


## LOCAL GOVERNMENT ACT 1993

### ORDERS UNDER SECTION 440I(2)

I, Brett Whitworth, Deputy Secretary, Office of Local Government, Department of Planning, Housing and Infrastructure, under delegation from the Secretary, Department of Planning, Housing and Infrastructure, by **ORDER, direct** that Councillor Andrew Thaler of Snowy Monaro Regional Council (Council):

1. Be suspended from civic office for a period of 3 (three) months under s.440I(2)(g) of the *Local Government Act 1993* (Act); and
2. Within 14 days of the date of this Order, apologise for the misconduct under s.440I(2)(d) of the Act. Councillor Andrew Thaler must make the apology:
  - (a) in writing;
  - (b) addressed to the individuals named in online comments set out in the Departmental Report dated 15 April 2025;
  - (c) publicly available on any social media profile and/or account with whom you have a content creation or production contributor affiliation; and
  - (d) make available to the General Manager (GM) of Council for publication by the GM in any manner the GM believes is necessary to reach the greatest number of Snowy Monaro residents.

The period of suspension commences on 13 May 2025 and ends on 4 August 2025.

Dated: 5 May 2025  


Brett Whitworth  
**Deputy Secretary**  
**Office of Local Government**  
**Department of Planning, Housing and Infrastructure**

# LOCAL GOVERNMENT ACT 1993

## SECTION 440I

### STATEMENT OF REASONS FOR TAKING DISCIPLINARY ACTION UNDER SECTION 440I COUNCILLOR ANDREW THALER SNOWY MONARO REGIONAL COUNCIL

1. I, Brett Whitworth, Deputy Secretary, Office of Local Government, Department of Planning, Housing and Infrastructure, having considered a departmental report prepared under section 440H of the Local Government Act 1993 (the Act), am satisfied that Councillor (Clr) Andrew Thaler of ~~Gosnook City Council~~ *Snowy Monaro* has engaged in misconduct as defined by s.440F of the Act. *BW 6/sks*
2. I have determined, after considering Clr Thaler's submissions on penalty dated 29 April 2025, that he should by Order, be suspended from civic office for a period of 3 months under section 440I(2)(g) of the Act, and apologise for the misconduct in the manner specified in the order pursuant to section 440I(2)(d) of the Act.

#### THE MATTER

3. That on 5, 6, 12 and 14 March 2025, Cr Thaler breached applicable provisions of the Council's adopted code of conduct (Code) and as such, engaged in misconduct, as defined by 440F(1)(b) of the Act. Specifically, the conduct was evidenced by comments made in videos and written posts on social media.

#### Specific Allegations:

4. That:
  - Clr Thaler engaged in misconduct as defined by s.440F of the Act by making comments in publicly available social media comments in his 5 and 6 March 2025 videos and sharing of a post on 14 March 2025 which are reasonably likely to have brought Council officials into disrepute, in breach of clause 3.1(a) of the Code.
  - Clr Thaler engaged in misconduct as defined by s.440F of the Act by making comments in his publicly available social media videos of 5 and 6 March 2025 which are reasonably considered improper and/or unethical, in breach of clause 3.1(c) of the Code.
  - Clr Thaler engaged in misconduct as defined by s.440F of the Act by making publicly available social media comments in his 5 and 6 March 2025 videos which are reasonably considered to constitute intimidation and/or verbal abuse, in breach of clause 3.1(e) of the Code.

- Clr Thaler engaged in misconduct as defined by s.440F of the Act by making publicly available social media comments in his 5 and 6 March 2025 videos, and his post of 12 and sharing of a post on 14 March 2025 which are reasonably considered to constitute harassment, bullying and/or unlawful discrimination, in breach of clause 3.1(g) of the Code.
- Clr Thaler engaged in misconduct as defined by s.440F of the Act by making publicly available social media comments in his 5 and 6 March 2025 videos which could compromise the psychological safety of the affected individuals, in breach of clause 3.12 of the Code.
- Clr Thaler engaged in misconduct as defined by s.440F of the Act by making publicly available social media comments in his 5 March 2025 video which are reasonably considered to constitute pressuring council staff in the performance of their work, or recommendations they should make, in breach of clause 7.6(i) of the Code.
- Clr Thaler engaged in misconduct as defined by s.440F of the Act by making publicly available social media comments in his 5 March 2025 video which are reasonably considered to constitute being overbearing or threatening to council staff, in breach of clause 7.6(f) of the Code.

REASONS FOR SUSPENDING COUNCILLOR ANDREW THALER UNDER SECTION 440I(2)(g) OF THE LOCAL GOVERNMENT ACT 1993

6. I have previously considered a departmental report and annexures that were prepared in relation to the alleged misconduct. On the basis of that departmental report and annexures, I am satisfied that Clr Thaler engaged in misconduct as defined by s.440F of the Act in relation to all allegations contained within the report.
7. I am satisfied that all allegations have been substantiated and that Clr Thaler engaged in misconduct through behaviour in videos and written posts made publicly available on social media on 5, 6, 12 and 14 March 2025:
8. Having formed the view under section 440I(1)(a) of the Act that Clr Thaler has committed misconduct within the meaning of section 440F of the Act and given the impact that Clr Thaler's misconduct has had personally on the targets of his comments have also brought disrepute on Snowy Monaro Regional Council, I formed a view under section 440I(1)(b) that disciplinary action is warranted.
9. I do not consider this to be a matter that should be referred back to Council with recommendations.
10. I do not consider this to be a matter that should be referred to the New South Wales Civil and Disciplinary Tribunal (NCAT). This is because I consider the 3-

month suspension and mandated apology I am imposing to be an appropriate disciplinary action, which is also within my authority under the Act.

