

**Local Government Act 1993**

**Order under section 438A**

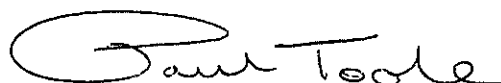
I, the Minister for Local Government, issue this Performance Improvement Order to the council specified in Schedule 1 to undertake the actions described in Schedule 2 within the period specified in Schedule 2.

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:

9.12.14



The Hon Paul Toole MP

Minister for Local Government

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**SCHEDULE 1**

**NORTH SYDNEY COUNCIL**

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**SCHEDULE 2**

**Reasons for Order - section 438A(3)(a)**

1. Significant aspects of the Council's functioning are inconsistent with the Council meeting its legislative responsibilities.
2. Individual councillors continue to raise allegations that councillors are breaching the Council's code of conduct at Council meetings contrary to the requirements of the Procedures for the Administration of the Model Code of Conduct which circumvents the proper procedure for managing conduct complaints about individuals.
3. The Mayor's refusal to sign the General Manager's performance agreement requiring the Council to delegate this function to the Deputy Mayor.
4. The continuing and serious conflict between the Mayor and councillors and between the Mayor and General Manager is not being rectified.
5. The public nature of the conflict between the Mayor and councillors serves to reduce the community's confidence in its elected Council and raises doubt in the community's mind about the decisions of the Council. This is a significant risk to the reputation of the Council.
6. The Council has previously been asked by the Chief Executive of the Office of Local Government and the Minister for Local Government to improve its

performance.

7. Council business is being disrupted because of the poor management of Council meetings and the poor working relationship between the Mayor and the General Manager.
8. The potential negative impact of the conflict on the morale of the staff of the Council and the performance of the organisation.
9. The appointment of a temporary adviser is necessary to assist Council to implement the actions required to improve its performance, particularly with respect to the orderly conduct of meetings.

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

1. The Mayor and all councillors are to immediately refrain from making allegations at Council meetings that the Mayor and/or one or more councillors has or have breached the Council's code of conduct.
2. The Mayor and all councillors must immediately comply with the Council's media policy.
3. Council is to, without delay, engage an independent person or body to monitor the Mayor's and councillors' compliance with the Council's media policy with any non-compliances reported to the General Manager.
4. The Mayor and all councillors must participate in a conflict resolution process, conducted by a suitably qualified independent person, in order to resolve the ongoing conflict between them.
5. The Mayor must participate in a conflict resolution process, conducted by a suitably qualified independent person, in order to resolve the ongoing conflict between her and the General Manager.
6. Council is to direct the General Manager to participate in a conflict resolution process, conducted by a suitably qualified independent person, in order to resolve the ongoing conflict between him and the Mayor.
7. Council utilise the services of the temporary adviser to assist in the orderly conduct of Council Meetings
8. The Mayor and councillors must have due regard to the advice of the temporary adviser on matters of meetings procedures
9. The Mayor and all councillors must participate together in code of meeting practice and code of conduct training.
10. Council is to measure staff morale and the impact of the leadership relationship issues on this, in two stages. The first measure to be undertaken immediately. The second measure, using the same process, to be undertaken again after four months from the making of this Order.

**Period for compliance with Order**

Date of service – 30 April 2015

Council must provide the Minister with a written report on its compliance with this Performance Improvement Order on or before 22 May 2015.

**Evidence to be provided with the compliance report**

- Any documentation produced relating to outcomes from the conflict resolution processes.
- Attendance records for the identified training.
- Both results of the measurement of staff morale.
- The minutes and sound recordings of all Council meetings held during the period of the Order.
- Copy of any reports on the monitoring of compliance with the media policy.

### SCHEDULE 3

#### **Appointment of temporary adviser**

Pursuant to section 438G of the *Local Government Act 1993*, that Michael Andrew Montgomery AM be appointed as a temporary adviser to North Sydney Council for the period "date of service" to 30 April 2015.

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 monitor Council's compliance with the performance improvement order.
- (iii) to attend all Council Meetings and to advise the Mayor and councillors on compliance with meetings provisions of the *Local Government Act 1993*, the Local Government (General) Regulation 2005 and Council's Code of Meeting Practice.

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 \$14,900 (including GST.)