

## COMPLIANCE REPORT ASSESSMENT

### NORTH SYDNEY COUNCIL

Performance improvement order dated: 9 December 2014

Period for compliance with order: Date of Service – 30 April 2015.

	<b>Terms of the order</b>	<b>Council's final report</b>	<b>Division's assessment</b>
<b>Actions required</b>	1. The Mayor and all councillors are to immediately refrain from making allegations at Council meetings that the Mayor and/or one or more councillors has or have breached the Council's code of conduct.	Council resolved to immediately implement the required action on 15 December 2014.	<b>FULL COMPLIANCE:</b> The making of allegations at Council meetings about breaches of the code of conduct ceased.
	2. The Mayor and all councillors must immediately comply with the Council's media policy.	Council resolved to immediately implement the required action on 15 December 2014.	<b>SUBSTANTIAL COMPLIANCE:</b> For the period 9 December 2014 to 30 April 2015 two breaches of the media policy were identified: one by Clr Baker in the April Edition of North Shore Living (comments could be perceived as Clr Baker speaking on behalf of Council about a local issue, rather than making personal comment); and one by Clr Gibson in respect of comments reported in the Manly Daily on 30 April 2015 concerning Council's compliance with the performance improvement order (comments in direct conflict with a resolution of Council that legal advice be sought on the Minister's powers).

	<p>3. Council is to, without delay, engage an independent person or body to monitor the Mayor's and councillors' compliance with the Council's media policy with any non-compliances reported to the General Manager.</p>	<p>Council resolved to immediately implement the required action on 15 December 2014. Council subsequently engaged <i>Media Savvy</i> to monitor and report on compliance with Council's media policy by the Mayor and councillors.</p>	<p><b>FULL COMPLIANCE:</b> Media Savvy provided reports to the General Manager covering the period 9 December 2014 to 30 April 2015.</p>
	<p>4. The Mayor and all councillors must participate in a conflict resolution process, conducted by a suitably qualified independent person, in order to resolve the ongoing conflict between them.</p>	<p>A conflict resolution program, including one on one interviews with councillors was conducted by Norman Turkington and Associates in March 2015 and workshop in May 2015.</p>	<p><b>PARTIAL COMPLIANCE:</b> Norman Turkington and Associates provided a report on the conflict resolution process on 25 May 2015. That report indicates that Clr Burke did not participate, having been granted leave and unavailable (Clr Burke was overseas and subsequently resigned from civic office on 23 May 2015).</p> <p>There is a live proposal for further sessions.</p> <p>Despite their participation in the process, the conflict between the Mayor and councillors has not been resolved.</p>
	<p>5. The Mayor must participate in a conflict resolution process, conducted by a suitably qualified independent person, in order to resolve the ongoing conflict between her and the General Manager.</p> <p>6. Council is to direct the General Manager to participate in a conflict resolution process, conducted by a suitably qualified independent person, in order to resolve the ongoing conflict</p>	<p>Council resolved on 20 April 2015 to direct the Mayor and General Manager to participate in the required conflict resolution process, and to engage Michael Kirby AC CMG to conduct the process.</p>	<p><b>PARTIAL COMPLIANCE:</b> The Mayor and General Manager participated in conflict resolution sessions with Mr Kirby on 7 and 26 May 2015. Mr Kirby reported that both the Mayor and General Manager participated fully and properly. Mr Kirby reported that progress was made to resolving some, but not all, issues contributing to the ongoing conflict.</p>

