

Burwood Council

heritage ▪ progress ▪ pride

ORDINARY MEETING

Notice is hereby given that a meeting of the Council of Burwood will be held in the Council Chamber, Suite 1, Level 2, 1-17 Elsie Street, Burwood on Tuesday 27 August 2019 at 6.00pm to consider the matters contained in the attached Agenda.

Tommaso Briscese
ACTING GENERAL MANAGER

Our Mission

**Burwood Council will create a quality lifestyle for its citizens
by promoting harmony and excellence in the delivery of its services**

CONFLICT OF INTERESTS

What is a “Conflict of Interests” - A conflict of interests can be of two types:

Pecuniary - an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in Section 448 of the Local Government Act.

Non-pecuniary – are private or personal interests the Council official has that do not amount to a pecuniary interest as defined in the Local Government Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

Who has a Pecuniary Interest? - A person has a pecuniary interest in a matter if the pecuniary interest is the interest of:

- The person, or
- The person’s spouse or de facto partner or a relative of the person, or a partner or employer of the person, or
- A company or other body of which the person, or a nominee, partner or employer of the person, is a member.

No Interest in the Matter - However, a person is not taken to have a pecuniary interest in a matter:

- If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
- Just because the person is a member of, or is employed by, a Council or statutory body or is employed by the Crown.
- Just because the person is a member of, or a delegate of the Council to, a company or other body that has a pecuniary interest in the matter so long as the person has no beneficial interest in any shares of the company or body.

N.B. “Relative”, in relation to a person means any of the following:

- a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person’s spouse;
- b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

Disclosure and participation in meetings

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
 - (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
 - (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - A person does not breach the Act if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

What interests do not have to be disclosed (S 448 Act)?

- (a) an interest as an elector,
- (b) an interest as a ratepayer or person liable to pay a charge,
- (c) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this Part,
- (d) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part,
- (e) an interest as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not),
- (f) an interest of a member of a council committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the committee member has been appointed to represent the organisation or group on the committee,
- (g) an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument other than an instrument that effects a change of the permissible uses of:
 - (i) land in which the person or a person, company or body referred to in section 443 (1) (b) or (c) has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise), or
 - (ii) land adjoining, adjacent to or in proximity to land referred to in subparagraph (i), if the person or the person, company or body referred to in section 443 (1) (b) or (c) would by reason of the proprietary interest have a pecuniary interest in the proposal,
- (h) an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company,

- (i) an interest of a person arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a director) of the corporation or is a member (but not a member of the committee) of the association or is a partner of the partnership,
- (j) an interest of a person arising from the making by the council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
 - (i) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation,
 - (ii) security for damage to footpaths or roads,
 - (iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council or by or under any contract,
- (k) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor),
- (l) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252,
- (m) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor,
- (n) an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person,
- (o) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or member of a council committee,
- (p) an interest arising from appointment of a councillor to a body as representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

A Councillor is not prevented from taking part in the consideration or discussion of, or from voting on, any of the matters/questions detailed in Section 448 of the Local Government Act.

Non-pecuniary Interests - Must be disclosed in meetings.

If you are a Council official, other than a member of staff of Council and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:

- a) Remove the source of the conflict by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official;
- b) Have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in Section 451(2) of the Act apply.

If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.

Disclosures to be Recorded - A disclosure (and the reason/s for the disclosure) made at a meeting of the Council or Council Committee must be recorded in the minutes of the meeting.

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AGENDA

FOR AN ORDINARY MEETING OF BURWOOD COUNCIL
TO BE HELD ON TUESDAY 27 AUGUST 2019 IN THE COUNCIL CHAMBERS, 1-17 ELSIE STREET,
BURWOOD COMMENCING AT 6.00 PM.

I DECLARE THE MEETING OPENED AT (READ BY MAYOR)

ACKNOWLEDGEMENT OF COUNTRY (READ BY MAYOR)

"I would like to acknowledge the Wangal people who are the Traditional Custodian of this Land. I would also like to pay respect to the Elders both past and present of the Wangal Nation and extend that respect to other Aboriginals present".

PRAYER (READ BY MAYOR)

"Lord, we humbly beseech thee to vouchsafe thy blessing on this Council, direct and prosper its deliberations for the advancement of this area and the true welfare of its people."

