

18 April 2023

Office of Local Government,  
Department of Premier and Cabinet

Discussion Paper: Merit based recruitment in councils (March 2023)

Thank you for the opportunity to provide comment on your Office's discussion paper. To conform with your suggestion that submissions consider responding to the following prompts, the Association offers the comment below. Additionally, recommendations are provided to improve recruitment and employee accountability, and reduce the onus placed on councillors during the recruitment process for General Managers.

1. Do you expect that a requirement that councils make decisions to appoint or promote employees based on merit will improve council services?

Local government service delivery operates in a monopoly environment. Recent Royal Commissions (e.g. Banking and Aged Care) have documented why monopoly environments can lead to ineffective administrative and governance standards that do little to protect consumers.

Increasingly, local government is responsible for the delivery of a broad range of services to a diverse set of constituents, including other tiers of government residents and business. This expansion of activity and accountability creates an imperative for local governments to demonstrate efficacy of leadership, governance and decision-making processes to ensure that they are responsive and relevant to the increasingly diversified nature of the sector.

Merit based recruitment of General Managers not only influences the standard of delivery of council services, it forms the foundation on which local governments should be administered.<sup>1</sup> It also sets the standard by which other employees should be recruited. Without merit-based recruitment, local governments are exposed to inferior and inappropriate administrative and service-delivery standards.

Accountability creates an imperative for local governments to demonstrate to communities that proper (merit-based) process has occurred with respect to General Manager recruitment: no matter how small the council. Government sector employees paid by the public purse should have a uniform set of standards under which they are employed.

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<sup>1</sup> "Unhappily, institutions of government, which ought to be among the chief custodians of the public interest, are amongst the most poorly regarded institutions in Australia, typically ranking above just above media and gambling companies in terms of their integrity, competence and contribution. Consistent with this, governments—local, state and federal government alike—are among the least trusted institutions in Australia and are seen as among the worst performers in terms of institutional leadership for the greater good."

<https://www.australianleadershipindex.org/participatory-melbourne/> accessed 12/4/23

KRAI's *Oversight: Governance and Accountability* submission to Kingborough Council's Audit Panel, June 2020<sup>2</sup> (OGA) – of which the Office of Local Government has a copy - documents a need for improved administrative accountability to ensure standards of governance and accountability expected by the community. OGA documents many instances of poor performance in senior council staff, together with an apparent failure by the supervising General Manager to address and rectify these behaviours. Whilst in theory the General Manager should shoulder the responsibility of managing senior staff, council is left in an invidious position if this is done poorly – the only redress is to contemplate the sacking of the General Manager.

More needs to be achieved to further develop best practice benchmarks, produce high administrative and ethical standards and implement additional safeguards for consumers of local government services.

**Recommendation 1:**

That councils establish a uniform code of conduct for staff, together with criteria for assessing key performance indicators within each major staff portfolio. No doubt the office of Local Government could assist this initiative. As KRAI has previously noted, all State public servants are subject to this system, and it would not be necessary to re-invent the wheel.

The General Manager could report to council annually on the performance of each of the senior staff as assessed against these established key performance indicators, with the General Manager's own assessment by council to be made subsequent to those of the senior staff. In other words, the General Manager's own performance assessment would be informed by these senior staff assessments. Further, that assessment of the General Manager should be transparent in that a performance report should be tabled in an open council meeting.

Regarding selection processes, there is no logical reason why recruitment of all but perhaps base-level staff should not be subject to the merit principle. If there are occasional specialist positions for which the market cannot supply multiple candidates, then an exemption from the Minister may be applied for. This ties in with the (lack of) opportunity for review of staff appointments.

**Recommendation 2:**

That KRAI supports merit-based selection, and strongly supports performance management by council of General Managers together with other key senior staff. Performance management of other staff should also be mandated, but via council policies with the management by senior staff. The performance of General Managers should be tabled in an open council meeting.

**2. Would this principle support or hinder access to employment opportunities in councils by the Tasmanian community?**

Merit-based selection aims to choose the best person for the job, resulting in a quality workforce. A quality workforce provides incentive to attract high calibre candidates. It is understood that failure to attract suitable candidates for vacancies within the local government sector is a matter currently influencing the Local Government Board's preferred structural reform outcome - with respect to the

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<sup>2</sup> Available for download in the Newsfeed section of the following link: <https://www.kingboroughratepayers.org.au/>

Future of Local Government Review - of promoting a 'hybrid' model to improve councils' capability and capacity by combining both service and boundary consolidation.

### 3. How can councils, and councillors, be supported to identify the best possible candidate for a vacancy in the important role of General Manager?

There are 3 aspects to this issue, all deriving from the fact that most councillors lack experience in professional leader recruitment. Councillors would benefit significantly if sector-wide standards were regulated with respect recruitment accountability, remuneration and benefits, and contract terms. By eliminating variables associated with these 3 matters, councillor focus on candidate conformance with position criteria would be maximised.

#### a) **Accountability for General Manager selection**

If the government is serious in addressing the issues raised by the Auditor-General and the Integrity Commission, then appointments not made in accordance with the merits principle, or made by a selection panel where issues of conflict have not been appropriately aired and addressed, should be void. The suggestion that selections would otherwise be monitored by the Director of Local Government, the Integrity Commission or the Ombudsman, is frankly farcical. What, for example, could the Ombudsman do to rectify an appointment improperly made? Is the Integrity Commission going to oversee middle-management appointments? What coercive powers does the Director have? Further, for all of the above, who could make a complaint and have standing to insist it be investigated?

#### **Recommendation 3:**

That if the appointment process for a General Manager is not going to be made according to principles of merit and of independence in the selection committee, it should be the Minister who considers the matter, not the Director, as at least the Minister is accountable to Parliament. There is no such transparency for decisions of the Director.

#### b) **Industrial Commission oversight of remuneration for General Managers**

It would seem reasonable that a scale of remuneration be developed for local government General Managers, based on factors affecting the complexity of the task: for example, the rate base or staffing numbers.

#### **Recommendation 4:**

That the new Act contain provision for a uniform remuneration scale for General Managers to be regulated and monitored by the Industrial Commission in line with the State Senior Executive Service standards.

#### c) **A standard form of contract for General Managers**

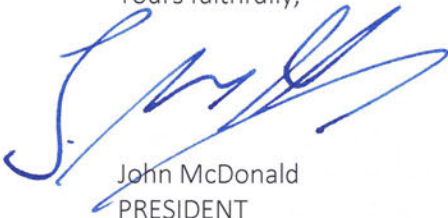
A standard-contract form should be developed to comply with other Federal and State public sector entities.

**Recommendation 5:**

That a standard-form contract to be developed by the Crown Solicitor to ensure consistency and reasonableness in the terms of engagement for General Managers.

Finally, the Association believes that the new Act should contain provision that prohibits contracts being provided for the employment of General Managers and executive staff that provide for more than 90 days or pay in lieu of notice, and no contract shall have severance clauses greater than 90 days of salary.

Yours faithfully,



John McDonald  
PRESIDENT

