

# The Hon. Ron Hoenig MP

Leader of the House in the Legislative Assembly  
Vice-President of the Executive Council  
Minister for Local Government



Our Ref: A898435 / MO24-0840

Mr Viv May  
Administrator  
Wingecarribee Shire Council  
PO Box 141  
Moss Vale NSW 2577

Via email: [mail@wsc.nsw.gov.au](mailto:mail@wsc.nsw.gov.au) and [administratoroffice@wsc.nsw.gov.au](mailto:administratoroffice@wsc.nsw.gov.au)

Dear Mr May,

I refer to previous correspondence concerning my intention to issue a Performance Improvement Order (PIO) to Wingecarribee Shire Council (Council) under section 438A of the *Local Government Act 1993* (the Act).

I have carefully considered Council's submission, made by a resolution of Council on 9 September 2024.

Having considered all the information available to me, including Council's submission, I have formed the view that action must be taken to ensure there is no loss to the improvement of Council's performance as it transitions out of Administration. As a consequence I have decided to issue a PIO to establish clear expectations around Council's performance over the next 12 months. The reasons for my decision to issue a PIO are set in the body of the enclosed PIO.

It is important that the newly elected body works together with the Council's General Manager and staff to ensure compliance with the terms of the PIO. I have also asked the Office of Local Government to contact Council to provide an opportunity for the Deputy Secretary to discuss the PIO with Councillors.

I expect that Council will table the PIO at an open Council meeting and place the PIO on Council's website in accordance with section 438D(2) of the Act.

I have made Mr Brett Whitworth, Deputy Secretary, Local Government, to be available on 02 4428 4100 or via [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au) should you have any questions or wish to discuss the PIO.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Ron Hoenig".

The Hon. Ron Hoenig MP  
Leader of the House in the Legislative Assembly  
Vice-President of the Executive Council  
Minister for Local Government

19 SEP 2024

Encl: Performance Improvement Order

CC: Ms Lisa Miscamble, General Manager, Wingecarribee Shire Council

Local Government Act 1993

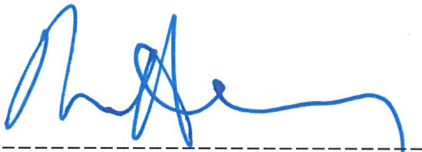
Section 438A

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 Wingecarribee Shire Council (Council) for the reasons specified in Schedule 1 below, to undertake the actions described in Schedule 2 below within the period specified.

This Order takes effect upon service on Council.

Dated this 19<sup>th</sup> day of September 2024



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

## Schedule 1

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

1. Council needs to keep its budget discipline to maintain its financial sustainability, particularly given its program of new water and sewer infrastructure at Moss Vale and Bowral tied to its housing strategy and the ongoing management of operational costs,
2. Council needs to ensure it maintains access to appropriate staff expertise and engagement to provide secure advice to the councillors on financial, governance and regulatory matters,
3. Council needs to maintain its strong governance processes to give staff confidence in providing the best advice and options to ensure there is a clear strategy for service delivery, infrastructure investment and renewal, as well as planning decisions on future housing,
4. Council should only be changing strategic priorities with clear understanding of costs and have supporting strategies to ensure Council doesn't fund initiatives through either debt or inappropriate access of restricted funds, and
5. Council needs to continue to deliver and implement the changes required as part of the recommendations of the Glover Inquiry.

## Schedule 2

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

In accordance with section 438A of the *Local Government Act 1993*, this order requires that:

#### 2.1.1 Staffing

1. Council can only terminate its general manager's contract of employment with the concurrence of the Deputy Secretary of the Office of Local Government (OLG),
2. Council can only change its delegations with the concurrence of the Deputy Secretary OLG,
3. Council can only restructure the organisation with the concurrence of the Deputy Secretary OLG,

#### 2.1.2 Financial oversight and discipline

4. Council must implement any ongoing recommendations from the Public Inquiry and the recommendations made in the report on the review of Council's governance practices under the oversight of the Audit, Risk and Improvement Committee (ARIC),
5. Council must engage its ARIC on "any significant changes" to council's priorities direction and take into account any recommendations,
6. Council must implement the adopted budget and operations plan for 2024/25. Any significant changes must be agreed by the Deputy Secretary OLG,
7. Council must publicly document the impact of all Council's resolutions on Council's Long Term Financial Plan (LTFP),
8. Council must not make financial decisions that impact adversely on Council's financial metrics as measured through the Office of Local Government financial indicators,
9. Council is to maintain an appropriate level of unrestricted cash and expend externally restricted funds only for the purpose for which they are set aside,
10. Council must take necessary steps to ensure timely and accurate financial monitoring and reporting including at a minimum the Quarterly Business Report, which is to be submitted to OLG for review and made clearly available to the community on Council's website,

#### 2.1.3 Governance

11. Council is to ensure that best practice governance standards are implemented and maintained. This is to be achieved by Council providing resources to the General Manager to ensure that:
  - a. governance standards are maintained,
  - b. the operational plan can be delivered,
  - c. infrastructure maintenance meets the operational plan and LTFP requirements, and
  - d. there is consistent improvement in financial ratios.
12. Council can only amend its councillor/staff interaction policy with the concurrence of the Deputy Secretary OLG, noting the general manager may update the staff list that can be contacted by councillors,
13. Council must ensure that the general manager develops a councillor request system to manage email requests from councillors. The system should ensure that communications are respectful, the number of requests are reasonable and include provisions permitting the general manager to impose limitations where disrespectful or excessive use of the system occurs,

#### 2.1.4 Council meeting practices

14. Council must ensure its code of meeting practice complies with the *Model Code of Meeting Practice for Local Councils in NSW* (the Model Meeting Code),
15. Council must ensure councillor briefings are open to the public unless the general manager is satisfied that grounds exist under the Act to exclude members of the public from a briefing to consider information that should not be made public, and

16. Council must conduct its meetings in accordance with its code of meeting practice and must not make decisions at councillor briefings and workshops.

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

1. The Council is to comply with this order for 12 months from the date of issue.

## **2.3 Reporting obligations**

1. The Council is to provide a quarterly compliance report to the Deputy Secretary OLG. As part of the first report Council is to provide to the Deputy Secretary OLG:
  - a) the Operational Plan and updated LTFP,
  - b) the adopted code of meeting practice, and
  - c) the councillor/staff interaction policy.
  
2. Each quarterly report is also to include:
  - a) the quarterly business reporting statement,
  - b) use of the councillor request system, and
  - c) any determinations of 'acts of disorder' made at a council meeting.