

Our ref: OLG 22-27 DP  
Contact: SS:LM

1 December 2022

Council Governance Team  
The Office of Local Government  
Locked Bag 3015  
NOWRA NSW 2541

Via Email: [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)

Council Governance Team

Thank you for the opportunity to provide feedback on the Office of Local Government (OLG) 22-27 Discussion Paper – Senior Staff Employment September 2022.

Wingecarribee Shire Council (WSC) is located in the Southern Highlands of NSW and is a regional council that currently has four positions employed on senior staff contracts.

WSC does not support removing the long-standing ability of council to determine which staff would be on a senior staff contract. The discretion Council's currently have under s332 of the Local Government Act should be maintained as it supports the different ways councils work and operate. Councils are not 'one size fits all' and we require flexibility and agility in how we operate and conduct our business. It is our view of WSC is that this change is unwarranted and has the potential to stifle innovation during unprecedented times.

Mandating that all senior staff are to be employed under one instrument removes flexibility and competition to attract and retain the best people required at a point in time and in a particular employment environment. It would be expected and is normal practice, that any elected council should be consulted about senior staff with whom they will work closely. This mandate removes the requirement of the General Manager to consult with councillors prior to the appointment or dismissal of senior staff.

Being a regional council, it is important that we remain competitive within the market to attract and retain the best people to work within our employment environment which varies greatly from a metropolitan council, the current employment options enable WSC to meet the expectations of potential employees.

The level of compensation our senior staff receive on their current contracts would be dramatically reduced under the award, as they would need to be employed for ten years before the level of protection they currently have would be covered under redundancy clauses under the Award. With WSC currently operating under an Administrator and an election in 2024 there is no greater protection under the award, as they will have a reduced level of protection.

Having the Executive team on the same contract arrangements creates a more cohesive culture predicated on performance and not one in which some executive team members will have profoundly



Civic Centre, 68 Elizabeth St,  
Moss Vale NSW 2577  
PO Box 141, Moss Vale  
**02 4868 0888**  
[mail@wsc.nsw.gov.au](mailto:mail@wsc.nsw.gov.au)  
ABN 49 546 344 354

*Working with you*

different conditions of employment from others. The discussion paper does not address the Industrial Relations implications of having all staff under the Award, leaving the General Manager alone to represent the best interests of the organisation. It does not raise the profound conflict of interest inherent in Senior Staff interpreting Award provisions for the staff they manage in being part of the Award negotiations and it leaves the General Manager as the sole employee with no conflict of interest in both these areas.

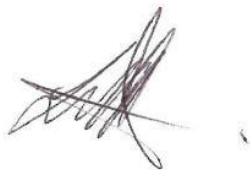
The ICAC findings relate to exploitation of the *no reason termination clause* in the contract, there was no suggestion by ICAC that the contract system be completely removed. Further corruption or the potential for corruption is not limited to contract staff, and if councils do not have adequate controls, separation of duties and a culture of ethics, the potential for corruption will exist regardless of the staff member being on contract or not.

The corruption risk identified by ICAC regarding the *no reason clause* can be resolved by having adequate controls in place and granting senior staff access to the Industrial Tribunal via an amendment to the Local Government Act and the Senior Staff Contract. Specifically, s340 could be amended to enable Senior Staff to access Unfair Dismissal in the Commission. Likewise, the Senior Staff contract could be altered to provide that any termination would need to be lawful and reasonable.

Given that ICAC did not find fault with the contract system, it is WSC view that the current system works well in the current employment environment and should not altered.

If you should have any queries relating to this submission, please contact me on 4868 0888 or via email at [lisa.miscamble@wsc.nsw.gov.au](mailto:lisa.miscamble@wsc.nsw.gov.au).

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Lisa Miscamble', with a small mark to the right.

Lisa Miscamble  
**General Manager**