

Ordinary Meeting

Meeting Date: Tuesday, 24 March, 2026
Location: The Studio, Shoalhaven Entertainment Centre, Bridge Road, Nowra
Time: 5.30pm

Addendum Agenda

Mayoral Minute

Mayoral Minute

MM26.5 Mayoral Minute - Service of Performance Improvement Order on
Shoalhaven City Council1

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HPERM Ref: D26/123606

Attachments: 1. Shoalhaven City Council - Performance Improvement Order A998905 [↓](#)

Recommendation

That Council

1. Note and table the Performance Improvement Order A998905 dated 19 March 2026 and served on 20 March 2026 (Attachment 1) by the Minister of Local Government, the Hon. Ron Hoenig MP and the actions required of Council outlined therein.
2. Authorise the Chief Executive Officer to engage with the Office of Local Government and to implement all required actions, including the preparation and submission of information and reports within the specified timeframes, following consultation with Councillors.
3. Receive further reports from the Chief Executive Officer confirming the completion of the reporting obligations and actions required under the Performance Improvement Order

MM26.5

Details

On Friday 20 March 2026, Councillor Wilkins in his capacity of Deputy Mayor and I were served the attached correspondence and Performance Improvement Order A998905 issued by the Minister of Local Government the Hon. Ron Hoening MP.

The issue of the Performance Improvement order follows the Minister's issue of the Intention to Issue a Performance Improvement Order on 5 February 2026 which was reported to and considered by the Council at an Extraordinary Meeting held on 13 February 2026. At that meeting the Council resolved (MIN26.25) as follows:

"That Council

1. *Table the Notice of Intention to issue a Performance Improvement Order to Shoalhaven City Council, under Section 438A of the Local Government Act, 1993 from the Minister for Local Government, The Hon. Ron Hoenig MP, dated 5 February 2026. (Attachment 1)*
2. *Accept the draft Performance Improvement Order, commit to cooperate fully with the Office of Local Government and write to the Minister (by 20 February 2026) advising this position.*
3. *Engage an appropriate, independent, suitably qualified professional to collate and review relevant materials held by Council relating to the concerns raised in the Order, in order to determine the best position for Council in the best interests of the community of the Shoalhaven.*
4. *Write to the Minister of Local Government, the Hon Ron Hoenig MP, and request that he come to Council to meet with Councillors and Executive Staff."*

The CEO, Mr Constance wrote to the Minister on 19 February 2026 and provided the resolution of the Council outlined above.

The Minister has advised that he has made his decision to issue the performance order considering the advice from Council.

The governing body of the Council is now responsible for ensuring the council's compliance with the Performance Improvement Order which, in summary, requires:

- For the period to 19 March 2027 the inclusion of at least three people on recruitment panels for Senior Management positions, including a Senior Human Resources Manager or recruitment consultant and suitable impartial subject matter expert, one of those being independent of the Council
- Provision of reports and information specified in the Order to the Office of Local Government (OLG) with respect to human resources and recruitment processes on the following dates:
 - By 9 April 2026 (within 21 days of Order) – Initial provision of specific information.
 - By 30 June 2026 (Compliance report relating to information for 1 February 2026 to 30 May 2026)
 - By 31 December 2026 (Compliance report relating to information for 1 June 2026 to 30 November 2026)

This report seeks to table the Performance Improvement Order, a copy of which has been published on the Council Website in accordance with Section 428D(2) of the Local Government Act, 1993.

The Chief Executive Officer will now work with relevant staff to prepare the required information and reports for submission to the Office of Local Government. Councillors will be kept informed of the progress towards the completion of the Performance Improvement Order and be provided with the opportunity to view and comment on the draft reports prior to submission.

Where required, further reports will be presented to Council Meetings and the Audit, Risk and Improvement Committee.

Local Government Act 1993

Section 438A

Performance Improvement Order

I, the Honourable Ron Hoenig MP, Minister for Local Government, do, by this Order pursuant to section 438A of the *Local Government Act 1993*, require Shoalhaven City Council, for the reasons specified in Schedule 1 below, to undertake the actions described in Schedule 2 below within the period specified in Schedule 2.

This Order takes effect upon service on the Council.

Dated this 19 day of March 2026


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

SCHEDULE 1

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

1. There is sufficient evidence to raise questions about the transparency, impartiality and integrity of the recruitment process leading to the appointment of Mr Andrew Constance as General Manager.
2. There is sufficient evidence to suggest that there may be broader, systemic issues concerning the integrity of Council's recruitment practices.
3. Against the background of internal and external disquiet about the recruitment process leading to Mr Constance's appointment, and another managerial appointment, it is likely that, if left unaddressed, those concerns will impact upon relationships between the elected body and the General Manager, and upon staff morale.
4. In light of the above, Office of Local Government's (OLG) oversight of the recruitment of all Council senior leadership positions, which, for the purposes of the Performance Improvement Order, I consider to be of manager and above, during the organisation restructure, will ensure proper process is followed and transparent decisions are made. Failure to proceed with the restructure under these conditions will have a negative effect upon Council's effectiveness to exercise its functions and lead to further damage and distrust with its relationship with the Shoalhaven community.

