ORDINARY MEETING OF COUNCIL
SUPPLEMENTARY ITEMS

To be held at 5:00 PM on

Tuesday 19 May 2026

Council Chambers

11 Manning Street, KIAMA NSW 2533

Members

Mayor

Councillor C McDonald

Deputy Mayor

Councillor M Matters

Councillor M Brown

Councillor M Cains

Councillor I Draisma

Councillor S Larkins

Councillor M Lawton

Councillor Y Tatrai

Councillor E Warren

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17 LATE ITEMS

17.1 Receipt of proposed variation to Performance Improvement Order

Responsible Director: Office of the Chief Executive Officer

Report

Kiama Municipal Council was issued with a Performance Improvement Order (PIO) under section 438A of the *Local Government Act 1993* on 8 November 2022, by the then Minister for Local Government, the Hon. Wendy Tuckerman MP. The period of compliance with that order finished on 30 June 2023.

Following Minister Hoenig's review of Council's compliance reports and at the Minister's request Mr John Rayner was appointed to undertake a further review. Based on the findings of the Rayner report, the Minister determined to issue Council with a Notice of Intention to vary a Performance Improvement Order on 30 January 2024, with the final Varied PIO being issued 23 May 2024. The period of compliance with this order is due to finish on 30 June 2026.

On 14 May 2026, Council received the following by way of service a notice of intention to vary performance improvement order to Kiama Council:

1 Letter to Mayor Cameron McDonald and General Manager Ms Jane Stroud signed by the Minister for Local Government, the Hon. Ron Hoenig MP (dated 13 May 2026).

2 Variation of Performance Improvement Order signed by the Minister for Local Government, the Hon. Ron Hoenig MP.

The terms of the proposed Variation of Performance Improvement Order (section 438C(2A)(a)).

The terms of the proposed PIO are enclosed for reference, the proposed variation would, among other things, require Council to:

1. Adopt a financially sustainable budget pathway by specified dates, incorporating a one-year extension to the need to achieve a balanced budget.
2. Sequence budget repair measures before higher-impact staffing, asset sales and outsourcing measures are considered.
3. Prepare a strategic business case for Blue Haven Terralong Village.
4. Review strategic assets and revenue opportunities.
5. Strengthen reporting requirement to the Office of Local Government.
6. Not outsource its domestic waste management service
7. Complete additional governance and financial management actions within specified timeframes.

In his 13 May 2026 correspondence, Minister Hoenig acknowledges that Council has made progress under the current PIO, including improved financial reporting, progress under its Strategic Finance and Governance Improvement Plan and the completion of the Blue Haven Bonaira transaction.

The Minister further acknowledges that Council has rightly sought to achieve a balanced budget in its draft 2026/27 budget, as required by the current PIO, however, has raised concerns with proposed service level reductions given the impact that they will likely have on the Kiama community. This acknowledgment by the Minister is appreciated and reflects the long, and often difficult, journey that Council and the community have been on to balance the budget.

Actions that may be taken if a performance improvement order is not complied with
The terms of the proposed PIO outline that the NSW Government may take the following actions if the proposed variation to the PIO is not complied with:

1. Varying the PIO or issuing a further PIO
2. Appointing a Financial Controller under section 438HB of the Act
3. Temporarily suspending the council and installing an interim administrator under chapter 13, part 7 (sections 438I and 438M) of the Act.

Submissions to the Minister
Council is invited to make submissions in respect of the proposed PIO. These submissions must be provided to the Minister no later than 14 days upon which the notice was served on it.

The proposed variation to the PIO does seek to provide Council with more time to make appropriate budget reductions and investigate opportunities to increase revenue. However, staff do have some initial concerns with the content of the proposed variation to the PIO.

Staff are currently reviewing the proposed variation to the PIO and it is anticipated that an extraordinary meeting may be required to enable a detailed response to the proposed variation to the PIO to be tabled, endorsed by Council and provided to the Minister by 28 May 2026.

Communication/Community Engagement

Councillors and staff have been informed of the proposed intention to vary the PIO via communications yesterday 14 May 2026.

Council will consider the proposed PIO and make submissions within the 14-day period. Council's response on the PIO must be made via resolution. To that end there may be a potential need for extraordinary meeting to occur outside of the ordinary meeting cycle. Staff will prepare their feedback and advice for Council to consider at this upcoming meeting. Once confirmed this will be made available for the community.

Council has advised the general community that it has received the enclosed correspondence.

