

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Somerset Regional Council - Field Staff Certified Agreement 2020*
[2023] QIRC 323

PARTIES: **Somerset Regional Council**

AND

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

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

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

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

CASE NO: CB/2023/126

PROCEEDING: Application for approval to terminate certified agreement after nominal expiry date

DELIVERED ON: 13 November 2023

HEARING DATE: 13 November 2023

HEARD AT: Brisbane

MEMBER: McLennan IC

ORDER: ***The Somerset Regional Council - Field Staff Certified Agreement 2020 is terminated.***

CATCHWORDS: INDUSTRIAL LAW – COLLECTIVE BARGAINING – application for termination after nominal expiry date – requirements for termination – agreement terminated

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

APPEARANCES: Ms N. Hope with Ms S. Terera of Local Government Association Queensland for Somerset Regional Council

Mr D. Marr for The Australian Workers' Union of Employees, Queensland

Mr P. Dunbar for the Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland

Reasons for Decision

- [1] On 31 October 2023, the Somerset Regional Council ('the Council') applied to terminate the *Somerset Regional Council - Field Staff Certified Agreement 2020* ('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 30 June 2023.
- [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 Mr Andrew Johnson, Chief Executive Officer of the Council filed on 31 October 2023.
- [5] The agreement does not provide that particular conditions need to be met before it may be terminated.
- [6] On 31 October 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;

- Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland;
 - Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland; and
 - Transport Workers' Union of Australia, Union of Employees (Queensland Branch).
- [7] I am satisfied that the Council has provided the requisite notice of its intention to apply to terminate the agreement.
- [8] Along with the Council, The Australian Workers' Union of Employees, Queensland, and the Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland also appeared today and consented to the present application. No other person appeared or sought to make submissions.
- [9] Transport Workers' Union of Australia, Union of Employees (Queensland Branch) wrote to the Commission seeking leave to be excused from attending. They advised that they agree to the termination of the agreement.¹
- [10] 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.
- [11] On 31 October 2023, the Council made an application under s 189 of the IR Act to certify the *Somerset Regional Council - Field Staff Certified Agreement 2023*.
- [12] The Council and the employee organisations listed below have agreed to the terms of the *Somerset Regional Council - Field Staff Certified Agreement 2023* which will replace the agreement:
- The Australian Workers' Union of Employees, Queensland;
 - Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland;
 - Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland; and
 - Transport Workers' Union of Australia, Union of Employees (Queensland Branch).
- [13] Section 228(4) of the IR Act provides that termination takes effect when the Commission's approval takes effect.

¹ Correspondence from Mr Richard Olsen, Transport Workers' Union of Australia, Union of Employees (Queensland Branch) dated 10 November 2023.

[14] I approve the termination of the agreement with effect from 13 November 2023.

[15] I make the following order:

The Somerset Regional Council - Field Staff Certified Agreement 2020 is terminated.