



Kangaroo Island Council

EBA's – Agreeing to Agree

Presented by: Bernadette Brennan
Kangaroo Island Council

South Australia

Fair Work Act 1994

An Act about

Contents

Chapter 1

LOCAL GOVERNMENT EMPLOYEES AWARD

... Relations Commission of South Australia published pursuant to the provisions of the

This is a consolidated
FAIR WORK ACT

SOUTH AUSTRALIAN MUNICIPAL SALARIED OFFICERS AWARD

KANGAROO ISLAND COUNCIL (ENTERPRISE BARGAINING) AGREEMENT NO 6 (2006)

RELATIONS COMMISSION OF SOUTH AUSTRALIA
FAIR WORK ACT 1994.

CLAUSE 1 TITLE

This Agreement shall be referred to as the Agreement No. 6 (2006).

KANGAROO ISLAND COUNCIL
ENTERPRISE AGREEMENT NO. 5 OF 2006

CLAUSE 2 ARRANGEMENT

Memorandum of Understanding between the Kangaroo Island Council and the Australian Services Union (SA & NT Branch) And Employees

... Council Enterprise Agreement Number

REFERRAL AGREEMENT

Commercial Arbitration and Industrial Referral Agreements Act 1986

1. This referral agreement is made between :

AUSTRALIAN MUNICIPAL ADMINISTRATIVE SERVICES AND CLERICAL UNION (SOUTH AUSTRALIA AND NORTHERN TERRITORY BRANCH)

AND

THE KANGAROO ISLAND COUNCIL

... the continuation of the
... Agreement No 4 of 2004
... agreement (referred above) for an interim
... expiry date of 31 December 2008

THE LEAD UP

- * Early 2008 - Negotiations commenced on AWU EBA
- * August 2008 - AWU Agreement signed off by Consultative Committee
- * Late August 2008 - Union pulls the plug
- * AWU withdraws from agreement (awaiting outcome of the Etheridge Case)
- * HR/OHS&W Manager commenced employment on 15th September 2008
- * Article published by AWU

South Australian News

■ WorkChoices' last gasp *The Greater South Australian Branch of the AWU recently found itself fighting a similar battle to that already won by the AWU Queensland Branch against Etheridge Shire Council.*

This time, it was South Australia's Kangaroo Island local council that was trying to claim "constitutional corporation" status in the hope it would be able to lodge its collective agreement under the federal jurisdiction rather than the more sensible South Australian industrial relations system. It was an attempt by the Council to cling to the remnants of John Howard's infamous WorkChoices.

As SA Branch Secretary Wayne Hanson explained, "Kangaroo Island local council is a small offshore council in South Australia

Branch's victory as support, the Greater South Australian Branch was able to persuade the Kangaroo Island Council to accept the merit of dropping its intention to register the collective union agreement in the federal industrial relations system.

"Here was a council CEO who was on an ego trip — maybe she wanted to be the mayor one day — [but] she was misguided by very ordinary legal advice and was prepared to reject a decision from a Federal Court judge. She was encouraged by a fan club of regional councils that was cheering her on," Wayne said. "I think she actually wanted to remain a dinosaur. But as soon as the pressure was applied and common sense prevailed she slid down the wall like a lump of jelly and her fair-weather friends went missing.

being urged on by a redneck regional council's cheer squad who wanted to cling to the concept of perpetuating WorkChoices, notwithstanding the fact that WorkChoices is dead.

"The people of Australia don't want it, and they sacked John Howard because of it. Working Australians don't want it. Trade union members don't want it. The unions don't want it, even the federal leader of the Opposition said that WorkChoices is dead. And of course the Australian government doesn't want it either."

The Kangaroo Island council was making its position very clear: until such time as there was a decision from the High Court of Australia, it would maintain it was a constitutional corporation. After discussions with the Local Government Association and with the added strength of the Queensland

"Having the collective agreement lodged under the South Australian state industrial jurisdiction helped put AWU Kangaroo Island council members in a much better legal position; their EBA now had proper legal status. This is all our members wanted. The Council knew this but wanted to squeeze the very last gasp of diminishing life out of Australia's most unpopular industrial laws.

"Our members stuck together, they accepted the good advice from their union and supported a position that the most appropriate place to have their agreement registered was in the South Australian state industrial jurisdiction, not in the federal industrial jurisdiction where the agreement may have no future legal status," Wayne concluded. Like the dinosaurs, WorkChoices is dead but not yet buried.

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From: Ian Steel [isteel@asu-sant.asn.au]
Sent: Tuesday, 20 January 2009 4:13 PM
To: Bernadette Brennan; Rob Wallace
Cc: Sandra Farquhar; Christine Kelly; Toni Duka; Ashley Richardson;
Fay Donaghy; ghenderson@awusa.asn.au
Subject: a 'stand alone' joint state agreement
Greetings Bernadette and Rob

I understand that clarification has been sought by Council regarding our view on a stand alone joint state agreement ie one which incorporates the existing state awards and which would not need to be read in conjunction with those awards.