Risk implication

There is a risk that if Council does not comply with the PIO and improve its operating position that further Ministerial interventions will be imposed. The varied performance improvement order makes note of potential financial controller as the next intervention possible. Continuing to fail to meet Office of Local Government benchmarks for financial sustainability (performance ratios) is not an acceptable outcome.

Attachments

1 Unsigned Variation to Performance Improvement Order⇩

2 Letter from the Hon. Ron Hoenig MP - Variation to Performance Improvement Order - 13 May 2026- redacted⇩

Variation of Performance Improvement Order made to Kiama Municipal Council

under section 438A(6A) of the *Local Government Act 1993 (NSW)*

I, the Honourable Ron Hoenig MP, Minister for Local Government, vary the Performance Improvement Order dated 8 November 2022 issued to Kiama Municipal Council as varied by the Performance Improvement Order Variation dated 23 May 2024, under section 438A(6A) of the *Local Government Act 1993* in accordance with the terms set out in this Order (Variation Order).

This Variation Order takes effect upon service of this Variation Order on the Kiama Municipal Council.

Dated this day of 2026

The Hon. Ron Hoenig, MP
Minister for Local Government

Schedule 1 – Reasons to vary Order (section 438A(3)(a))

I, the Minister for Local Government, specify the reasons why this Variation Order has been issued:

1. While Kiama Municipal Council (Council) has made some progress under the Performance Improvement Order dated 8 November 2022 as varied by the Performance Improvement Order Variation dated 23 May 2024, further action is required to improve and secure the Council's long-term financial sustainability and operational performance.

2. The Council has demonstrated improvements in a number of areas, including:
   (a) improved timeliness and quality of financial reporting;
   (b) completion of the transfer of Blue Haven Bonaira; and
   (c) progress against several actions under the Finance and Governance Improvement Plan.

3. Despite these improvements, the Council continues to face significant financial and operational challenges, including:
   (a) forecast operating deficits in the absence of corrective action;
   (b) limited unrestricted cash reserves;
   (c) the need to align recurring income with recurring expenditure;
   (d) unresolved asset management and fire safety liabilities associated with Blue Haven Terralong Village;
   (e) the need to prioritise budget repair measures in an orderly and sustainable manner; and
   (f) the need for continued monitoring of savings initiatives, service reviews and overall financial performance.

4. Given the ongoing financial and operational risks facing the Council, it is necessary that variations are made to the required actions to ensure that these risks are appropriately managed and addressed.

5. This Variation Order is necessary to promote sound financial management, strengthen governance, and provide the community with confidence that the Council is taking effective and sustained action to restore and maintain its financial sustainability and operational performance.

6. Through this further round of improvements the Council will be able to demonstrate that it can function without the need for a Financial Controller. However, should Council be unable to meet the expectations of the Variation Order, including the need to seek a further extension to manage financial sustainability, a Financial Controller will be one of the options to be considered by the Minister.

7. Council's contemplation of the outsourcing of domestic waste services to create a relatively minor amount of savings do not justify the long term loss of value to the Kiama community if the service is outsourced.

Schedule 2 – Variation to Actions Required to Improve Performance

The Performance Improvement Order dated 8 November 2022 as varied by the Performance Improvement Order Variation dated 23 May 2024 is varied as follows:

[1] Schedule 2 - Omit Schedule 2, Parts A and B in the PIO Variation dated 23 May 2024.

Insert instead:

Schedule 2 – Action required to improve performance – section 438A(3)(b)

1. I require the Council to:
   (a) under section 438A of the Act, undertake the actions in Schedule 2, Part A, B and D within the timeframes specified to improve the performance of the Council; and
   (b) under section 438F, provide written compliance reports within the timeframe specified in Schedule 2, Part D, clause 13.

Part A – Council's Financial Management

2. By 30 June 2027, Council must adopt an operational plan and annual budget for FY2027/28 that demonstrates an operating position at or above break even before capital grants and contributions and excludes reliance on proceeds from asset sales.

3. Within 60 days from commencement of this Variation Order, Council must update the Finance and Governance Improvement Plan to include a strategy to increase cash balances, that are externally unrestricted, to a level sufficient to:
   (a) maintain liquidity for ordinary operations;
   (b) manage reasonably foreseeable unplanned expenditure; and
   (c) reduce reliance on unplanned asset sales or short term borrowing.

   The strategy must include:
   (d) annual unrestricted cash balance targets for FY2026/27 and FY2027/28;
   (e) actions to achieve those targets; and
   (f) quarterly monitoring and reporting against those targets.