SCHEDULE 2

Action required to improve performance – section 438A(3)(b)
<p>In accordance with section 438A of the <i>Local Government Act 1993</i>, this order requires that:</p> <ol style="list-style-type: none"> 1. Shoalhaven City Council must provide OLG with details of the proposed Council restructure, including: <ol style="list-style-type: none"> a. the Council organisational chart relevant to the period immediately prior to the restructure commencement; b. the Council organisational chart relevant to the restructure; c. roles being removed or delimited; d. roles being recruited to; and e. details of the proposed timeframes for the restructure processes. <p>This information must be provided to OLG within 21 days of the date of this Order.</p> 2. For a period of 12 months from the issuing of the Performance Improvement Order for each Council senior leadership position (i.e. Manager or above) being recruited to, Shoalhaven City Council must: <ol style="list-style-type: none"> a. form a recruitment panel of at least three people which includes a senior human resources manager or external recruitment consultant and a suitable, impartial subject matter expert where appropriate; and b. ensure that one recruitment panel member is independent of Council. 3. For each Council senior leadership position recruited during the restructure and for a period of 12 months from the issuing of the Performance Improvement Order, Shoalhaven City Council must provide a report to OLG that: <ol style="list-style-type: none"> a. sets out the details of all the recruitment panel members; b. attaches copies of the conflict-of-interest forms completed by all the recruitment panel members; c. sets out details of the process undertaken, including position, number of applicants, date and number of interviews. This should include the relevant recruitment assessments, panel members assessments of the candidates and documented panel outcomes; and d. attaches a signed certification from all recruitment panel members that the recruitment process was undertaken in accordance with policy/legislation requirements.

Reporting in compliance with this order – section 438F
<p>I require Shoalhaven City Council to provide me with the following reports on compliance with this Order, within the timeframes specified:</p> <p>Compliance report 1 within 21 days of issue of PIO</p> <p>In addition to Item 1 of Schedule 2 of this Order, Shoalhaven City Council must submit a compliance report to OLG that includes the following information within 21 days of the date of this Order:</p> <ul style="list-style-type: none"> a. records of internal and external consultation processes undertaken prior to implementing the 24/25 restructure changes b. records relating to redundancies, including: <ul style="list-style-type: none"> i. a list of positions and relevant functional area; ii. date effected; iii. reasons (e.g. genuine restructure; duplication; technology change; service level change); and iv. compliance with industrial relations obligations c. details of all new positions, including: <ul style="list-style-type: none"> i. a list of all titles, level, reporting line; and ii. reasons (e.g. statutory/compliance, service delivery need, cost off set, risk mitigation); and iii. funding source. d. appointments to all Manager and above roles since 1 January 2025, including: <ul style="list-style-type: none"> i. a list of all titles, level; ii. date of appointments; and iii. particulars about the recruitment process (e.g. advertising channels, assessment methods, panel composition, conflict of interest declarations, merit criteria, reference checks). <p>Compliance report 2 by 30 June 2026 – for the period between 1 February 2026 and 30 May 2026</p> <p>For each Council senior leadership position (i.e. Manager or above) recruited to between 1 February 2026 and 30 May 2026, Council must provide a compliance report to OLG by 31 May 2026 that:</p> <ul style="list-style-type: none"> a. sets out the details of the recruitment panel members; b. attaches copies of the conflict-of-interest forms completed by all the recruitment panel members; c. sets out details of the process undertaken, including position, number of applicants, date and number of interviews; and d. attaches a signed certification from all panel members that the recruitment process was undertaken in accordance with policy/legislation requirements.

OLG may request additional documentation to clarify any aspects of the compliance report and may set the time parameters for the return of that additional information and/or record.

Compliance report 3 by 31 December 2026 – for the period between 1 June 2026 and 30 November 2026

For each Council senior leadership position (i.e. Manager or above) recruited to between 1 June 2026 and 30 November 2026, Council must provide a compliance report to OLG by 1 December 2026 that:

- a. sets out the details of the recruitment panel members;
- b. attaches copies of the conflict-of-interest forms completed by all the recruitment panel members;
- c. sets out details of the process undertaken, including position, number of applicants, date and number of interviews; and
- d. attaches a signed certification from all panel members that the recruitment process was undertaken in accordance with policy/legislation requirements.

OLG may request additional documentation to clarify any aspects of the compliance report and may set the time parameters for the return of that additional information and/or record.