



6 May 2022

Mr David Farmer  
Chief Executive Officer  
Central Coast Council

Dear David

**Your intention to increase the number of people you can sack without reason**

We've exchanged emails arguing about your intention to start moving the standard contract down the organisation into the third level of managers. The ICAC doesn't like it, and LGNSW and the unions believe the capacity to have "*no reason*" termination for anyone in the industry is unacceptable, unfair to the employee, driven by ignorance of the capacity to properly manage staff and performance under the Award, and a significant corruption risk.

The ICAC made observations about the need to manage/remove the corruption risk that arises from "*no reason*" termination in Operation Farra at Mid-Western in 2016 and in Operation Dasha at the former Canterbury last year. It was Operation Dasha that triggered LGNSW's historic resolution, reaffirmed at a subsequent Special Conference in March, to manage the risk of GMs being threatened by councillors, by changing the Act to restrict the standard contract to the GM only, and to revert all other employees to the Award, or appropriate industrial instrument locally. At both those councils, councillors threatened the GM that he would be sacked if he didn't sack the Director of Planning and at Mid-Western, the Director of Corporate Services too.

We now know that councillors threatening a GM like this is more prevalent in the industry than we thought. Almost a common occurrence, and a practice that damages the reputation of the industry, frustrates the integrity of decision-making and makes it harder for communities to have confidence in the management of their Council. Everyone's reputation is damaged.

You say you are doing this because you believe nothing motivates like a term contract, the fear of being sacked without recourse, and you've chosen to ignore the capacity of councillors to continue to make those threats. If you are successful in moving the "*no reason*" termination option to your third level, then you set up the opportunity for the GM or CEO to make exactly the same threats to any of your directors if you want a manager reporting to them sacked. It's hard to understand how that makes sense, reflecting a discredited employment arrangement that we are working hard to see gone before the end of this year.

It's also a brutal way to manage your direct reports and those who report to your directors. It's threatening, punitive, opaque and secretive, and far from aspirations of transparent accountability that your community wants, and your staff want as well. It would be the end of the relatively sensitive and benign way in which the amalgamated Council has managed its staff since amalgamation, the financial fiasco, and the subsequent redundancies - all handled cooperatively with the unions because we all had a common view and common values.

You will kill the common view and common values your staff worked so hard to enshrine, that will be reflected in reputational damage to the Council, and that will damage your ability to attract and retain staff.

I've attached our email trail, starting with an email from your Unit Manager People and Culture advising the unions of your decision on 9 March, and concluding with your email to the unions sent on 22 March at 11:08am. In that final email you observe, *"abolition of contracts based on Dasha is fundamentally flawed"*, but while that may well be your view, the two senior officers of the ICAC who were involved in the discussion of this proposal with the LG NSW Industry Advisory Committee thought otherwise. You need to take that into consideration. You're out of step.

Subsequent emails from you don't assist the debate and you are unlikely to live down your blustering short-sighted observation, *"Looking forward to wearing my Golden Turd with pride"*.

At one stage of our argument you said you'd be content with changes to the Award to acknowledge high levels of accountability, and those parts of the Award which may not be appropriate to the sort of salary levels that you're paying. We've thought that would be the end of the matter because there is general agreement with the unions and LGNSW that there are some parts of the award that will need to be changed to reflect these legislative changes. This wasn't good enough to assuage your passion to create an anachronism.

I'm writing to ask you to reconsider, no one will think less of you for doing so, you will protect your reputation and the reputation earned by Central Coast since amalgamation, despite going through the horrors your employees have been through.

While there is significant momentum in the industry now for the legislative changes to the Local Government Act 1993 as soon as possible, there is also a significant new addition to this debate. Yesterday LGNSW advised us of something that should be the last nail in the coffin of the standard contract for all but the GM.

I'm sure this will be circulated to councils soon but the circumstances of eighteen or so GMs having been terminated under the *"no reason"* arrangements, or who resigned with an appropriate agreement since the last local government election, has highlighted difficulties of appointing temporary replacements while a new GM is recruited.

