

Local Government Act 1993

Section 438A

Performance Improvement Order

I, the Honourable Ron Hoenig MP, Minister for Local Government, do, by this Order pursuant to section 438A of the *Local Government Act 1993*, require Shoalhaven City Council, for the reasons specified in Schedule 1 below, to undertake the actions described in Schedule 2 below within the period specified in Schedule 2.

This Order takes effect upon service on the Council.

Dated this 19 day of March 2026


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

SCHEDULE 1

Reasons for order – section 438A(3)(a)

1. There is sufficient evidence to raise questions about the transparency, impartiality and integrity of the recruitment process leading to the appointment of Mr Andrew Constance as General Manager.
2. There is sufficient evidence to suggest that there may be broader, systemic issues concerning the integrity of Council's recruitment practices.
3. Against the background of internal and external disquiet about the recruitment process leading to Mr Constance's appointment, and another managerial appointment, it is likely that, if left unaddressed, those concerns will impact upon relationships between the elected body and the General Manager, and upon staff morale.
4. In light of the above, Office of Local Government's (OLG) oversight of the recruitment of all Council senior leadership positions, which, for the purposes of the Performance Improvement Order, I consider to be of manager and above, during the organisation restructure, will ensure proper process is followed and transparent decisions are made. Failure to proceed with the restructure under these conditions will have a negative effect upon Council's effectiveness to exercise its functions and lead to further damage and distrust with its relationship with the Shoalhaven community.

SCHEDULE 2

Action required to improve performance – section 438A(3)(b)

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

1. Shoalhaven City Council must provide OLG with details of the proposed Council restructure, including:
 - a. the Council organisational chart relevant to the period immediately prior to the restructure commencement;
 - b. the Council organisational chart relevant to the restructure;
 - c. roles being removed or delimited;
 - d. roles being recruited to; and
 - e. details of the proposed timeframes for the restructure processes.

This information must be provided to OLG within 21 days of the date of this Order.

2. For a period of 12 months from the issuing of the Performance Improvement Order for each Council senior leadership position (i.e. Manager or above) being recruited to, Shoalhaven City Council must:
 - a. form a recruitment panel of at least three people which includes a senior human resources manager or external recruitment consultant and a suitable, impartial subject matter expert where appropriate; and
 - b. ensure that one recruitment panel member is independent of Council.
3. For each Council senior leadership position recruited during the restructure and for a period of 12 months from the issuing of the Performance Improvement Order, Shoalhaven City Council must provide a report to OLG that:
 - a. sets out the details of all the recruitment panel members;
 - b. attaches copies of the conflict-of-interest forms completed by all the recruitment panel members;
 - c. sets out details of the process undertaken, including position, number of applicants, date and number of interviews. This should include the relevant recruitment assessments, panel members assessments of the candidates and documented panel outcomes; and
 - d. attaches a signed certification from all recruitment panel members that the recruitment process was undertaken in accordance with policy/legislation requirements.

Reporting in compliance with this order – section 438F

I require Shoalhaven City Council to provide me with the following reports on compliance with this Order, within the timeframes specified:

Compliance report 1 within 21 days of issue of PIO

In addition to Item 1 of Schedule 2 of this Order, Shoalhaven City Council must submit a compliance report to OLG that includes the following information within 21 days of the date of this Order:

- a. records of internal and external consultation processes undertaken prior to implementing the 24/25 restructure changes
- b. records relating to redundancies, including:
 - i. a list of positions and relevant functional area;
 - ii. date effected;
 - iii. reasons (e.g. genuine restructure; duplication; technology change; service level change); and
 - iv. compliance with industrial relations obligations
- c. details of all new positions, including:
 - i. a list of all titles, level, reporting line; and
 - ii. reasons (e.g. statutory/compliance, service delivery need, cost off set, risk mitigation); and
 - iii. funding source.
- d. appointments to all Manager and above roles since 1 January 2025, including:
 - i. a list of all titles, level;
 - ii. date of appointments; and
 - iii. particulars about the recruitment process (e.g. advertising channels, assessment methods, panel composition, conflict of interest declarations, merit criteria, reference checks).

Compliance report 2 by 30 June 2026 – for the period between 1 February 2026 and 30 May 2026

For each Council senior leadership position (i.e. Manager or above) recruited to between 1 February 2026 and 30 May 2026, Council must provide a compliance report to OLG by 31 May 2026 that:

- a. sets out the details of the recruitment panel members;
- b. attaches copies of the conflict-of-interest forms completed by all the recruitment panel members;
- c. sets out details of the process undertaken, including position, number of applicants, date and number of interviews; and
- d. attaches a signed certification from all panel members that the recruitment process was undertaken in accordance with policy/legislation requirements.

OLG may request additional documentation to clarify any aspects of the compliance report and may set the time parameters for the return of that additional information and/or record.

Compliance report 3 by 31 December 2026 – for the period between 1 June 2026 and 30 November 2026

For each Council senior leadership position (i.e. Manager or above) recruited to between 1 June 2026 and 30 November 2026, Council must provide a compliance report to OLG by 1 December 2026 that:

- a. sets out the details of the recruitment panel members;
- b. attaches copies of the conflict-of-interest forms completed by all the recruitment panel members;
- c. sets out details of the process undertaken, including position, number of applicants, date and number of interviews; and
- d. attaches a signed certification from all panel members that the recruitment process was undertaken in accordance with policy/legislation requirements.

OLG may request additional documentation to clarify any aspects of the compliance report and may set the time parameters for the return of that additional information and/or record.