

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the making of the Whitsunday Regional Council Certified Agreement 2022 [2022]*
QIRC 476

PARTIES: **Whitsunday Regional Council**

AND

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

The Australian Workers' Union of Employees, Queensland

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

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

Plumbers and Gasfitters Employees' Union Queensland, Union of Employees

Queensland Services, Industrial Union of Employees

The Electrical Trades Union of Employees, Queensland

CASE NO: CB/2022/138

PROCEEDING: Application for certification of an agreement

DELIVERED ON: 7 December 2022

HEARING DATE: 7 December 2022

MEMBER: McLennan IC

HEARD AT: Brisbane

- ORDER: **The Whitsunday Regional Council Certified Agreement 2022 is certified**
- CATCHWORDS: INDUSTRIAL LAW - COLLECTIVE BARGAINING - application for certification of agreement - requirements for certification - agreement certified
- LEGISLATION: *Industrial Relations Act 2016* (Qld) s 189, s 201, s 227, s 228
- APPEARANCES: Ms N Hope of the Local Government Association Queensland on behalf of the Whitsunday Regional Council
- Mr N Henderson for Queensland Services, Industrial Union of Employees
- Mr D Marr and Mr B Matthey for The Australian Workers' Union of Employees, Queensland

Reasons for Decision

- [1] On 1 December 2022, Whitsunday Regional Council ('the Applicant'), pursuant to s 189 of the *Industrial Relations Act 2016* ('the Act'), made an application to certify the *Whitsunday Regional Council Certified Agreement 2022* ('the agreement').
- [2] The named parties to the agreement are set out at cl 1.2. In addition to the Applicant, the following employee organisations are listed as parties to the agreement:
- The Australian Workers' Union of Employees, Queensland
 - Plumbers & Gasfitters Employees' Union Queensland, Union of Employees
 - Construction, Forestry, Mining & Energy Industrial Union of Employees, Queensland
 - Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland
 - Queensland Services, Industrial Union of Employees

- The Association of Professional Engineers, Scientists and Managers, Australia, Queensland Branch, Union of Employees
 - The Electrical Trades Union of Employees Queensland
- [3] The agreement is signed by all the above-mentioned parties.
- [4] The agreement applies to Whitsunday Regional Council and its staff employed under:
- *Queensland Local Government Industry (Stream A) Award – State 2017*
 - *Queensland Local Government Industry (Stream B) Award – State 2017*
 - *Queensland Local Government Industry (Stream C) Award – State 2017*
 - *Training Wage Award – State 2012*
- [5] The agreement shall apply to workers in operational, trade, hospitality, theatrical, professional, technical, supervisory, and administrative roles classified in accordance with the provisions of this agreement.
- [6] The agreement shall not apply to any employee who may be appointed to the position of Chief Executive Officer (CEO), Director, Executive Manager or Manager or any employee appointed to a position which would be classified at or above Level 6 of the *Queensland Local Government Industry (Stream A) Award – 2017* and who is engaged in accordance with a written contract of employment for which total remuneration or terms and conditions exceed that provided for in this Agreement, as described in clause 1.2.3 of the Agreement.
- [7] Section 193 of the *Industrial Relations Act 2016* (Qld) sets out the requirements for Commission's decision when deciding an application for certification of an agreement. The Commission must grant such application if each requirement under sub-div 2 is satisfied. Section 195 requires that the Commission must be satisfied of the things required by ss 169, 171 and 172. The Affidavit of Mr Rodney Ferguson, CEO at Whitsunday Regional Council, sworn on 23 November 2022 addressed the matters prescribed.
- [8] Section 250 of the *Industrial Relations Act 2016* (Qld) provides that an application for the certification of an Agreement must be accompanied by an Affidavit that (amongst other requirements) "contains the wage related information for the employees who are or will be covered by the proposed bargaining instrument". The "wage related information" is defined at s 246.
- [9] Recent amendment to the requirements of the Act at s 201 have been resolved by

Council's provision of an undertaking. That course has been endorsed by the union parties to this Agreement. I am satisfied that the Affidavit of Mr Rodney Ferguson, CEO at Whitsunday Regional Council, sworn on 23 November 2022, addressed the matters prescribed. The clarity offered by Mr Rodney Ferguson, CEO at Whitsunday Regional Council, at [25] – [29] of his Affidavit sworn on 23 November 2022, appropriately details the process, terms and undertakings of Council, such that I can be satisfied that all matters prescribed are addressed.

[10] Having regard to the submissions made by the parties who appeared today, to the Affidavit of Mr Rodney Ferguson, CEO at Whitsunday Regional Council and to the matters outlined above:

- I can be satisfied of each relevant requirement in ch 4, pt 5, div 2, sub-div 2 of the Act; and
- there is nothing in the agreement which would require me to refuse to grant the application pursuant to ch 4, pt 5, div 2, sub-div 3 of the Act.

[11] The application to certify the *Whitsunday Regional Council Certified Agreement 2022* is granted.

[12] The *Whitsunday Regional Council Certified Agreement 2022* is certified today, 7 December 2022.

[13] Although the nominal expiry date of the *Whitsunday Regional Council Certified Agreement 2022* is 8 February 2024, it continues to operate until it is varied or terminated, in accordance with the Act.

[14] With respect to the parties listed as appearing in this proceeding, I wish to acknowledge that Mr J. White for the Plumbers & Gasfitters Employees' Union Queensland, Union of Employees had indicated his intention to participate via telephone. However, Mr White was unable to do so, due to the Commission's oversight of his earlier request.

[15] I make the following order:

The *Whitsunday Regional Council Certified Agreement 2022* is certified.