

**Local Government Act 1993**

**Section 438A**

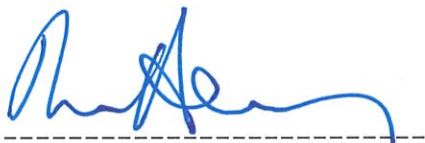
**Performance Improvement Order**

I, the Honourable Ron Hoenig MP, Minister for Local Government, do, by this order under section 438A of the *Local Government Act 1993* (the Act), require the Edward River Council (ERC) for the reasons specified in Schedule 1 below, to undertake the actions described in Schedule 2 below within the period specified.

I hereby appoint the person specified in Schedule 3 as a Temporary Advisor to ERC to exercise the functions for the term specified in Schedule 3.

This Order takes effect upon service on ERC.

Dated this                      day of                      2024

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

## **Schedule 1**

### **Reasons for Order – section 438A(3)(a) of the Act**

1. There is evidence that ERC's meeting procedures are not complying with the Meeting Code of Practice and there is a lack of appropriate respect and formality.
2. There is evidence to suggest that ERC is not complying with its work health and safety obligations as a result of the behaviours of some councillors.
3. There is evidence of hostility and acrimony between councillors that, if unaddressed, is likely to lead to dysfunction and reputational damage.
4. There are behaviours that indicate that some councillors may not understand their obligations under the code of conduct when dealing with the staff of council.
5. There are behaviours that indicate that some councillors may not understand their obligations under the code of conduct when dealing with each other.
6. There are behaviours that indicate that some councillors may not understand their obligations under the code of meeting practice.

In my opinion, a temporary advisor with requisite skills in management and governance is also needed to provide advice and assistance in relation to ERC's implementation of this Performance Improvement Order.

## **Schedule 2**

### **Action required to improve performance – section 438A(3)(b) of the Act**

With the assistance of the temporary advisor, ERC is required to implement the following actions to improve its performance.

1. Improve council behaviours within ERC meetings and workshops to reflect community standards and ensure compliance of council's code of meeting practice.
2. Complete councillor training workshops as requested by the Deputy Secretary, Local Government.
3. Identify actions required to be taken to ensure compliance by the councillors with the staff interaction policy. These actions will be informed by the Temporary Advisor.
4. Identify actions that the governing body and councillors need to undertake to ensure compliance with its legislative obligations including Financial Reporting and Integrated Planning and Reporting (End of Term report).
5. Identify actions and strategies to ensure ERC is complying with its obligations under Safe Work NSW, specifically around Councillor / Councillor and Councillor / Staff interactions.
6. Identify actions and strategies to ensure councillors are correctly briefed on the effective operations of ERC and relevant activities.
7. Identify actions to deliver and evaluate councillor induction training, including how to respect the principles of political discourse within and outside council meetings.

### **Period for compliance with Order**

#### **Compliance report 1:**

Report on the status of Edward River Council, including observed conduct of councillors within the council chambers and report on any matters referred under the Code of Conduct or Code of Meeting Practice by **27 August 2024**

#### **Compliance report 2:**

Report on the status of ERC, including observations of conduct of councillors and staff as well as preparation for councillor induction by **24 September 2024**

### **Compliance report 3:**

Provide a Final Report on the status of ERC including observations of behaviours and conduct of councillors, including the observations and outcomes from councillor induction. Make recommendations as to the ongoing improvement and functions of ERC by **28 February 2025**

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

### **Schedule 3**

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

1. Pursuant to section 438G of the *Local Government Act 1993*, Mr Mark Ferguson is hereby appointed as a temporary adviser to Edward River Council to:
  - a. attend Council meetings for the purpose of providing advice and assistance to the Chair in respect of meeting procedures and dealing with acts of disorder;
  - b. attend councillor training workshops as requested by the Deputy Secretary, Local Government;
  - c. provide advice and assistance to the council for the purpose of ensuring that it complies with the performance improvement order; and
  - d. monitor the council's compliance with the performance improvement order.

This appointment will cease upon Mr Ferguson providing a report to me on Council's final compliance report including their observations of at least three consecutive Council meetings.

Pursuant to section 438G(7) of the *Local Government Act 1993*, Mr Ferguson shall be paid from the Council's funds for the period of the appointment. The estimated maximum cost of the appointment will be \$60,000 (including GST).