11. Clr Thaler was advised of my decision that he had been found to have engaged in misconduct, that disciplinary action was warranted and my position on proposed penalty (suspension from civic office for period of 3 months and a required apology) by letter dated 16 April 2024. Clr Thaler was provided 14 days from 16 April 2025 to provide submissions on the issue of proposed penalty.
12. Clr Thaler provided written submissions dated 29 April 2025.
13. Having considered Clr Thaler's submissions on penalty, I maintain the view that disciplinary action is warranted to provide both a specific deterrence to Clr Thaler in the future and also as a general deterrence to others.
14. In determining suspension to be the appropriate disciplinary action for these matters, I have considered the impact your conduct has had, and is having, on those subjects of your comments, and the broader community. Additionally, I have considered the following elements of Clr Thaler's penalty submissions:
  - I. Clr Thaler's lack of remorse or contrition for his actions,
  - II. Clr Thaler's disregard for the impact his statements have had on those targeted by them, and
  - III. Clr Thaler's lack of accountability for his actions
15. I have determined that Clr Thaler should be suspended from civic office for a period of 3 (three) months.
16. I have determined that Clr Thaler should be directed to apologise for the misconduct in the manner specified in the order.
17. I understand Clr Thaler has attended training in local government in relation to his obligations including as to his obligations under the Code.
18. I am unaware of any previous decisions of the NCAT or its predecessor the Local Government Pecuniary Interest and Disciplinary Tribunal concerning Clr Thaler.
19. I am also of the view Clr Thaler has shown no remorse in relation to the proved allegations.
20. Clr Thaler's training should have given him insight into what is acceptable and what his obligations are under Councils Code of Conduct.
21. Having regard to all of the above, when placed against the allegations, I hold the view that taking disciplinary action will emphasise the unacceptable nature of the conduct involved and will remind Clr Thaler and others of the importance of the maintaining of high standards of conduct. It also sends the appropriate message to the public in general that such conduct is not acceptable and will be investigated, and where appropriate, sanctioned.
22. In this matter, I hold the view that suspension from civic office is appropriate, despite the impact that the suspension may have on Council constituents.
23. Similarly, I hold the view that the disciplinary action does not impede nor preclude Council from undertaking its business.

## RELEVANT LEGISLATION

26. Misconduct is defined under section 440F of the Act as any of the following:
- (a) a contravention by the councillor of this Act or the regulations,
  - (b) a failure by the councillor to comply with an applicable requirement of a code of conduct,
  - (c) a failure by a councillor to comply with an order issued by the Departmental Chief Executive under this Division,
  - (d) an act of disorder committed by the councillor at a meeting of the council or a committee of the council,
  - (e) an act or omission of the councillor intended by the councillor to prevent the proper or effective functioning of the council or a committee of the council.
27. Section 440H (5) of the Act provides that the Departmental Chief Executive may arrange for a departmental report to be prepared in relation to an investigation conducted under this section. The preparation of such a report is a prerequisite to a decision by the Departmental Chief Executive to take disciplinary action against the councillor.
28. Section 440I(1) provides that the Departmental Chief Executive may take disciplinary action against a councillor if satisfied that:
- (a) the councillor has engaged in misconduct (whether on the basis of a department report or a report by the Ombudsman or Independent Commission Against Corruption), and
  - (b) disciplinary action is warranted.
29. Section 440I(2) authorises the Departmental Chief Executive to take one or more of the following disciplinary actions:
- (a) counsel the councillor,
  - (b) reprimand the councillor,
  - (c) by order, direct the councillor to cease engaging in the misconduct,
  - (d) by order, direct the councillor to apologise for the misconduct in the manner specified in the order,
  - (e) by order, direct the councillor to undertake training,
  - (f) by order, direct the councillor to participate in mediation,
  - (g) by order, suspend the councillor from civic office for a period not exceeding 3 months,
  - (h) by order, suspend the councillors right to be paid any fee or other remuneration to which the councillor would otherwise be entitled as the holder of the civic office, in respect of a period not exceeding 3 months (without suspending the councillor from civic office for that period).

30. Section 440I(6) provides that the Departmental Chief Executive is to make a decision to suspend a councillor from civic office or to suspend a councillors right to be paid any fee or other remuneration, and statement of reasons for the decision, publicly available.
31. Section 440K provides: (1) A councillor, while suspended from office under this Division—
- (a) is not entitled to exercise any of the functions of the civic office, and (b) is not entitled to any fee or other remuneration, or to the payment of expenses or to the use of council facilities, to which he or she would otherwise be entitled as the holder of the civic office.
  - (2) The period of suspension under an order made by the Departmental Chief Executive commences on the date 7 days after the service of the order on the councillor or the date specified in the order for the commencement of the period of suspension, whichever is the later.

DATED:

5 May 2025  


Brett Whitworth

Deputy Secretary,

Office of Local Government

Department of Planning, Housing and Infrastructure