

**LOCAL GOVERNMENT ACT 1993**

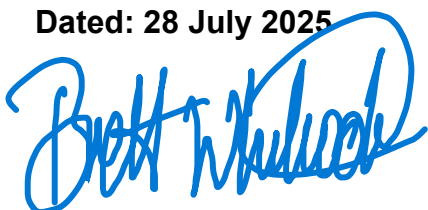
**ORDERS UNDER SECTION 440I(2)**

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 section 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 in respect of breaches 3 – 9 as set out in the Departmental Report dated July 2025, relating to his social media written posts and videos of 12, 18, 25, 26 and 30 March 2025 under section 440I(2)(d) of the Act. Councillor Andrew Thaler must:
  - (a) make the apology in writing; and
  - (b) address the apology to the Council; and
  - (c) specify in the apology, the misconduct which is the subject of his apology; and
  - (e) send the apology to the General Manager of Council (GM) for the purposes of the GM deciding:
    - (i) whether or not to publish the apology; and
    - (ii) if the GM decides that the apology is to be published, the manner in which the apology is to be published; and
  - (d) send a copy of the apology to the Office of Local Government, Department of Planning, Housing and Infrastructure.

The period of suspension commences on the date 7 days after the service of this Order in accordance with section 440K(2) of the Act.

**Dated: 28 July 2025**



Brett Whitworth

**Deputy Secretary**

**Office of Local Government**

**Department of Planning, Housing and Infrastructure**

**Delegate of the Departmental Chief Executive under the *Local Government Act 1993***

# 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 (Department), a delegate of the Secretary of the Department, 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 Snowy Monaro Regional Council has engaged in misconduct as defined by section 440F of the Act.
2. I have determined that he should, by order, be suspended from civic office for a period of 3 months pursuant to 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. It was alleged that on 12, 16, 18, 25, 26, and 30 March 2025, Clr Thaler breached applicable provisions of the Council's adopted Code of Conduct (the Code). If substantiated, these breaches would constitute misconduct as defined under section 440F(1)(b) of the Act. The alleged misconduct is based on comments made by Clr Thaler in an email, as well as in videos and written posts published on social media.

#### ALLEGATIONS

4. It was alleged that:
  - Breach 1 – Clr Thaler's comment in his 16 March 2025 email was reasonably likely to have brought a Council official into disrepute (Code Clause 3.1(a)) and implied a breach of Council's Code by another councillor, outside of the established procedures for making such a complaint (Code Clause 9.11), thereby breaching those parts of the Code.
  - Breach 2 – Clr Thaler's comment in his 25 March 2025 Facebook post was reasonably likely to have brought a Council official into disrepute (Code Clause 3.1(a)).
  - Breach 3, 4 and 5 – Clr Thaler's comments in his two 25 March 2025 Facebook posts (at 8.38am and 9.20am), and in his 26 March 2025 YouTube video are reasonably likely to have brought a Council official

into disrepute (Code Clause 3.1(a)) and to constitute harassment and/or bullying (Code Clause 3.1(g), 3.6 and 3.8), thereby breaching those parts of the Code.

- **Breach 6 and 7** – Clr Thaler’s comments in his 12 and 30 March 2025 videos are reasonably considered improper and/or unethical (Code Clause 3.1(c)), constitute verbal abuse (Code Clause 3.1(e)), and/or are reasonably considered to constitute harassment and/or bullying (Code clause 3.1(g), 3.6 and 3.8), thereby breaching those parts of the Code.
- **Breach 8** – Clr Thaler’s comment in his 18 March 2025 video is reasonably considered improper and/or unethical (Code Clause 3.1(c)), constitutes verbal abuse (Code Clause 3.1(e)), and/or is reasonably considered to constitute harassment (Code clause 3.1(g) and 3.6), thereby breaching those parts of the Code.
- **Breach 9** – Clr Thaler’s comment in his 30 March 2025 video is reasonably considered improper and/or unethical (Code Clause 3.1(c)), constitutes verbal abuse (Code Clause 3.1(e)), and/or is reasonably considered to constitute harassment (Code clause 3.1(g) and 3.6), thereby breaching those parts of the Code.

## DECISION

5. I have considered a departmental report and annexures that were prepared in relation to the alleged misconduct.
6. On the basis of that departmental report and annexures, I am satisfied that:
  - In respect of alleged breach 1, Clr Thaler breached clause 9.11 of the Code, however I am not satisfied that Clr Thaler’s conduct breached clause 3.1(a) of the Code. In relation to the breach of clause 9.11, I am of the opinion that the conduct does not warrant disciplinary action. I have reminded Clr Thaler in correspondence of his obligations under the Code of Conduct and the Procedures for the Administration of the Code of Conduct.
  - In respect of breach 2, I am not satisfied that Clr Thaler’s conduct breached clause 3.1(a) of the Code.
  - In respect of breaches 3 to 9, I am satisfied that Clr Thaler’s conduct breached those relevant clauses of the Code, and therefore I have found that he engaged in misconduct as defined by section 440F of the Act. For the reasons set out below, I consider the misconduct is sufficiently serious to warrant disciplinary action by way of an order:
    - suspending Cr Thaler from civic office for a period of 3 months under section 440I(2)(g) of the Act, and
    - directing Cr Thaler to apologise for the misconduct in the manner specified in the order under section 440I(2)(d) of the Act.