The statutory senior staff contracts require a minimum term of 12 months (subsection 338 (2) of the Act) and only allow increases in pay under subclause 8.3 as a performance payment, and under subclause 8.5, to provide the SOORT increase. Not only can senior staff not be temporarily appointed for periods of less than twelve months, but if they are, by breaching the Act, the contracts prevent senior staff being paid for acting in that more accountable, more demanding and higher risk position of GM.

It's unlikely there would be a Council in the state that hasn't done something not allowable under the Act, nor under the statutory standard contract, and which may have even been unlawful. Yes, that's the sound of it hitting the fan across the state.

You're looking at extending this inflexibility to your third level managers, and that raises another complication.

You've told the unions that existing employees who are continuing employees under the Award, will not have to go on to the standard contract if they'd rather not. While the industry will have seen widespread breaches of the provisions of the Act and the standard contract from the flexibilities noted above, you're creating a new one all your own.

If you are having the Council resolve certain positions are senior staff under s332 of the Act, those positions are required to be employed under the statutory contract. There is no allowance to do otherwise, it's not discretionary. It would be a breach of the Act to appoint an employee to a senior staff position without signing the contract. End of argument.

Or would you subsequently have the Council rescind the resolution making the position senior staff? If you did that, it could be alleged you didn't appoint based on merit being senior staff at that third level would have discouraged applicants. This would be folly, best avoided.

I also remind you that the GM at Narrabri found himself in difficulty a couple of years ago for appointing a person to a senior staff position that had not yet been resolved by the Council to be a senior staff position. He signed him to the standard contract and then subsequently the Council adopted a structure with that position as senior staff. This was regarded as a significant breach by the Office of Local Government and was the subject of a special OLG circular across the industry.

I am asking you to reconsider, I've reiterated most of our arguments against what you're proposing to do but the difference now is that you are confronted with the inflexibilities of the Act and the standard contract and your potential to similarly breach the Act with your optional compliance with a council resolution.

You'd be better off developing performance agreements for the levels where you think there needs to be greater oversight and scrutiny. We'd be happy to be involved in this process, and I'm sure that so also with the other unions.

Yours sincerely



Ian Robertson  
Secretary

## Ian Robertson

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**From:** David Farmer <David.Farmer@centralcoast.nsw.gov.au>  
**Sent:** Tuesday, 22 March 2022 11:08 AM  
**To:** Ian Robertson; Krystie Bryant  
**Cc:** Luke Hutchinson; Paul Marzato(external)  
**Subject:** RE: Senior Staff

I'm happy to meet Robbo if that's what you want.

We've both been around a long time and I'm a fervent supporter of senior staff contracts and you an equally fervent opponent.

I think there are a range of changes that should be made to the contracts and I do agree the no fault termination presents too easy an out.

But abolition of contracts based on Dasha is fundamentally flawed.

We are talking about people earning well over \$200k per year here and the expectation of performance is quite different to a standard employee. Their ability to impact the performance and well being of a large group of people is equally significant. It makes sense to me that should be a different set of rules and a higher level of accountability for these people with high responsibility and remuneration.

I would be equally happy for them to be included in the award if there was a specific section that applied to these staff.

**David Farmer**  
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**From:** Ian Robertson <ian@depa.net.au>  
**Sent:** Tuesday, 22 March 2022 10:57 AM  
**To:** David Farmer <David.Farmer@centralcoast.nsw.gov.au>; Krystie Bryant <Krystie.Bryant@centralcoast.nsw.gov.au>  
**Cc:** Luke Hutchinson <l Hutchinson@usu.org.au>; Paul Marzato(external) <PMarzato@professionalsaustralia.org.au>  
**Subject:** RE: Senior Staff

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I'm still keen to meet, but if you prefer not to, why don't you draft a reasoned argument in favour of what you are proposing (other than simply asserting your right) so that we understand why you are doing this, given all those things in that compelling paragraph below.

