

**QUEENSLAND INDUSTRIAL RELATIONS COMMISSION**

CITATION: *In the termination of Balonne Shire Council Certified Agreement 2018 [2022] QIRC 056*

PARTIES: **Balonne Shire Council**

AND

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

**Construction, Forestry, Mining and Energy, Industrial Union of Employees (CFMEU) Queensland & Northern Territory Branch**

**Queensland Services, Industrial Union of Employees**

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

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

CASE NO: CB/2022/8

PROCEEDING: Application for termination of an Agreement

DELIVERED ON: 24 February 2022

HEARING DATE: 24 February 2022

MEMBER: Knight IC

HEARD AT: Brisbane

ORDERS: ***The Balonne Shire Council Certified Agreement 2018 is terminated.***

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

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

APPEARANCES: Ms M Martin off the Local Government Association of Queensland for the Bundaberg Regional Council

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

Mr P Dunbar of the Construction, Forestry, Mining and Energy, Industrial Union of Employees (CFMEU) Queensland & Northern Territory Branch

Ms J Wiggan and Ms S Wilson of Queensland Services, Industrial Union of Employees

### **Reasons for Decision (*ex tempore*)**

- [1] On 8 February 2022, the Balonne Shire Council ('the Council') applied to terminate the *Balonne Shire Council Certified Agreement 2018* ('the agreement') pursuant to s 228(1) of the *Industrial Relations Act 2016* (Qld) ('the IR Act').
- [2] The agreement has a nominal expiry date of 1 September 2021.
- [3] Section 228(3) of the IR 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] In making my decision I have had regard to s 228(3), the submissions made by the parties who appeared at the hearing today and the affidavit of Mr James Matthew Magin, Chief Executive Officer, filed on 8 February 2022.
- [5] On 17 January 2022, the Council notified the other parties to the agreement of its intention to terminate the agreement. Those parties are:
  - The Australian Workers' Union of Employees, Queensland ('AWU');
  - The Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland ('CFMEUQ');
  - Queensland Services, Industrial Union of Employees ('QSU');

- The Plumbers & Gasfitters Employees' Union of Queensland, Union of Employees ('PGEU'); and
  - Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland ('AMWU').
- [6] I am satisfied the Council has provided the requisite notice of its intention to apply to terminate the agreement.
- [7] The AWU, CFMEUQ and QSU appeared today and consented to the present application.
- [8] On 11 February 2022 and 23 February 2022 respectively, the PGEU<sup>1</sup> and AMWU<sup>2</sup> wrote to the Commission and sought leave to be excused from appearing which was granted on the basis those organisations consented to the present application and would submit to any order or certification made in their absence.
- [9] No other person appeared or sought to make submissions. I am satisfied that all parties to the agreement agree to it being terminated, and the termination of the agreement is not contrary to the public interest.
- [10] On 8 February 2022 the Council made an application under s 189 of the IR Act to certify the *Balonne Shire Council Certified Agreement 2021*.<sup>3</sup>
- [11] The Council and the employee organisations listed at [4] above have agreed to the terms of the *Balonne Shire Council Certified Agreement 2021* which will replace the agreement.
- [12] Section 228(4) of the IR Act provides that termination takes effect when the Commission's approval takes effect.
- [13] I approve the termination of the *Balonne Shire Council Certified Agreement 2018* with effect from today's date, being 24 February 2022.
- [14] I make the following order:

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

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<sup>1</sup> Email from Mr Troy Fernandez, Industrial Officer of the PGEU, dated 11 February 2022.

<sup>2</sup> Email from Mr Kegan Scherf, Industrial Advocate of the AMWU, dated 23 February 2022.

<sup>3</sup> *In the making of the Balonne Shire Council Certified Agreement 2021* [2022] QIRC 057.