TAPE RECORDING OF MEETING (READ BY MAYOR)

"Members of the Public are advised that Meetings of Council and Council Committees are audio recorded for the purpose of assisting with the preparation of Minutes.

The tape recordings will be subject to the provisions of the Government Information (Public Access) Act 2009 (GIPA).

Tapes are destroyed two (2) months after the date of the recording"

APOLOGIES/LEAVE OF ABSENCES

DECLARATIONS OF INTERESTS BY COUNCILLORS

DECLARATION OF POLITICAL DONATIONS (READ BY MAYOR)

"Councillors & Members of the Gallery

As a result of recent changes to the Legislation that governs the legal process for the determination of Development Applications before Council, a person who makes a relevant application to Council or any person with a financial interest in the application must now disclose any reportable political donation or gift made to any local Councillor or employee of Council. Council will now require in its Development Application Forms this disclosure to be made.

Council is also required to publish on its website all reportable political donations or gifts. Should any person having business before Council this evening and being an applicant or party having a financial interest in such application feel that they have not made the appropriate disclosure, Council now invites them to approach the General Manager and to make their disclosure according to Law."

RECORDING OF COUNCILLORS VOTING ON PLANNING DECISIONS

In accordance with Section 375A of the Local Government Act a division must be called for and taken on every Environmental Planning & Assessment decision. The names of those Councillors supporting and those opposed to the decision are to be recorded in the meeting minutes and the register retained by the General Manager.

OPEN FORUM ACKNOWLEDGMENT (READ BY MAYOR)

The Mayor to ask each speaker to confirm that they had read the guidelines about addressing the Council and acknowledge that they had been informed that the meeting was being recorded and that the Council accepts no responsibility for any defamatory comments made. Speakers should refrain from providing personal information unless it is necessary to the subject being discussed, particularly where the personal information relates to persons not present at the meeting

OPEN FORUM COMMENCES

CONFIRMATION OF MINUTES

Recommendation

That the Minutes of the following Meeting of Burwood Council:

A. Council Meeting held on 23 July 2019

copies of which were previously circulated to all Councillors be and hereby confirmed as a true and correct record of the proceedings of that meeting.

ADDRESS BY THE PUBLIC ON AGENDA ITEMS ACKNOWLEDGMENT (READ BY MAYOR)

The Mayor to ask each speaker to confirm that they had read the guidelines about addressing the Council and acknowledge that they had been informed that the meeting was being recorded and that the Council accepts no responsibility for any defamatory comments made.

ADDRESS BY THE PUBLIC ON AGENDA ITEMS COMMENCES

MAYORAL MINUTES

GENERAL BUSINESS

(ITEM 63/19)	HERITAGE MATTERS	7
(ITEM 64/19)	ADOPTION - DRAFT PUBLIC INTEREST DISCLOSURES ACT 1994 - INTERNAL REPORTING POLICY AND PROCEDURE FOR ASSESSING PUBLIC INTEREST DISCLOSURES AND INVESTIGATIONS	17
(ITEM 65/19)	ADOPTION - REVISED COMPLAINTS MANAGEMENT POLICY	54
(ITEM 66/19)	ADOPTION - REVISED AUDIT, RISK AND IMPROVEMENT COMMITTEE CHARTER	70
(ITEM 67/19)	REFERRAL OF THE ANNUAL FINANCIAL REPORTS FOR 2018-2019 TO COUNCIL'S AUDITOR	78
(ITEM 68/19)	INVESTMENT REPORT AS AT 31 JULY 2019.....	81
(ITEM 69/19)	REGISTER - TRIBUTES TO RESIDENTS - COUNCILLORS' EXPENSES AND FACILITIES POLICY	86

INFORMATION ITEMS

(ITEM IN23/19)	DISCRETIONARY GRANTS - SMALL DONATIONS MADE FOR THE PERIOD 2018-2019.....	89
(ITEM IN24/19)	PETITIONS	93

(ITEM IN25/19) ANSWERS TO QUESTIONS WITHOUT NOTICE - COUNCIL MEETING OF
23 JULY 2019 94

QUESTIONS WITHOUT NOTICE

Councillors are requested to submit any Questions Without Notice in writing.