I understand that Council obviously does not want to embark on drafting such an agreement if there is in-principle opposition to it. I can confirm that there isn't.

In terms of working together on the drafting, while Austin White is on leave this week Fay Donaghy of our office is available to progress the matter.

Fay can be contacted on 8363 1322 or 0413 444 693.

Regards

Ian

Ian Steel
Lead Organiser
ASU SA+NT Branch
5-9 Rundle Street
KENT TOWN 5067
p. 8363 1322
f. 8363 2225
m. 0413444691
Active ● Strong ● United

From: Gary Henderson [ghenderson@awusa.asn.au]
Sent: Tuesday, 20 January 2009 4:50 PM
To: Bernadette Brennan
Cc: rob.wallace@lga.sa.gov.au
Hi Bernadette/Rob

**The AWU confirm we do not have any issues with a stand alone joint agreement which incorporates the state awards lodged in the South Australian industrial relations commission .
To help move forward we are willing to proceed with the drafting of the new document. Looking forward to future discussions.**

Regards

Gary Henderson
AWU Branch Organiser

22-24 Main Street
Mawson Lakes SA 5095

P (08) 8360 1900 **F** (08) 8360 1960 **M** 0418 500 512
Email:ghenderson@awusa.asn.au

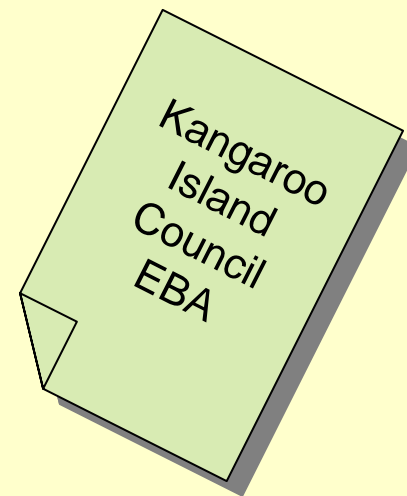
- Meeting 28th October 2008
- Staff Meeting 27th November 2008
- Staff Meeting 2nd December 2008
- Staff Meeting 3rd December 2008
- Staff Meeting 8th December 2008
- Email update 9th December 2008 (to date - involved 4 ASU Industrial Officers)
- Meeting/Negotiation list 11th December 2008
- Meeting 17th February 2009
- Meeting 23rd March 2009
- Meeting 2nd June 2009
- Meeting 19th June 2009
- Meeting 3rd July 2009
- Staff Memo 6th July 2009
- Meeting 7th July 2009
- Meeting 21st July 2009
- Meeting 28th July 2009
- Meeting 4th August 2009
- Meeting 18th September 2009
- Meeting 6th October 2009
- Meeting 21st October 2009
- Meeting 26th November 2009
- Meeting 17th December 2009
- Staff Meeting 18th January 2010
- Staff Meeting 19th January 2010
- Employee Vote 22nd January 2010
- Documents signed and lodged 8th February 2010
- Notified by Industrial Relations Commission that AWU signature not witnessed 18th February 2010
- Document delivered, signed and witnessed 24th February 2010
- Notice of Sitting received 23rd February 2010
- Sitting held on 4th March 2010 (Second AWU Industrial Officer introduced)
- Unions withdraw support 4th March 2010
- Adjourned to 9th March 2010
- Further adjourned to 16th March 2010
- Final sitting held and approval given by the Commission on 1st April 2010

In total dealt with –

- Seven (7) documents
- Five (5) employee representatives (ASU)
- Seven (7) ASU Industrial Officers
- Five (5) employee representatives (AWU)
- Two (2) AWU Industrial Officers
- Three sittings in the Industrial Relations Commission
- Fifteen (15) draft versions of the one Agreement

Final product –

- **One Agreement**



EBAAs – Agreeing to Agree

Enterprise Bargaining Agreement – Do We Agree?

Final Word

- Sitting held on 4th March 2010
 - Adjourned to 16th March 2010
 - Adjourned to 9th March 2010
 - Final sitting held on 1st April 2010
- A compromise was reached, the wording was changed from:
“The South Australian Municipal Salaried Officers Award and the Local Government Employees Award shall not apply to employees covered by this Agreement.”
- To read as:
“This Agreement is intended to be a stand-alone industrial instrument for application by the parties in the workplace. That is, without reference to the prevailing industrial Awards.
- However, the parties to this agreement recognise the application of s81(3) of the Fair Work Act 1994 (SA) to all registered enterprise agreements.”*
- This compromise allows any conflict that may be had between the Agreement and the Awards, to be taken and defended through the Industrial Relations Commission.

EBA's – Agreeing to Agree

We have ONE document.
We have a compromise.
We have AGREEMENT.

Thankyou for listening.

***Presented by: Bernadette Brennan
Kangaroo Island Council***