Ian Robertson  
Secretary  
depa

Ph: 9712 5255  
[www.depa.net.au](http://www.depa.net.au)

**From:** Ian Robertson  
**Sent:** Tuesday, 22 March 2022 10:50 AM  
**To:** David Farmer <[David.Farmer@centralcoast.nsw.gov.au](mailto:David.Farmer@centralcoast.nsw.gov.au)>; Krystie Bryant <[Krystie.Bryant@centralcoast.nsw.gov.au](mailto:Krystie.Bryant@centralcoast.nsw.gov.au)>  
**Cc:** Luke Hutchinson <[lhutchinson@usu.org.au](mailto:lhutchinson@usu.org.au)>; Paul Marzato(external) <[PMarzato@professionalsaustralia.org.au](mailto:PMarzato@professionalsaustralia.org.au)>  
**Subject:** RE: Senior Staff

David, it's not an intellectual argument.

It's an argument about how employee should be treated, whether it's reasonable or fair people to be terminated for "no reason", whether you really think it's motivating to have employees fearful of being terminated if you or someone else has a bad day, whether you want to be the only GM in the industry expanding your opportunity to sack people unfairly, and to increase your corruption risk, whether you want to damage to your reputation as a responsible employer, whether you want to be nominated in the Golden Turd, it's about being on the wrong side of history.

That's what it's about.

Ian Robertson  
Secretary  
depa

Ph: 9712 5255  
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**From:** David Farmer <[David.Farmer@centralcoast.nsw.gov.au](mailto:David.Farmer@centralcoast.nsw.gov.au)>  
**Sent:** Tuesday, 22 March 2022 10:40 AM  
**To:** Ian Robertson <[ian@depa.net.au](mailto:ian@depa.net.au)>; Krystie Bryant <[Krystie.Bryant@centralcoast.nsw.gov.au](mailto:Krystie.Bryant@centralcoast.nsw.gov.au)>  
**Cc:** Luke Hutchinson <[lhutchinson@usu.org.au](mailto:lhutchinson@usu.org.au)>; Paul Marzato(external) <[PMarzato@professionalsaustralia.org.au](mailto:PMarzato@professionalsaustralia.org.au)>  
**Subject:** RE: Senior Staff

Robbo – Not sure if meeting is going to do much good except for a great deal of intellectual gaming by both of us – and a bit of theatre for those in attendance.

I understand that peak organisations have taken positions, however the legislation still stands.

Should it change then so will we.

I think the issues that have been identified in Dasha could be better dealt with by changing the standard contract rather than getting rid of them.



**David Farmer**  
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**From:** Ian Robertson <[ian@depa.net.au](mailto:ian@depa.net.au)>  
**Sent:** Tuesday, 22 March 2022 9:51 AM  
**To:** Krystie Bryant <[Krystie.Bryant@centralcoast.nsw.gov.au](mailto:Krystie.Bryant@centralcoast.nsw.gov.au)>; David Farmer <[David.Farmer@centralcoast.nsw.gov.au](mailto:David.Farmer@centralcoast.nsw.gov.au)>  
**Cc:** Luke Hutchinson <[lhutchinson@usu.org.au](mailto:lhutchinson@usu.org.au)>; Paul Marzato(external) <[PMarzato@professionalsaustralia.org.au](mailto:PMarzato@professionalsaustralia.org.au)>  
**Subject:** RE: Senior Staff

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Good morning Krystie and David, and Comrades,

I'm sorry I'm a bit slow getting onto this, beyond my observations below about The Accountant striking back, but I would like the opportunity of having a proper argument about this. David understands that we have strong views about term contracts (I've personally been fighting the concept for 34 years), and apparently holds strong views himself, so what could possibly go wrong!

We are poised at an historic moment where we have, for the first time, a consensus between LGNSW and the unions about the future of the concept of senior staff and the standard contract below the position of GM - responding to findings by the ICAC in Operation Dasha (not the first time that the ICAC has made this observation) that there was a corruption risk with the "no reason" termination of standard contracts. This followed the reality revealed in Operation Dasha that councillors had threatened the GM that if he didn't sack/appoint their preferred candidate, the councillors would sack him. Lovely. And apparently this is more prevalent in the industry than we thought.

It's an embarrassment to all those who work in local government that this is even a remote possibility.

