

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the McKinlay Shire Council Certified Agreement 2018-2021*
[2022] QIRC 193

PARTIES: **McKinlay Shire Council**

AND

The Australian Workers' Union of Employees, Queensland

Queensland Services, Industrial Union of Employees

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

CASE NO: CB/2022/40

PROCEEDING: Termination of an agreement

DELIVERED ON: 3 June 2022

HEARING DATE: 3 June 2022

MEMBER: Dwyer IC

HEARD AT: Brisbane

ORDER: **1. The *McKinlay Shire Council Certified Agreement 2018-2021* 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) ss 189, 228

APPEARANCES: Ms M Martin of LGAQ for McKinlay Shire Council

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

Ms J Wiggan for the Queensland Services, Industrial Union of Employees

Reasons for Decision

- [1] On 10 May 2022, McKinlay Shire Council ('the Applicant') applied, pursuant to s 228(2) of the *Industrial Relations Act 2016* (Qld) ('the Act'), to terminate the *McKinlay Shire Council Certified Agreement 2018-2021* ('the certified agreement').
- [2] The certified agreement has a nominal expiry date of 30 June 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 10 May 2022 in the Industrial Registry, together with an affidavit of Mr Trevor Williams, Chief Executive Officer of the McKinlay Shire 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 *McKinlay Shire Council Certified Agreement 2022-2024*.⁵

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

[8] Accordingly, I approve the termination of the *McKinlay Shire Council Certified Agreement 2018-2021* with effect from 3 June 2022.

[9] I make the following order:

- 1. The *McKinlay Shire Council Certified Agreement 2018-2021* is terminated.**

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/2022/41, filed on 10 May 2022.