(ITEM 63/19) HERITAGE MATTERS

File No: 19/4405

REPORT BY DEPUTY GENERAL MANAGER, LAND, INFRASTRUCTURE & ENVIRONMENT

Summary

Over the course of 2018 and 2019, the Council made a number of resolutions in respect to heritage matters. This report discusses aspects of Council's approach to heritage conservation and possible opportunities or initiatives going forward.

Operational Plan Objective

5.4.1 Preserve local heritage through relevant planning strategies

Background

This report responds to a series of resolutions by the Council that relate to heritage matters, including:

- Heritage colours
- Heritage policy and assistance to owners of heritage properties
- Assessment of Potential Heritage Items - Stage 2

Each of these matters is discussed in more detail below.

Discussion

Heritage Colours

Background:

Council at its meeting of 11 December 2018 considered a Mayoral Minute (MM21/18) concerning Council's determination of exterior paint colour schemes permitted within Heritage Conservation Areas and the resolved that:

The General Manager investigates the current controls in place, along with the processes and development standards applied, in relation to external paint colour schemes permitted on heritage listed properties and within Heritage Conservation Areas.

It is understood that this matter originated from complaints from neighbours in respect of the colours on a dwelling-house in a Heritage Conservation Area. This matter was the subject of Questions Without Notice at the Council Meeting held on 27 November 2018 and responses to those questions are available within the Minutes of the Council Meeting held on 5 February 2019.

At the Council Meeting on 5 February 2019 further Questions Without Notice were raised, specifically:

Has the General Manager considered implementing a peer review for the determination of our paint colour schemes for heritage properties?

Investigation:

Council's Development Control Plan (DCP) provides general guidance on paint and colour schemes. For instance, Section 4.7 'Heritage in Residential Precincts' contains the following controls:

Paint and Colour Schemes

- P44** Painting over unpainted features such as external stonework and face brickwork of a heritage property is not permitted.
- P45** New paint and heritage colour schemes must reflect the most significant design period of the heritage property.

Council's Heritage Advisor developed a Fact Sheet in mid-2017 to provide greater guidance to property owners on preparing a heritage paint scheme and where to go for further information (refer Attachment 1).

In accordance with Clause 5.10 of the Burwood Local Environmental Plan (BLEP), Council's consent is required for changing the exterior appearance of a heritage item or property in a Heritage Conservation Area. Consent may be sought through a Development Application (DA) or through an "informal" application submitted to Council in writing.

In the case of a DA, the proposed change of exterior colours is assessed/processed as part of the wider development proposal (e.g. alterations to an existing dwelling house) since a requirement of most DAs is for the applicant to submit a Schedule of Materials, Finishes and Colours. DAs involving heritage properties are generally supported by a Heritage Impact Statement or similar heritage report prepared by a consultant or designer on the applicant's behalf. In effect, the Council's Heritage Advisor is peer reviewing the work of the consultant who is acting for the applicant.

In the case of an "informal" application, Council's practice is that exterior paint colour schemes be submitted to Council in writing for assessment. Council asks that photos of the property's exterior and details of colours are provided. If deemed satisfactory, the applicant is granted consent to proceed in a letter or email. Council seeks to avoid the need for property owners to submit a DA in the case of straight-forward painting proposals. Repainting in an existing colour scheme would be deemed "maintenance" and does not require consent.

Council receives approximately two or three "informal" applications per year for changing the exterior paint scheme (i.e. outside of a formal DA).

The low number of "informal" applications suggests that a substantial number of owners of heritage properties are painting without seeking the consent of Council. To date, Council Officers have found there to be limited merit in taking action against property owners who have not sought consent for painting. Generally, property owners are found to be selecting appropriate colours, even if they have failed to obtain consent first. In the last ten years, there are believed to be only two heritage paint schemes which have been the cause of public complaints and investigation by Council's Compliance Team.

The assessment and approval of paint colour schemes for heritage properties is generally made by one Council Officer, either Council's Executive Strategic Planner - Heritage Advisor or a Heritage Consultant acting in that position. This is also the procedure for heritage referrals and general heritage enquiries.

