

# QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Sunshine Coast Council Field-Based Employees Certified Agreement 2020 (No. 4) [2023] QIRC 256*

PARTIES: **Sunshine Coast Council**

AND

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

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

**Construction, Forestry, Mining and Energy Industrial Union of Employees, Queensland**

**Queensland Services, Industrial Union of Employees**

CASE NO.: CB/2023/89

PROCEEDING: Termination of an agreement

DELIVERED ON: 5 September 2023

HEARING DATE: 1 September 2023

HEARD AT: Brisbane

MEMBER: Power IC

ORDER: ***The Sunshine Coast Council Field-Based Employees Certified Agreement 2020 (No. 4) is terminated.***

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

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

## APPEARANCES:

Mr P. Spoto of the Local Government Association of Queensland and Mr. T. Cunningham for the Sunshine Coast Council.

Mr P. McGrath for the Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland.

Mr B. McCreadie for The Australian Workers' Union of Employees, Queensland.

Mr B. Jones for the Queensland Services, Industrial Union of Employees

### Reasons for Decision

- [1] On 21 August 2023, the Sunshine Coast Council ('the Applicant'), applied, pursuant to s 228(1) of the *Industrial Relations Act 2016* (Qld) ('the Act'), to terminate the *Sunshine Coast Council Field-Based Employees Certified Agreement 2020 (No.4)* ('the certified agreement').
- [2] The certified agreement has a nominal expiry date of 30 June 2023.
- [3] Section 228 of the Act provides:

#### 228 Termination after nominal expiry date

- (1) After the nominal expiry date of a certified agreement or arbitration determination, the following persons may apply to the commission to terminate the agreement or determination—
  - (a) the employer;
  - (b) a valid majority of the relevant employees;
  - (c) an employee organisation to which the agreement or determination applies and that has at least 1 member who is a relevant employee.
- (2) The person who intends to apply to terminate the agreement or determination must give all other persons to whom the agreement or determination applies notice of the intention.
- (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 termination takes effect when the commission's approval takes effect.

- [4] I have had regard to:
- (a) the submissions made by the parties who appeared at the hearing; and
  - (b) the affidavit of Ms Nicole Bunning, Head of People and Culture of the Applicant.
- [5] The certified agreement does not provide that particular conditions need to be met before it may be terminated.
- [6] I am satisfied that the Applicant has given the requisite notice of its intention to apply to terminate the certified agreement.
- [7] On 21 August 2023, the Applicant made an application, pursuant to s 189 of the Act, to certify the *Sunshine Coast Council Field-Based Employees Certified Agreement 2023 (No.5)*.
- [8] The Applicant and the following employee organisations have agreed to the terms of the *Sunshine Coast Council Field-Based Employees Certified Agreement 2023 (No.5)* which will replace the certified agreement:
- (a) Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland
  - (b) The Australian Workers' Union of Employees, Queensland; and
  - (c) Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland.
- [9] I am satisfied that:
- (a) all parties to the certified agreement agree to it being terminated; and
  - (b) the termination of the certified agreement is not contrary to the public interest.
- [10] The Queensland Services, Industrial Union of Employees (QSU) was a party to the 2020 Agreement however was not a party to the proposed replacement 2023 Agreement. At the hearing of the Application for termination, Mr Ben Jones for the QSU confirmed that the QSU did not oppose the termination of the *Sunshine Coast Council Field-Based Employees Certified Agreement 2020 (No.4)*.
- [11] Section 228(4) of the Act provides that termination takes effect when the Commission's approval takes effect.
- [12] I approve the termination of the *Sunshine Coast Council Field-Based Employees Certified Agreement 2020 (No. 4)* with effect from 1 September 2023.

[13] I make the following order:

***The Sunshine Coast Council Field-Based Employees Certified Agreement 2020 (No.4) is terminated.***