	between him and the Mayor.		The conflict between the Mayor and General Manager is ongoing and appears to be intractable.
	7. Council utilise the services of the temporary adviser to assist in the orderly conduct of Council Meetings.	Council resolved to immediately implement the required action on 15 December 2014. The temporary adviser attended all Council Meetings from 15 December 2014 to 20 April 2015, and the meetings of the Legal and Planning and Governance Committees on 2 March 2015 and 13 April 2015 respectively.	<b>FULL COMPLIANCE:</b> The temporary adviser provided advice and assistance to the Mayor and councillors at all Council and some committee meetings over the period of the performance improvement order.
	8. The Mayor and all councillors must have due regard to the advice of the temporary adviser on matters of meetings procedures.	Council resolved on 15 December 2014 to immediately implement the required action.  At the Council Meeting held on 20 April 2015 the Mayor thanked the temporary adviser on behalf of Council for his assistance and attendance at Council Meetings.	<b>FULL COMPLIANCE:</b> On 11 June 2015, the temporary adviser thanked the Mayor, councillors and General Manager for their co-operation during the period of his appointment.
	9. The Mayor and all councillors must participate together in code of meeting practice and code of conduct training.	Training was conducted on 13 May 2015.	<b>NON COMPLIANCE:</b> The attendance sheet for Code of Conduct Refresher Training conducted on 13 May 2015 records that Cllrs Bevan, Carr, Marchandean and Burke were absent. (Cllr Burke was on leave and subsequently resigned from civic office on 23 May 2015).  The objective to require councillors to participate together in this training has been frustrated.

	<p>10. Council is to measure staff morale and the impact of leadership relationship issues on this, in two stages. The first measure to be undertaken immediately. The second measure, using the same process, to be undertaken again four months from the making of this Order.</p>	<p>Council resolved on 15 December 2014 to immediately implement the required action.</p> <p>The staff survey was undertaken in January 2015 and April 2015 by <i>Voice Project</i>.</p>	<p><b>FULL COMPLIANCE:</b> The staff survey was conducted as required under the performance improvement order. The survey identified strong dissatisfaction with the leadership, ability and behaviour of the Mayor and councillors.</p>
<p><b>Reporting timeframes</b></p>	<p>The performance improvement order required Council to provide a written report on its compliance with the order on or before 22 May 2015.</p>	<p>Council provided compliance information on 1 &amp; 4 June 2015 and final advice on 23 June 2015.</p>	<p><b>NON-COMPLIANCE:</b> Council resolved on 20 April 2015 to request an extension of time until 26 June 2015 to allow Council to fulfil the requirements of the performance improvement order. The delay in compliance with requirements of the performance improvement order was contributed to by a period of leave taken by the General Manager in April, and by Council seeking legal advice on components of the performance improvement order.</p> <p>The Minister responded to Council on 15 May 2015 stating his expectation that, given Council had failed to meet the compliance deadline required under the performance improvement order, the compliance report would be provided immediately following the 22 June 2015 Council Meeting.</p>
<p><b>Evidence to be provided</b></p>	<p>Any documentation produced relating to outcomes from the conflict resolution processes. Attendance records for identified training. Both results of the measurement of staff</p>	<p>All evidence required to be provided has been provided.</p>	<p>The temporary adviser has endorsed the compliance documentation.</p>

	<p>morale. The minutes and sound recordings of all Council meetings held during the period of the Order. Copy of any reports on the monitoring of compliance with the media policy.</p>		
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**Has the performance improvement order been implemented to the satisfaction of the Minister/Chief Executive?**

Council has generally complied with the required actions under the performance improvement order. The delay in fully complying was contributed to by Council seeking legal advice on the Minister’s powers with respect to certain aspects of the performance improvement order, and by leave arrangements of one of the participants. While this delay is disappointing, importantly Council has now substantially complied with all required actions.

The performance improvement order has been successful in taking relationship issues out of the public domain, and in returning order to Council meetings. However, there is ongoing conflict between the Mayor and General Manager, and between the Mayor and councillors despite participation in the conflict resolution processes required under the performance improvement order. These relationship issues appear entrenched and will have an ongoing impact upon the effective administration of the Council, and the performance and reputation of Council more broadly.

**Is any further intervention required? If yes, recommended intervention action to be specified.**

Yes. It is recommended that the Minister exercise his powers under section 438U of the Act to order a Public Inquiry with the terms of reference to be provided.