Proposal:

Some options for improving or altering Council's practice for paint colour schemes have been considered, as follows:

- Some other councils prescribe a palette of 20-30 paint colours within their DCP from which owners must choose. While this may make compliance easier, this approach would unduly restrict property owners to a small selection of colours. Allowing some flexibility of colour

choice is considered reasonable on the basis that paint is a temporary treatment, usually necessitating repainting every 7-10 years.

- Another option may be around educating property owners about suitable heritage colours and processes. This was a major driving factor in Council's development of its Fact Sheet in 2017. The Fact Sheet has been found to be worthwhile for owners enquiring about colours, but would not assist in the case of owners who wilfully, or unknowingly, engage in painting without Council's consent.

In conclusion, the review assessed whether internal processes could be improved by greater oversight of heritage decisions – such as peer reviewing of advice.

It is important to note that such additional oversight would inherently involve additional resources, such as a second heritage expert to be permanently engaged by Council. An alternative may be the appointment of a Heritage Advisory Committee, Heritage Design Advisory Panel or other similar panel.

It is estimated the costs for such arrangements could range between \$60,000-\$110,000.

On balance, Council's current practice in respect to heritage paint colours is considered appropriate and reasonable given the low number of "informal" applications for exterior colour changes. This report recommends against any changes to the current controls or processes.

Heritage Policy and Support to Owners of Heritage Properties

Background:

Council at its meeting on 18 April 2017 resolved:

1. *That a Councillor Workshop be held on Council's heritage policy and Development Control Plan, to discuss options for inclusion of more support for heritage property owners and heritage impacts in the Local Government Area.*
2. *That the General Manager conducts a review of Council's heritage policy and Development Control Plan on heritage items to ascertain how Council can provide more support for heritage property owners in the form of professional advice on how to best maintain their properties.*

It is understood that the resolution stemmed from the discussion that occurred over another report considered by the Council at that meeting, being the heritage listing of several additional properties and the objection to listing from some of the property owners.

A Councillor Workshop was held on 23 July 2019 in accordance with the resolution.

Investigation:

Council's "policy" – or general approach to heritage conservation – is controlled largely by Clause 5.10 of the BLEP and dedicated sections of the DCP. To a lesser extent, Council's heritage approach relies on Council-issued Fact Sheets and Forms, as well as State Government legislation, guidelines and publications.

Clause 5.10 of the BLEP is governed by the Standard Instrument Local Environmental Plan, providing limited prospect of Council adapting the standard provisions to suit its own needs. The DCP, however, provides Council with the opportunity to set its own approach to heritage matters by establishing guidelines for development that seek to conserve heritage properties and streetscapes.

The DCP provides a robust set of heritage controls and the Burwood DCP is considered amongst the best of all NSW councils with respect to heritage controls. The DCP's heritage controls have held up well when scrutinised in Court proceedings and are found to be clear, consistent and user-friendly. The DCP is nevertheless regularly reviewed as part of Council's annual DCP review programme, resulting in the minor amendment of some heritage controls.

Distinct from Council's written documents, Council's heritage programme and activities include:

- Employment of a full-time Executive Strategic Planner – Heritage Advisor (equivalent of 0.5 FTE working on heritage)
- Occasional engagement of a Heritage Consultant
- Assessment of the heritage aspects of DAs (i.e. heritage referrals) as well as other application types
- Response to heritage enquiries by the public and community
- Discounts for submitting DAs involving heritage items
- Initiation of the Comprehensive Heritage Review (outstanding projects discussed further below)
- Publication of promotional brochures (e.g. Heritage Trail and Town Centre History Walk) and Fact Sheets
- Provision of information on Council's website (e.g. heritage trail, local history, heritage lists)
- Occasional participation in National Trust Heritage Week
- Operation of the Local Studies Library

One option for providing greater support to the owners of heritage properties would involve expanding Council's in-house heritage expertise. As discussed earlier in this report, this option could cost in the order of \$60,000. This may take the arrangement of one full-time, in-house Heritage Advisor to replace the existing heritage position, or two positions acting as Advisors part-time.