4. Within 120 days from commencement of this Variation Order, Council must update the Finance and Governance Improvement Plan to set out the actions it will take over the next two budgets (FY 2026/27 and FY 2027/28) to break the practice of adopting deficit operating budgets without relying on property sales.

5. Council must implement a staged budget improvement program that prioritises lower impact efficiency measures and discretionary savings to address the $7 million gap in expenditure and revenue before Level 3 staffing restructure measures identified in the 7 April 2026 Business Papers are considered. For that purpose, Council must:
   (a) before 30 June 2027, provide evidence of implementation of all feasible Level 1 Budget Control Improvement measures identified in Council's business papers dated 7 April 2026 (Business Papers);
   (b) before 30 June 2027, provide evidence of implementation of all feasible Level 2 Discretionary Services measures identified in the Business Papers, subject to any required consultation processes;
   (c) before 30 June 2027 provide the Office of Local Government a report on the savings being implemented under paragraphs (a) and (b), including realised recurrent savings, one off savings and any savings not achieved; and

(d) not implement Level 3 staffing restructure measures identified in the Business Papers, including the removal of occupied positions from the organisational structure or involuntary redundancies, until at least 60 days after:
   i. the report required under paragraph (c) has been provided to the Office of Local Government; and
   ii. the Council has provided written notice to the Office of Local Government of its intention to implement Level 3 staffing restructure measures identified in the Business Papers, including consideration of the following matters:
      (a) the business rationale;
      (b) estimated savings;
      (c) consultation undertaken;
      (d) legal and industrial risk assessment; and
      (e) alternatives considered to achieve savings without Level 3 staffing restructure measures, including natural attrition, redeployment and management of vacant positions.

6. Revenue Improvement Strategy
   (a) Within 90 days from commencement of this Variation Order, Council must prepare and place on public exhibition, a draft Revenue Improvement Strategy identifying lawful recurring revenue opportunities including fees, charges, commercial returns, grants optimisation and any special variation or rate review options.
   (b) Within 120 days from commencement of this Variation Order, Council must take into account any submissions made and adopt the final Revenue Improvement Strategy.

7. Within 60 days from commencement of this Variation Order, Council must update the Finance and Governance Improvement Plan to include:
   (a) all remaining actions outstanding under the Order;
   (b) responsible officers;
   (c) milestone dates;
   (d) quarterly status indicators; and
   (e) forecast financial benefit, where relevant.

Part B – Blue Haven Terralong Village and strategic assets

8. Within 90 days from commencement of this Variation Order, Council must prepare and provide to the Office of Local Government, at the time it is presented to councillors, the outline and timeframe for preparation of an independent business case for the future of Blue Haven Terralong Village identifying the most sustainable long term operating model addressing:
   (a) retention of the facility as an ongoing concern, including a defined funding plan,
   (b) lease, partnership or joint venture options,
   (c) whether divestment or disposal options are appropriate,
   (d) capital upgrade costs,
   (e) fire safety compliance requirements,
   (f) projected financial impacts over 10 years,
   (g) risks associated with each option, and
   (h) a recommended preferred option and implementation pathway.

9. Within 60 days from commencement of this Variation Order, Council must prepare a funded works program to address all critical fire safety compliance issues at Blue Haven Terralong Village and commence implementation immediately thereafter.

10. Within 90 days from commencement of this Variation Order, Council must provide Office of Local Government with a Strategic Asset Review identifying:

(a) all non core property holdings;
(b) estimated market value;
(c) holding costs;
(d) redevelopment or disposal constraints; and
(e) recommended actions and indicative timeframes.

[2] Schedule 2 - Insert new part D after "Part C – Council's Financial Accounting and Management Systems" of the PIO Variation dated 23 May 2024 as follows:

Part D – Governance, organisational efficiency and reporting

11. The outsourcing of domestic waste services is prohibited throughout the duration of the Variation Order.

12. From the commencement of this Variation Order, Council must provide monthly reports to the Office of Local Government within 15 days of the end of each month setting out:
    (a) cash, investments and reserves including restricted external, restricted internal and unrestricted balances,
    (b) year to date operating result compared with budget,
    (c) original annual budget compared with projected year end result,
    (d) progress on savings initiatives, and
    (e) any emerging financial risks.

13. From commencement of this Variation Order, Council must provide quarterly reports within 15 days after the end of each quarter (being 30 September, 31 December, 31 March and 31 June) on the status of implementation of all actions in this Order, including completed actions, actions in progress, overdue actions, delays together with applicable reasons, risks and corrective actions.

