

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Cairns Regional Council
Certified Agreement 2019 [2022] QIRC 221*

PARTIES: **Cairns Regional Council**

AND

**The Australian Workers' Union of Employees,
Queensland**

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

**Queensland Services, Industrial Union of
Employees**

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

**The Electrical Trades Union of Employees
Queensland**

**Plumbers & Gasfitters Employees' Union
Queensland, Union of Employees**

**United Voice, Industrial Union of Employees,
Queensland**

**The Association of Professional Engineers,
Scientists and Managers, Australia,
Queensland Branch, Union of Employees**

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

CASE NO.: CB/2022/52

PROCEEDING: Termination of an agreement

DELIVERED ON: 16 June 2022

HEARING DATE: 16 June 2022

MEMBER: Power IC

HEARD AT: Brisbane

ORDER: **The Cairns Regional Council 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*, ss 189 and 228

APPEARANCES: Mr B Cooper of Mapien for the Cairns Regional Council.

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

Mr P Dunbar for the Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland

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

Reasons for Decision

- [1] On 1 June 2022, the Cairns Regional Council ('the Applicant') applied, pursuant to s 228(1) of the *Industrial Relations Act 2016* (Qld) ('the Act'), to terminate the *Cairns Regional Council Certified Agreement 2019* ('the certified agreement').
- [2] The certified agreement has a nominal expiry date of 3 October 2021.
- [3] Section 228 of the Act provides:

228 Termination after nominal expiry date

- (1) After the nominal expiry date of a certified agreement or arbitration determination, the following persons may apply to the commission to terminate the agreement or determination—
 - (a) the employer;
 - (b) a valid majority of the relevant employees;
 - (c) an employee organisation to which the agreement or determination applies and that has at least 1 member who is a relevant employee.
- (2) The person who intends to apply to terminate the agreement or determination must give all other persons to whom the agreement or determination applies notice of the intention.
- (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 termination takes effect when the commission's approval takes effect.

[4] I have had regard to:

- (a) the submissions made by the parties who appeared today; and
- (b) the affidavit of Ms Christine Posgate, Director, People & Organisational Performance 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 1 June 2022, the Applicant made an application, pursuant to s 189 of the Act, to certify the *Cairns Regional Council Certified Agreement 2021*.

[8] The Applicant and the following employee organisations have agreed to the terms of the *Cairns Regional Council Certified Agreement 2021* which will replace the certified agreement:

- (a) The Australian Workers' Union of Employees, Queensland;
- (b) Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland;
- (c) Queensland Services, Industrial Union of Employees;
- (d) Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland;
- (e) The Electrical Trades Union of Employees Queensland;
- (f) Plumbers & Gasfitters Employees' Union Queensland, Union of Employees;
- (g) United Voice, Industrial Union of Employees, Queensland;
- (h) The Association of Professional Engineers, Scientists and Managers, Australia, Queensland Branch, Union of Employees; and
- (i) Transport Workers' Union of Australia, Union of Employees (Queensland Branch).

[9] I am satisfied that:

- (a) all parties to the certified agreement agree to it being terminated; and
- (b) 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 *Cairns Regional Council Certified Agreement 2019* with effect from 16 June 2022.

[12] I make the following order:

The Cairns Regional Council Certified Agreement 2019 is terminated.