

Local Government Act 1993


Section 438A

Performance Improvement Order

I, the Honourable Ron Hoenig MP, Minister for Local Government, do, by this order under section 438A of the *Local Government Act 1993* (the Act), require the Balranald Shire Council (Council) for the reasons specified in Schedule 1 below, to undertake the actions described in Schedule 2 below within the period specified.

This Order takes effect upon service on Council.

Dated this 19th day of September 2024



The Hon. Ron Hoenig, MP.
Minister for Local Government

Schedule 1

1.1 Reasons for Order – section 438A(3)(a) of the Act

1. Council needs to maintain budget discipline to maintain its financial sustainability, particularly given its intent to maintain ownership and operation of the Bidgee Haven Retirement Hostel,
2. Council needs to ensure it maintains access to appropriate staff expertise and engagement to provide secure advice to the councillors on financial, governance and regulatory matters, and
3. Council needs to continue to deliver and implement the changes required as part of the 2017 performance improvement order and the recommendations of the McCulloch Inquiry.

Schedule 2

2.1 Action required to improve performance – section 438A(3)(b) of the Act

In accordance with section 438A of the *Local Government Act 1993*, this order requires that:

2.1.1 Staffing

1. Council can only terminate its general manager's contract of employment with the concurrence of the Deputy Secretary of the Office of Local Government (OLG),
2. Council can only change its delegations with the concurrence of the Deputy Secretary OLG,
3. Council can only restructure the organisation with the concurrence of the Deputy Secretary OLG,

2.1.2 Financial oversight and discipline

4. Council must implement any ongoing recommendations from the Public Inquiry And the recommendations made in the report on the review of Council's governance practices under the oversight of the Audit, Risk and Improvement Committee (AIRC),
5. Council must engage its ARIC on "any significant changes" to council's priorities direction and take into account any recommendations,
6. Council must implement the adopted budget and operations plan for 2024/25. Any significant changes must be agreed by the Deputy Secretary OLG,
7. Council must publicly document the impact of all Council's resolutions on Council's Long Term Financial Plan (LTFP),
8. Council must not make financial decisions that impact adversely on Council's financial metrics as measured through the Office of Local Government financial indicators,
9. Council is to maintain an appropriate level of unrestricted cash and expend externally restricted funds only for the purpose for which they are set aside,
10. Council must take necessary steps to ensure timely and accurate financial monitoring and reporting including at a minimum the Quarterly Business Report, which is to be submitted to OLG for review and made clearly available to the community on Council's website,

2.1.3 Governance

11. Council is to ensure that best practice governance standards are implemented and maintained. This is to be achieved by Council providing resources to the General Manager to ensure that:
 - a. governance standards are maintained,
 - b. the operational plan can be delivered,
 - c. infrastructure maintenance meets the operational plan and LTFP requirements, and
 - d. there is consistent improvement in financial ratios.
12. Council can only amend its councillor/staff interaction policy with the concurrence of the Deputy Secretary OLG, noting the general manager may update the staff list that can be contacted by councillors,
13. Council must ensure that the general manager develops a councillor request system to manage email requests from councillors. The system should ensure that communications are respectful, the number of requests are reasonable and include provisions permitting the general manager to impose limitations where disrespectful or excessive use of the system occurs,

2.1.4 Council meeting practices

14. Council must ensure its code of meeting practice complies with the *Model Code of Meeting Practice for Local Councils in NSW* (the Model Meeting Code),
15. Council must ensure councillor briefings are open to the public unless the general manager is satisfied that grounds exist under the Act to exclude members of the public from a briefing to consider information that should not be made public, and

16. Council must conduct its meetings in accordance with its code of meeting practice and must not make decisions at councillor briefings and workshops.

2.2 Period for compliance with Order

1. The Council is to comply with this order for 12 months from the date of issue.

2.3 Reporting obligations

1. The Council is to provide a quarterly compliance report to the Deputy Secretary OLG.
As part of the first report Council is to provide to the Deputy Secretary OLG:
 - a) the Operational Plan and updated LTFP,
 - b) the adopted code of meeting practice, and
 - c) the councillor/staff interaction policy

2. Each quarterly report is also to include:
 - a) the quarterly business reporting statement,
 - b) use of the councillor request system, and
 - c) any determinations of 'acts of disorder' made at a council meeting