

# AUSTRALIAN SERVICES UNION

## LOCAL GOVERNMENT & ENERGY DELEGATES CONFERENCE 2020

### EBA MODEL CLAUSE - LABOUR HIRE STAFF/INDEPENDENT CONTRACTORS

1. The Employer recognises that in certain circumstances the use of contractors and labour hire staff may affect the job security of employees covered by this agreement. As such, full time, direct and ongoing employment is a guiding principle of this Agreement.
2. The Employer must ensure that any contractors or labour hire staff are afforded the same terms and conditions of employment as they would receive if they were engaged directly as employees performing the same work.
3. Labour hire staff shall only be used to backfill a position for the temporary absence of a permanent employee. Their employment shall not affect the ability of permanent staff to access additional hours including overtime.
4. Agency hire staff or independent contractors shall not replace an employee of council on a permanent basis.
5. If the Employer wishes to engage independent contractors or labour hire staff to perform work that might be performed by current or future employees, the Employer must first consult in good faith with affected employees and with the Union. Consultation must cover issues such as:
  - a. the reason for which the Employer proposes to engage independent contractors or labour hire staff;
  - b. safety;
  - c. criteria for the selection of particular contractors or labour hire companies;
  - d. whether having the work done in-house will enhance or diminish job security for employees engaged under the Agreement;
  - e. alterations in the working conditions for employees covered by this Agreement caused by the proposed use of contractors or labour hire companies; and
  - f. inductions and facilities for contractor and labour hire employees.
6. If, after consultation, the Employer decides to engage independent contractors or labour hire staff, including trainees and apprentices, they must inform the Union of:
  - g. the name of the proposed contractor(s) or labour hire company or companies;
  - h. the type of work proposed to be given to the contractor(s) or labour hire company or companies;
  - i. the number of persons and qualifications of the persons the proposed contractor(s) or labour hire company or companies may engage; and
  - j. the likely duration of the engagement.

9. Review of labour hire and independent contractors

- a. The parties agree to review the positions currently held by agency hire staff with a view to minimizing the number of labour hire staff required by replacing the positions with permanent or temporary staff directly employed by council.
- b. The review will be conducted half-yearly and will review of the positions held by independent contractors and agency hire staff shall be carried out by the employer. A report will be provided to the Consultative Committee.
- c. The review will include numbers of roles – by headcount and EFT, gender breakdown and by work area – and the cost of the engagement of staff this way.
- d. The unions shall be advised of the outcome of each review.



By your side