

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Livingstone Shire Council Operational Certified Agreement 2019* [2022] QIRC 106

PARTIES: **Livingstone Shire Council**

AND

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

The Australian Workers' Union of Employees, Queensland

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

The Electrical Trades Union of Employees Queensland

Plumbers & Gasfitters Employees' Union Queensland, Union of Employees

Transport Workers' Union of Australia, Union of Employees (Queensland Branch)

CASE NO.: CB/2022/17

PROCEEDING: Application for termination of an agreement

DELIVERED ON: 25 March 2022

HEARING DATE: 25 March 2022

MEMBER: Merrell DP

HEARD AT: Brisbane

ORDER: ***The Livingstone Shire Council Operational Certified Agreement 2019 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 Livingstone Shire Council.

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

Reasons for Decision

- [1] On 21 February 2022, the Livingstone Shire Council ('the Applicant') applied, pursuant to s 228(1) of the *Industrial Relations Act 2016* ('the Act'), to terminate the *Livingstone Shire Council Operational Certified Agreement 2019* ('the certified agreement').
- [2] The certified agreement had a nominal expiry date of 30 September 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 Cale Dendle, 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 21 February 2022, the Applicant made an application, pursuant to s 189 of the Act, to certify the *Livingstone Shire Council Operational Certified Agreement 2021*.
- [8] The Applicant and the following employee organisations have agreed to the terms of the *Livingstone Shire Council Operational Certified Agreement 2021* which will replace the certified agreement:
 - Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland;

- The Australian Workers' Union of Employees, Queensland;
- Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland;
- The Electrical Trades Union of Employees Queensland;
- Plumbers & Gasfitters Employees' Union Queensland, Union of Employees; and
- Transport Workers' Union of Australia, Union of Employees (Queensland Branch).

[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 *Livingstone Shire Council Operational Certified Agreement 2019* with effect from 25 March 2022.

[12] I make the following order:

The *Livingstone Shire Council Operational Certified Agreement 2019* is terminated.