

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Cairns Regional Council Certified Agreement 2012 [2019] QIRC 147*

PARTIES: **Cairns Regional Council**

AND

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

Federated Engine Drivers' and Firemens' Association of Queensland, Union of Employees

Plumbers & Gasfitters Employees' Union Queensland, Union of Employees

Queensland Services, Industrial Union of Employees

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

The Australian Workers' Union of Employees, Queensland

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

The Electrical Trades Union of Employees Queensland

United Voice, Industrial Union of Employees, Queensland

CASE NO: CB/2019/77

PROCEEDING: Termination of an agreement

DELIVERED ON: 15 October 2019

HEARING DATE: 3 October 2019

MEMBER: Industrial Commissioner Dwyer

HEARD AT: Brisbane

ORDER: **1. The Cairns Regional Council Certified Agreement 2012 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*, s 228

APPEARANCES: Mr B. Cooper for Cairns Regional Council.
 Mr K. Scherf for the Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland.
 Ms S. Young for The Australian Workers' Union of Employees, Queensland.

Reasons for Decision

- [1] On 29 August 2019, the Cairns Regional Council applied, pursuant to s 228(1) of the *Industrial Relations Act 2016* ('the Act'), to terminate the *Cairns Regional Council Certified Agreement 2012* ('the certified agreement').
- [2] The certified agreement has a nominal expiry date of 17 September 2015.
- [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 certified agreement does not provide that particular conditions need to be met before it may be terminated.

[5] Having regard to the affidavits of Ms Christine Postgate filed 29 August 2019, I am satisfied that Cairns Regional Council has given the requisite notice of its intention to apply to terminate the certified agreement.

[6] I have had regard to:

- the submissions made by the parties who appeared today; and
- the affidavit of Ms Christine Postgate, General Manager Human Resources and Organisational change of Cairns Regional Council filed on 29 August 2019.

[7] On 29 August 2019, Cairns Regional Council made an application, pursuant to s 189 of the Act, to certify the *Cairns Regional Council Certified Agreement 2019*.

[8] Cairns Regional Council and the following employee organisations have agreed to the terms of the *Cairns Regional Council Union Collective Certified Agreement 2019* which will replace the certified agreement:

- Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland
- Plumbers & Gasfitters Employees' Union Queensland, Union of Employees
- Queensland Services, Industrial Union of Employees
- The Association of Professional Engineers, Scientists and Managers, Australia, Queensland Branch, Union of Employees
- The Australian Workers' Union of Employees, Queensland
- The Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland
- The Electrical Trades Union of Employees Queensland
- Transport Workers Union, Union of Employees (Queensland Branch)
- United Voice, Industrial Union of Employees, Queensland

[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 *Cairns Regional Council Certified Agreement 2012* with effect from 3 October 2019.

[12] I make the following order:

1. **The *Cairns Regional Council Certified Agreement 2012* is terminated.**