The NSW Heritage Branch (now part of the Department of Premier and Cabinet) sets out in its publication series 'NSW Heritage Manual' several ways in which councils can assist owners of heritage properties and offer incentives for the community. Incentives generally fall within the categories of participation, education or promotion. The incentives are described below, together with a comment as it relates to Council:

- Allowing special planning considerations for heritage items where these would facilitate conservation of the item:

Comment: Council already has incentives incorporated in the BLEP to allow otherwise prohibited uses of heritage items. The conservation incentives under Clause 5.10(10) provide that the consent authority must be satisfied that the conservation of the heritage item is facilitated.

Council also resolved on 30 October 2018 that a draft policy on transfer of heritage floor space be developed for Council's consideration (and a Councillor Workshop be held on the matter). The transfer of heritage floor space would be another example of a special planning incentive. The draft policy will be developed following work on the Local Strategic Planning Statement (LSPS).

- Introducing a local heritage fund to assist owners undertake maintenance and repair work:

Comment: These funds are set up to provide dollar-for-dollar grants to property owners for projects such as conservation works and maintenance works, adaptive reuse, urban design projects that support heritage, interpretation projects, and the preparation of conservation management plans. The annual costs of establishing a fund would be in the order of \$70,000 assuming grant funds of \$40,000 similar to other councils.

- Provide rate relief to owners of heritage properties:

Comment: For example, Fairfield City Council provides rate relief to owners of private, heritage-listed properties at a standard relief of 50% of the General Ordinary Rate, up to a maximum amount of \$3,000 per assessment. A similar scheme in Burwood would cost in the order of \$530,000 annually. For a typical heritage-listed house in Burwood on a 750-900sq.m. parcel and located in an R2 zone, this may result in relief in the order of \$1,150 annually (dependent on land value).

The Finance and Resource Management Team cautions against a rate relief scheme as this would erode Council's income, particularly in view of the recent effort that has gone into two successive Special Rates Variations to increase rates income.

The Team also advises that the mechanism to provide a rebate to heritage affected sites is via Section 356 of the Local Government Act 1993, and the process would need to be handled outside the rating database. The administration of such a scheme would therefore have resourcing implications for whichever Team within Council becomes responsible for the scheme.

While rate relief is not currently provided to local heritage items, Council does provide discounts on Development Application fees in the case of heritage items. If rate relief were introduced, other existing financial incentives may be considered for withdrawal.

- Undertake a mainstreet project to enhance heritage streetscapes:

Comment: The Burwood Road mainstreet features buildings of varied periods and styles, only some of which are heritage listed. The height and density development standards applying to Burwood Road (i.e. up to 70 metres and FSR of 6:1) somewhat undermine the achievement of a heritage streetscape. Council at its meeting on 5 February 2019 considered a report establishing a Shopfront Improvement Program and grants scheme, which may go some way to addressing the enhancement of the mainstreet.

As part of the LSPS work being undertaken by Council, a Masterplan is being proposed. It is envisaged that the Masterplan will investigate the Burwood Road "spine" and recommend streetscape enhancements for the precinct.

Elsewhere, The Strand may be considered a historic "mainstreet". The DCP already contains specific controls for The Strand. Council has already taken initiatives to improve the amenity and aesthetics of The Strand, including heritage interpretation, installing street furniture, and a concerted effort at removing unauthorised air conditioning units, signage and satellite dishes.

- Promoting cultural heritage tourism:

Comment: The Corporate Planning and Communications Team advises that the Council area contains few heritage properties capable of mass-tourism opportunities or "unique" heritage experiences. Some initiatives have already been undertaken by Council in respect to promoting our assets, including the publication of the Heritage Trail and History Walk brochures, and participation in heritage events (e.g. Heritage Week, ANZAC or Sandakan commemorations).

- Providing interpretation and plaques for significant heritage items and sites:

Comment: Recent examples of heritage interpretation include 'The Bugler' in Burwood Park, installation of a plaque and images in The Strand, and commemoration of 'The Briars' within the pavement of Appian Way. Heritage interpretation has been required by Council within major redevelopments, including the Montessori Child Care Centre on Duff Street, and the Whelan's Hotel in Everton Road.

Council at its meeting on 30 October 2018 adopted a Public Art Strategy. This Strategy may go further toward providing interpretation of significant heritage assets. One recent proposal under preliminary investigation includes a mural upon the Fitzroy Centre which would interpret historical aspects of Woodstock.