## REASONS

7. I am satisfied that breaches 3 to 9 have been substantiated and that Clr Thaler engaged in misconduct through behaviour in videos and written posts made publicly available on social media on 12, 18, 25, 26 and 30 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, I have also formed a view under section 440I(1)(b) that disciplinary action is warranted for the following reasons:
  - Clr Thaler's failure to express or demonstrate any remorse or contrition in his submission dated 2 July 2025 and his submission received 25 July 2025, which indicates a lack of insight into the inappropriateness of the conduct.
  - In respect of breaches 3, 4 and 5, Clr Thaler's submission dated 2 July 2025 indicates he thought the conduct was 'very funny' and that he 'enjoyed it'. Additionally, in his submission received 25 July 2025 Clr Thaler repeated a similar derogatory 'name' which was the subject of breaches 3, 4 and 5 when referring to another Snowy Monaro Regional Council Councillor further demonstrating that lack of insight.
  - The seriousness of the conduct the subject of each breach, including that the conduct was directed towards not just other members of Council but also members of the public.
  - That the conduct in breaches 3-9 occurred in a public forum, and in such circumstances that appear to be targeted and intentional.
  - The conduct occurring over a number of days indicates an ongoing pattern of inappropriate conduct by Clr Thaler's public social media posts, with an apparent disregard for the impact on others and other consequences.
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 requiring the more serious step of a referral to the New South Wales Civil and Administrative Tribunal (NCAT), who would have the power to disqualify Clr Thaler from holding civic office for a period not exceeding 5 years. This is because I consider the 3-month suspension and apology I am ordering to be an appropriate disciplinary action in all the circumstances. It enables immediate action to be taken to address the work health and safety concerns arising from Clr Thaler's conduct, particularly in relation to the councillors who were the specific targets of the comments outlined in this departmental report.
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 the proposed penalty (suspension from civic office for period of 3 months and

apology) by letter dated 10 July 2025. Clr Thaler was provided 14 days to provide submissions.

12. Clr Thaler provided written submissions on the issue of proposed penalty on 25 July 2025 (while the submissions are dated 17 July 2025, they were received by email on 25 July 2025).
13. Having considered Clr Thaler's submissions on the proposed disciplinary action, 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 whether a suspension is an appropriate disciplinary action, in addition to the considerations listed above, I have also considered the following elements of Clr Thaler's submissions:
  - Clr Thaler's lack of remorse or contrition for his actions,
  - Clr Thaler's disregard for the impact his statements have had on those subject of his conduct, and
  - Clr Thaler's lack of accountability for his own actions and conduct
15. I note that this suspension order will be the second order imposing a suspension for misconduct on Clr Thaler. Despite the first suspension order dated 5 May 2025 being upheld by the NCAT in appeal proceedings brought by Clr Thaler, in his submissions in this matter Clr Thaler has not shown any insight into the misconduct, or any genuine remorse.
16. I have determined that Clr Thaler should be suspended from civic office for a period of 3 (three) months.
17. I have determined that Clr Thaler should be directed to apologise for the misconduct in the manner specified in the order.
18. I understand Clr Thaler has attended training in local government in relation to his obligations including as to his obligations under the Code. Clr Thaler's training should have given him insight into what is acceptable and what his obligations are under Council's Code of Conduct.
19. I note that on 10 July 2025, NCAT confirmed my decision of 5 May 2025, which ordered that Clr Thaler be suspended from civic office for a period of 3 months for engaging in misconduct related to social media videos and written posts published between 5 and 14 March 2025. The order also required Clr Thaler to issue an apology in the manner specified. The misconduct that led to that order is similar in nature to the conduct presently under consideration, and in my view, the circumstances warrant the imposition of a similar penalty.
20. Having regard to all of the above, I am of the view that ordering this disciplinary action will emphasise the unacceptable nature of the conduct involved and will remind Clr Thaler and others of the importance of maintaining high standards of conduct. It also sends the appropriate message to the general public that such conduct is not acceptable, and where appropriate, disciplinary action will be taken.

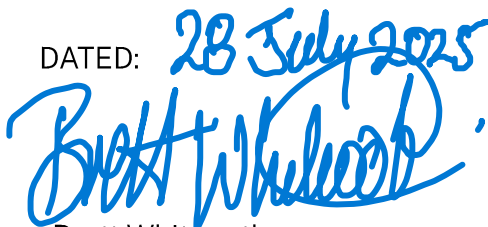
21. In this matter, I am of the view that suspension from civic office is appropriate, despite the impact that the suspension may have on Council constituents.
22. Similarly, I hold the view that the disciplinary action does not impede nor preclude Council from undertaking its business.

### RELEVANT LEGISLATION

23. 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.
24. Section 440H (5A) of the Act provides that the Departmental Chief Executive may arrange for a departmental report to be prepared about whether a councillor has engaged in misconduct, without an investigation being carried out, if the Departmental Chief Executive considers it appropriate to do so. The preparation of such a report is a prerequisite to a decision by the Departmental Chief Executive to take disciplinary action against the councillor.
25. 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.
26. 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).
27. 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 councillor's right to be paid any fee or other remuneration, and statement of reasons for the decision, publicly available.
28. 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:

28 July 2025  


Brett Whitworth

Deputy Secretary

Office of Local Government

Department of Planning, Housing and Infrastructure

Delegate of the Departmental Chief Executive under the *Local Government Act 1993*