At last LGNSW changed their historic view, and their special conference a couple of weeks ago reinforced that position in soundly rebuffing a poorly-argued motion from Mosman that GM's should retain their right to unfairly

sack people. They didn't say that in so few words, but their six points were so flimsy, it was obvious that is what motivated them. It's hard to publicly say that, after all.

In the discussions with OLG, LGNSW and the unions have planned to liaise with the Minister to seek the legislative changes necessary to deliver on this consensus. Let's face it, if the ICAC sees it as a corruption risk, and if the employer's organisation is prepared to take the high moral ground and except it's a corruption risk as well, then it's a reasonable expectation that the Minister and the Government will make the changes necessary.

And given the consensus that this corruption risk should be removed, it is incongruous, and largely inexplicable, that you David, would want to be a contrarian, and actually expand the opportunities for corruption risk by pushing these heinous contracts down the organisation. An unusual choice of a principal upon which you'd want to be known.

And, given that you've already comforted existing staff by saying that no current employee will be forced onto these contracts, you set up the risk that you will appear to not be appointing based on merit, if you appoint someone from outside, prepared to take the risk. And we all understand as well that ambitious employees may tolerate the risk as part of their career path. No one should have to do this to build a career in local government.

The unions fought off anxieties about corruption being an element in the financial fiasco that was Central Coast, and put it all down to ignorance and incompetence, but why, when the Council and its staff have been through so much already, would you even contemplate doing this?

It is an anachronistic view that employees who are at risk of losing their job capriciously and without recourse to the principles of natural justice, perform better. Not just an anachronism, it's wrong. It's also an alarming insight into your personal values and motivations, David. I thought you were a better person.

Have you contemplated taking their first born as a hostage? That will provide serious motivation to get them working!

Let's meet and have the argument, shall we? You can supply the DeLorean as you venture back into the past.

Regards

Ian Robertson  
Secretary  
depa

Ph: 9712 5255  
[www.depa.net.au](http://www.depa.net.au)

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**From:** Ian Robertson  
**Sent:** Wednesday, 9 March 2022 5:15 PM  
**To:** Krystie Bryant <[Krystie.Bryant@centralcoast.nsw.gov.au](mailto:Krystie.Bryant@centralcoast.nsw.gov.au)>  
**Cc:** Luke Hutchinson <[lhutchinson@usu.org.au](mailto:lhutchinson@usu.org.au)>; Paul Marzato(external) <[PMarzato@professionalsaustralia.org.au](mailto:PMarzato@professionalsaustralia.org.au)>  
**Subject:** Re: Senior Staff

Bloody hell Kristy, The Accountant strikes back.

If the only way he can motivate people to work for the Council is to be fearful of capricious and unfair terminations, that's a real disappointment and a tragic symbol of how the place will operate into the future.

No employee is going to be impressed by that.

Ian Robertson

Secretary  
depa

Ph 9712 5255  
[www.depa.net.au](http://www.depa.net.au)

Sent from my iPhone

On 9 Mar 2022, at 4:30 pm, Krystie Bryant <[Krystie.Bryant@centralcoast.nsw.gov.au](mailto:Krystie.Bryant@centralcoast.nsw.gov.au)> wrote:

Hi all,

I hope you are all well.

I wanted to share with you a decision on some of our vacant Unit Manager roles. There will be a report that goes to Council at the end of this month to convert these vacancies to senior staff positions on term contracts. We're all aware of the industry discussion here (sparked by operation Dasha) as well as the failed motion put before the special conference recently. We have called out the risk of legislative change in the report and of course should that occur, these positions will transition in whatever way is deemed appropriate at that time.

David is obviously well across the industry discussion also and recognises there may be a need to transition back.

Importantly, no existing staff member will be compelled to move over to a senior staff contract and they have been assured of this by David.

The positions included in the report as currently vacant are:

Unit Manager, Environmental Compliance Systems  
Unit Manager, Facilities and Asset Management  
Unit Manager, Governance and Legal

They of course meet the remuneration threshold and their size and scope etc is in line with the guidance outlined in the Act / Award. Noting that all may change in the not too distant future.

Happy to answer whatever questions I can for you, though more wanted you to be aware.

**Krystie Bryant**  
Unit Manager  
People and Culture  
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