMBER: Dwyer IC

HEARD AT: Brisbane

ORDER: **1. The *Fraser Coast Regional Council Certified Agreement 2018* is terminated**

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

LEGISLATION: *Industrial Relations Act 2016* (Qld) s 189, 228

APPEARANCES:

Mr D. Chen of NB Lawyers for the Fraser Coast Regional Council

Ms C. Noble of Fraser Coast Regional Council

Mr P. Dunbar of Construction, Forestry, Mining and Energy, Industrial Union of Employees

Mr K. Scherf of Automotive, Metals, Engineering, Printing & Kindred Industries Industrial Union of Employees Queensland

Ms J. Wiggan of Queensland Services, Industrial Union of Employees

Mr D. Marr of Australian Workers' Union of Employees Queensland

Reasons for Decision

- [1] On 11 February 2022, Fraser Coast Regional Council ('the Applicant') applied, pursuant to s 228(2) of the *Industrial Relations Act 2016* (Qld) ('the Act'), to terminate the *Fraser Coast Regional Council Certified Agreement 2018* ('the certified agreement').
- [2] The certified agreement has a nominal expiry date of 15 March 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] The application was filed on 11 February 2022 in the Industrial Registry, together with an affidavit of Mr Kenneth Diehm, Chief Executive Officer of the Fraser Coast Regional Council, and a Notice of Intention to terminate a Certified Agreement.

[5] Having regard to the material relied upon in support of the application, I am satisfied that:

- the certified agreement does not include any provisions recording that any particular conditions need to be met before it may be terminated;¹
- the Council has given notice of its intention to apply to terminate the certified agreement;²
- all parties to the certified agreement agree to it being terminated;³ and
- the termination of the certified agreement is not contrary to the public interest.⁴

[6] I have also had regard to an application, having been made by the Applicant pursuant to s 189 of the Act, to certify the *Fraser Coast Regional Council Certified Agreement 2021*.⁵

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

¹ *Industrial Relations Act 2016* (Qld) s 228(3).

² *Ibid* s 228(2).

³ *Ibid* s228(3)(b)(i).

⁴ *Ibid* s228(3)(b)(ii).

⁵ Matter CB/2022/13, filed on 11 February 2022.

[8] Accordingly, I approve the termination of the *Fraser Coast Regional Council Certified Agreement 2018* with effect from 16 March 2022.

[9] I make the following order:

- 1. The *Fraser Coast Regional Council Certified Agreement 2018* is terminated.**