

Local Government Act 1993

Order under section 438A

I, the Minister for Local Government, issue this Performance Improvement Order to the Council and/or persons specified in Schedule 1 to undertake the actions described in Schedule 2 within the period specified in Schedule 2.

I hereby appoint the person specified in Schedule 3 as temporary adviser to Council to exercise the functions, and for the term, specified in Schedule 3.

This Order takes effect upon service on the Council.

Dated: 29.4.17



The Hon Gabrielle Upton MP
Minister for Local Government

SCHEDULE 1

Balranald Shire Council

SCHEDULE 2

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

1. A failure of Council to meet its legislative responsibilities in respect of its financial and governance obligations.
2. Council has budgeted for and subsequently run large operating deficits over a number of years. At the same time, Council has not had a reliable Long Term Financial Plan (LTFP) to provide a path to achieve a break-even result or an operating surplus in the future.
3. There remains considerable risk to Council in not having an audit committee or internal audit function. As a direct consequence, Council was not aware of, nor was it involved in, the preparation of a response to the issues raised in the external auditor's management letters in 2013/14 and 2014/15.
4. Council's policies do not appear to have been reviewed and/or updated since 2008. Notably, Council has seemingly dealt with code of conduct complaints (one of which has been referred to the Office for misconduct) pursuant to a superseded code and/or one which has not been adopted by Council.
5. Councillors failing to identify the nature of the interest when disclosures are made at the commencement of the meetings (pecuniary or non-pecuniary). There is no record of what, if any, action was taken by councillors to manage identified conflicts.
6. I believe the appointment of a temporary adviser to assist the Council in meeting the actions required is reasonably necessary in the circumstances.

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

1. That Council develop an implementation plan acceptable to the Minister that addresses the findings and recommendations from the Office of Local Government's report entitled '*Balranald Shire Council report on Preliminary Enquiries dated August 2016*' (the Report).
2. That Council utilise the services of the temporary adviser to assist in identifying any additional risks and areas of non-compliance in Council's controls and processes and incorporate these in the implementation plan.
3. The implementation plan must:
 - a. Demonstrate how Council will address the findings and recommendations in the Report.
 - b. Demonstrate how Council will address any additional risks and areas of non-compliance in Council's controls and processes.
 - c. Identify specific completion dates.
 - d. Identify the person/s responsible for implementation activities.
 - e. Identify what, if any, additional resources are required to give effect to the plan.
4. If the plan is satisfactory to the Minister, the Council is to adopt the plan and commence its implementation.

Period for compliance with Order

1. Compliance report 1: Council must provide the Minister with the implementation plan within 10 weeks from the date of service of this Order.
2. Compliance report 2 – final compliance report: Council must provide the Minister with a written report on its progress against the implementation plan within 12 weeks of the Minister's satisfaction with the plan.

Evidence to be provided with the compliance reports

Compliance report 1: A copy of Council's implementation plan.

Compliance report 2 – final compliance report: Documentary evidence to substantiate the actions taken and any improvement to Council's performance against the implementation plan.

SCHEDULE 3**Appointment of temporary adviser**

Pursuant to section 438G of the *Local Government Act 1993*, that Alan McCormack be appointed as a temporary adviser to Balranald Shire Council for the period up to the submission of the final compliance report to the Minister.

The temporary adviser shall have the following functions:

(i) to provide advice and assistance to Council for the purpose of ensuring that it complies with the Performance Improvement Order.

(ii) to undertake a review and evaluation of Council's implementation plan. In doing so, obtain evidence to the effectiveness of Council's controls or processes that have been implemented since the Office conducted its preliminary enquiries.

(iii) to provide assistance to Council for the purpose of identifying any additional risks and areas of non-compliance in Council's controls and processes.

Pursuant to section 438G(7) of the *Local Government Act 1993*, the temporary adviser shall be paid from the Council's funds for the period of the appointment. The estimated maximum cost of the appointment will be \$66,000 (including GST).