Note - For the avoidance of doubt, all other provisions, including remain unchanged and continue in full force and effect to the extent they remain applicable and operative.

Note - A reference to a 'day' in this Variation Order is to a calendar day.

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

NSW GOVERNMENT

Our Ref: A1004824

His Worship the Mayor
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Ms Jane Stroud
General Manager
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NOTICE OF INTENTION TO VARY PERFORMANCE IMPROVEMENT ORDER TO KIAMA MUNICIPAL COUNCIL UNDER SECTION 438A(6A) OF THE LOCAL GOVERNMENT ACT 1993

Dear Cr McDonald and Ms Stroud,

In accordance with section 438C(1) of the *Local Government Act 1993* (the Act), I hereby give notice of my intention to vary the Performance Improvement Order dated 8 November 2022 issued to Kiama Municipal Council as varied by the Performance Improvement Order Variation dated 23 May 2024 (collectively the 'Current PIO'). The proposed variation is made pursuant to section 438A(6A) of the Act.

I have formed the preliminary view that a variation to the Current PIO is appropriate to ensure the order remains effective, targeted and responsive to Council's current circumstances.

In considering whether to vary the Current PIO, I have had regard to the criteria prescribed by clause 413D of the Local Government (General) Regulation 2021.

Reasons I propose to vary the Current PIO (section 438C(2A)(b))

1. Council has made progress under the Current PIO, including improved financial reporting, progress under the Finance and Governance Improvement Plan, and completion of the Blue Haven Bonaira transaction.
2. Notwithstanding that progress, significant financial sustainability risks remain, including forecast operating deficits absent corrective action, pressure on unrestricted cash reserves, and the need to structurally align recurring income with recurring expenditure.
3. Council continues to face material asset management and fire safety liabilities associated with Blue Haven Terralong Village, requiring strategic resolution.
4. Updated financial circumstances indicate the need for revised milestones, strengthened reporting requirements and targeted actions to support the next phase of Council's improvement program, including revenue options.
5. Council has rightly sought to achieve a balanced budget by 2026/2027 as required by the Current PIO, but has not fully considered all revenue, Council operating

expenses and asset strategies, while looking for service level reductions and potential outsourcing as budget strategies.

6. The contemplation of outsourcing of Council's domestic waste management service will not achieve the level of savings that justify the loss of the long term value of the service.
7. A variation of the Current PIO is considered a proportionate response, and one that recognises the progress made by Council while maintaining appropriate ministerial oversight and accountability.

The terms of the proposed Performance Improvement Order (section 438C(2A)(a))

The terms of the proposed variation are enclosed in the *draft* Variation Performance Improvement Order.

The proposed variation would, among other things, require Council to:

1. adopt a financially sustainable budget pathway by specified dates, incorporating a one year extension to the need to achieve a balanced budget
2. sequence budget repair measures before higher-impact staffing, asset sales and outsourcing measures are considered
3. prepare a strategic business case for Blue Haven Terralong Village
4. review strategic assets and revenue opportunities
5. strengthen reporting requirements to the Office of Local Government
6. not outsource its domestic waste management service
7. complete additional governance and financial management actions within specified timeframes.

Except as expressly varied, all requirements of the Current PIO would remain in force to the extent applicable and operative, including Part C of the Current PIO.

Actions that may be taken by if a Performance Improvement Order is not complied with

If a PIO is not complied with, I may consider:

1. varying the PIO or issuing a further PIO
2. appointing a Financial Controller under section 438HB of the Act
3. temporarily suspending the Council and installing an interim administrator under Chapter 13, Part 7 (Sections 438I and 438M) of the Act

Invitation to make submissions to me regarding the proposed Performance Improvement Order (section 438C(3) and (4) of the Act)

I invite Council to make submissions in respect of the proposed PIO. If you identify difficulties in the reporting timeframes specific in the proposed PIO, please address these in your submissions. Should Council choose to make submissions, they must be provided to me no later than 14 days from the date upon which this notice is served on it.

I will consider all relevant submissions made to me by Council during this period before deciding whether to issue the proposed PIO or make any changes to the terms of the proposed PIO.

It is recommended that Council tables this notice at an open Council meeting and provides its submissions by way of resolution.

Signed on this 13th day of May 2026

Yours sincerely

[redacted]

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

Encl: Draft Variation of Performance Improvement Order