

**QUEENSLAND INDUSTRIAL RELATIONS COMMISSION**

CITATION: *In the termination of Gympie Regional Council Certified Agreement 2018 [2023] QIRC 100*

PARTIES: **Gympie Regional Council**

AND

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

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

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

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

**Queensland Services, Industrial Union of Employees**

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

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

**United Workers' Union, Industrial Union of Employees, Queensland**

CASE NO: CB/2023/14

PROCEEDING: Application for termination of an Agreement

DELIVERED ON: 4 April 2023

HEARING DATE: 4 April 2023

MEMBER: Knight IC

HEARD AT: Brisbane

- ORDERS: **The Gympie Regional 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, Local Government Association Queensland for Gympie Regional Council  
Mr D Murphy, Queensland Services, Industrial Union of Employees  
Mr D Marr, The Australian Workers' Union of Employees, Queensland

### Reasons for Decision

- [1] On 15 March 2023, the Gympie Regional Council ('the Council') applied to terminate the *Gympie Regional 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 19 December 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 David Lewis, Acting Chief Executive Officer, filed on 15 March 2023.
- [5] The agreement does not provide that particular conditions need to be met before it may be terminated.

- [6] On 23 February 2023, 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');
  - Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland ('AMWU');
  - The Plumbers & Gasfitters Employees' Union of Queensland, Union of Employees ('PGEU');
  - The Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland ('CFMEUQ');
  - Queensland Services, Industrial Union of Employees ('QSU');
  - Transport Workers' Union of Australia, Union of Employees (Queensland Branch);
  - United Workers' Union, Industrial Union of Employees, Queensland; and
  - The Association of Professional Engineers, Scientists and Managers Australia, Queensland Branch, Union of Employees ('Professionals Australia').
- [7] I am satisfied the Council has provided the requisite notice of its intention to apply to terminate the agreement.
- [8] The QSU and AWU appeared during proceedings and consented to the present application.
- [9] On 3 April 2023, the CFMEU wrote to the Commission and on 4 April 2023, the PGEU also wrote to the Commission, both organisations sought leave to be excused from appearing which was granted on the basis the CFMEU and PGEU consented to the present application and would submit to any order or certification made in its absence.<sup>1</sup>
- [10] Several attempts were made to contact the AMWU and Professionals Australia by phone prior to the proceedings and although both organisations were provided with a Notice of Listing on 17 March 2023, neither party attended. However, I note that the Certified Agreement was signed and no objections were received, by either organisation.
- [11] No other person appeared or sought to make submissions. Having regard to the materials before me, 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.
- [12] On 15 March 2023, the Council made an application under s 189 of the IR Act to certify the *Gympie Regional Council Certified Agreement 2022*.<sup>2</sup>

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<sup>1</sup> Correspondence received on 3 April 2023 from Mr Dunbar; Correspondence received on 4 April 2023 from Mr Fernandez.

<sup>2</sup> *In the making of the Gympie Regional Council Certified Agreement 2022*.

[13] The Gympie Regional Council and the employee organisations listed below have agreed to the terms of the *Gympie Regional Council Certified Agreement 2022* which will replace the agreement:

- The Australian Workers' Union of Employees, Queensland ('AWU');
- Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland ('AMWU');
- The Plumbers & Gasfitters Employees' Union of Queensland, Union of Employees ('PGEU');
- The Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland ('CFMEUQ');
- Queensland Services, Industrial Union of Employees ('QSU'); and
- The Association of Professional Engineers, Scientists and Managers Australia, Queensland Branch, Union of Employees ('Professionals Australia').

[14] I note that both the United Workers' Union, Industrial Union of Employees, Queensland, and Transport Workers' Union of Australia, Union of Employees (Queensland Branch) advised Gympie Regional Council in July 2021 that neither organisation wished to be a party to the replacement certified agreement.<sup>3</sup>

[15] Section 228(4) of the IR Act provides that termination takes effect when the Commission's approval takes effect.

[16] I approve the termination of the *Gympie Regional Council Certified Agreement 2018* with effect from today's date, being 4 April 2023.

[17] I make the following order:

***The Gympie Regional Council Certified Agreement 2018 is terminated.***

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<sup>3</sup> Correspondence received on 8 March 2023 containing email attachments from 6 and 8 July 2021.