

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *In the termination of the Winton Shire Council Certified Agreement 2019 [2023] QIRC 366*

PARTIES: **Winton Shire Council**

and

The Australian Workers' Union of Employees, Queensland

Queensland Services, Industrial Union of Employees

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

CASE NO.: CB/2023/140

PROCEEDING: Termination of an agreement

DELIVERED ON: 21 December 2023

HEARING DATE: 21 December 2023

MEMBER: Power IC

HEARD AT: Brisbane

ORDER: ***The Winton Shire Council Certified Agreement 2019 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: Ms S Mitanis of MBA Lawyers for the Winton Shire Council.

Mr J Donaghy for the Queensland Services, Industrial Union of Employees.

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

Reasons for Decision

- [1] On 1 December 2023, the Winton Shire Council ('the Applicant') applied, pursuant to s 228(1) of the *Industrial Relations Act 2016* (Qld) ('the Act'), to terminate the *Winton Shire Council Certified Agreement 2019* ('the certified agreement').
- [2] The certified agreement has a nominal expiry date of 28 January 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 today; and
 - (b) the affidavit of Mr Dirk Dowling, Chief Executive Officer 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 1 December 2023, the Applicant made an application, pursuant to s 189 of the Act, to certify the *Winton Shire Council Certified Agreement 2023*.
- [8] The Applicant and the following employee organisations have agreed to the terms of the *Winton Shire Council Certified Agreement 2023* which will replace the certified agreement:
- (a) Winton Shire Council;
 - (b) The Australian Workers' Union of Employees, Queensland;
 - (c) Queensland Services, Industrial Union of Employees; and
 - (d) 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] 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 *Winton Shire Council Certified Agreement 2023* with effect from 21 December 2023.
- [12] I make the following order:

The *Winton Shire Council Certified Agreement 2023* is terminated.