

## QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Re: In the matter of the making of Modern Awards - City Parklands Services Award - State 2016 [2016] QIRC 097*

PARTIES: City Parklands Services Pty Ltd.

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

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

Queensland Services, Industrial Union of Employees.

The Australian Workers' Union of Employees, Queensland.

The Electrical Trades Union of Employees Queensland.

United Voice, Industrial Union of Employees, Queensland

CASE NO: MAP/2015/13

PROCEEDING: Making of a modern award

DELIVERED ON: 6 September 2016

HEARING DATE: 6 September 2016

HEARD AT: Brisbane

MEMBER: Vice President Linnane  
Industrial Commissioner Fisher  
Industrial Commissioner Black

ORDERS:

- 1. That Clause 5 of the Award Modernisation (AMOD) Team's Exposure Draft of the proposed *City Parklands Services Award - State 2016* be deleted and the following be inserted in lieu thereof:**  
  
*"This Award together with the QES provide for a minimum safety net of*

*enforceable conditions of employment for employees covered by this Award."*

2. **That the *City Parklands Services Award - State 2016* be made pursuant to section 140CE(1)(a) of the *Industrial Relations Act 1999* (Act) and operate on and from 6 September 2016, subject to the provisions of section 824 of the Act.**
3. **That insofar as they relate to City Parklands Services Pty Ltd ABN 72 068 043 318, the *Building Trades Public Sector Award - State 2012*; *Clerical Employees Award - State 2012*; *Employees of Queensland Government Departments (Other than Public Servants) Award - State 2012*; *Engineering Award - State 2012*; *Municipal Baths Attendants Award - State 2012* and the *Queensland Public Service Award - State 2012* be repealed on and from 6 September 2016 subject to the provisions of section 824 of the Act.**

CATCHWORDS:

INDUSTRIAL LAW - AWARD MODERNISATION - MAKING OF A MODERN AWARD - Section 140C(1) of the *Industrial Relations Act 1999* - request from the Minister for Employment and Industrial Relations - *City Parklands Services Award - State 2016* Modern Award made.

CASES:

*Industrial Relations Act 1999*, Chapter 5, Part 8, Division 2, ss 140BB, 140C(1), 140CE(1)(a), 824

APPEARANCES:

Mr P. Madden and Ms C. Mason for City Parklands Services Pty Ltd.

Mr A. Borg for Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland.

Ms P. Rogers for The Electrical Trades Union of Employees Queensland.

Ms M. Robertson for Queensland Services, Industrial Union of Employees

Mr S. Ong for United Voice, Industrial Union of Employees, Queensland.

### Reasons for Decision

- [1] The Queensland Industrial Relations Commission (Commission) recommenced the award modernisation process following the passing of amendments to the *Industrial Relations Act 1999* (Act) and the issuing of a variation to the existing Ministerial Request (Consolidated Request) on 17 July 2015. A new Consolidated Request was issued by the Honourable Grace Grace, Minister for Employment and Industrial Relations (the Minister) on 6 June 2016.
- [2] Section 140BB of the Act sets out the Commission's Award Modernisation functions, as follows:

#### "140BB Commission's award modernisation function

- (1) The functions of the commission include carrying out a process (*award modernisation process*) to reform and modernise pre-modernisation awards.
- (2) In performing its functions under this part, the commission must have regard to the following factors -
  - (a) promoting the creation of jobs, high levels of productivity, low inflation, high levels of employment and labour force participation, national and international competitiveness, the development of skills and a fair labour market;
  - (b) the need to help prevent and eliminate discrimination in employment;
  - (c) protecting the position in the labour market of young people, employees engaged as apprentices or trainees and employees with a disability;
  - (d) the needs of low-paid employees;
  - (e) the need to promote the principle of equal remuneration for work of equal value;
  - (f) the need to help employees balance their work and family responsibilities effectively and to improve retention and participation of employees in the workforce;
  - (g) the safety, health and welfare of employees;
  - (h) the Queensland minimum wage;
  - (i) the desirability of reducing the number of awards operating under this Act; and
  - (j) the representation rights of organisations and associations under this Act.

(3) This section does not limit section 140D."

- [3] In accordance with Chapter 5, Part 8, Division 2 of the Act (i.e. the Award Modernisation process provisions of the Act) and the Consolidated Request under s 140C(1) of the Act by the Minister, the Award Modernisation (AMOD) Team of the Commission prepared an Exposure Draft of a proposed *City Parklands Services Award - State 2016* (Proposed Award).
- [4] On 18 August 2016, Deputy President Bloomfield referred a final version of the Proposed Award to Deputy President O'Connor for the consideration of a Full Bench of the Commission. The terms of the Proposed Award were agreed between the parties and the AMOD Team.

### **Legislative Provisions**

- [5] The relevant provisions of the Act are:

#### **"140BA Object of modernising awards**

The principal object of this part is to provide for the modernisation of awards so they –

...

- (b) together with the Queensland Employment Standards, provide for a fair minimum safety net of enforceable conditions of employment for employees; and

..."

#### **"140D Modern awards objectives**

- (1) In exercising its chapter 5A powers, the commission must ensure modern awards, together with the Queensland Employment Standards, provide a minimum safety net of employment conditions that is fair and relevant.

..."

#### **"273 Commission's functions**

- (1) The commission's functions include the following –
- (a) establishing and maintaining a system of non-discriminatory awards that, together with the Queensland Employment Standards, provide for a fair minimum safety net of enforceable conditions of employment for employees;

..."

- [6] In *Re: In the matter of the making of Modern Awards – Ambulance Service Employees Award – State 2016*<sup>1</sup> a differently constituted Full Bench of the Commission dealt with the terms of Clause 5 in that award and determined that the clause should provide as follows:

"This Award together with the QES provide for a minimum safety net of enforceable conditions of employment for employees covered by this Award."

- [7] At the hearing of this application today the parties indicated that they would support an amendment to Clause 5 in the Proposed Award. On the basis of that consent the Full Bench will delete the terms of Clause 5 in the Proposed Award and insert thereof the following:

"This Award together with the QES provide for a minimum safety net of enforceable conditions of employment for employees covered by this Award."

- [8] The Full Bench acknowledges that the relevant provisions of the Act have been met in the Proposed Award including the amendment to Clause 5 in the Proposed Award. The Full Bench accordingly makes the following orders:

- (i) That Clause 5 of the Award Modernisation (AMOD) Team's Exposure Draft of the proposed *City Parklands Services Award – State 2016* be deleted and the following be inserted in lieu thereof:

"This Award together with the QES provide for a minimum safety net of enforceable conditions of employment for employees covered by this Award."

- (ii) That the *City Parklands Services Award – State 2016* be made pursuant to section 140CE(1)(a) of the *Industrial Relations Act 1999* (Act) and operate on and from 6 September 2016, subject to the provisions of section 824 of the Act.
- (iii) That the *City Parklands Services Award – State 2012* be repealed on and from 6 September 2016, subject to the provisions of section 824 of the Act.

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<sup>1</sup> *Re: In the matter of the making of Modern Awards – Ambulance Service Employees Award – State 2016* [2016] QIRC 079