- Establish heritage competitions and award schemes:

Comment: Some councils operate annual or bi-annual heritage awards that recognise local achievement in heritage research/publications, sensitive design, or restoration. While competitions and awards provide recognition to owners, and promote heritage generally, these schemes rarely provide financial or in-kind assistance to the property owners. In place of establishing an award, Council could promote local projects for the National Trust's annual heritage awards, which is a highly regarded awards scheme now in its 25th year.

Proposal:

As outlined above, Council already undertakes some activities aimed at promoting heritage, encouraging participation or enhancing education. There may be an opportunity for Council to expand its activities to provide further incentives, but these come at a cost. Should Council wish to pursue any particular item mentioned above, it is recommended that the Acting General Manager be requested to investigate that option and determine an appropriate budget allocation.

Assessment of Potential Heritage Items - Stage 2

Background:

At its meeting on 26 June 2012, Council resolved to undertake a Comprehensive Heritage Review for the Burwood Local Government Area and allocate a total of \$100,000 over the course of two financial years. It was also resolved to seek grant funding from the State Government when applications opened in May 2013. Council was advised in late October 2013 that it was unsuccessful in its application for funding assistance.

An Executive Meeting was held in November 2013 and a subsequent Councillor Workshop in January 2014 in respect to the Comprehensive Heritage Review. A staged approach to the progression of the Review was endorsed.

A detailed discussion of the eight separate projects within the Comprehensive Heritage Review can be found within the report to Council on 8 December 2014 (and are summarised later in this report). However, the discussion here focusses on the assessment of potential new heritage items – which was split into two distinct projects, referred to as Stage 1 and Stage 2.

Stage 1 involved engaging an external heritage consultancy firm to undertake an assessment of the heritage significance of 15 potential heritage items.

City Plan Services were engaged in October 2014 to undertake this work. Council resolved on 24 August 2015 that the study findings be the subject of preliminary consultation with property owners. Council then resolved on 22 March 2016 that a number of the potential heritage items be the subject of a peer review. Mr Colin Israel, Heritage Advisor, was engaged to undertake that peer review.

Of the 15 potential heritage items identified in mid-2014, seven of these have been progressed to a heritage designation (i.e. four properties heritage listed, and three properties included in a heritage conservation area). The last of these heritage listings came into force in September 2018. Therefore, Stage 1 took over four years to complete. There were nine Council Meetings and two Councillor Workshops ahead of the completion of Stage 1. Stage 1 has been both time and resource intensive, and its success somewhat questionable.

It is acknowledged that these types of initiatives always attract strong objections from owners and protracted discussions at Council level. This is a common dilemma across many councils.

It is important to note, however, that in the period leading up to their heritage listing two of the heritage listed properties were substantially altered, and another investigated property was demolished before the recommended photographic recording could be undertaken. These are some of the unfortunate consequences of protracted Council assessments and processes.

Proposal:

Under the original plan, Stage 2 would comprise a further round of investigations into potential heritage items and be expected to follow the general parameters of the Stage 1 assessment (i.e. engaging consultant, owner consultation, peer review, and progression of a Planning Proposal).

Should Council consider progressing Stage 2, it is important that a commitment be made to progressing the project in a timely manner without undue delays.

It is likely that additional funds would be required for the completion of Stage 2. Approximately two-thirds of the budget for the Comprehensive Heritage Review has been expended. This is partly due to the peer-review component of Stage 1 which was resolved to be undertaken by Council after the setting of the initial budget, as well as the deferral of one heritage listing meaning that there were costs associated with a second public exhibition. The passing of time also means that the budget allocated in 2012 will not go as far. The progression of Stage 2 is likely to require the allocation of an additional \$10,000-\$15,000 (above the approximate \$33,700 which remains).

In view of the protracted timeframe taken to complete Stage 1, likely additional costs and the reluctance by Council to heritage list properties where there were objections from the property owners, the launch of Stage 2 is not recommended. Instead, potential heritage items may be investigated individually following a Council resolution. Indeed, this has been the process for recent heritage listings at 18 Wyatt Avenue Burwood and 100 Lucas Road Burwood.

Finalisation of the Comprehensive Heritage Review

Background:

The report to Council on 8 December 2014 contained a detailed discussion of the eight separate projects within the Comprehensive Heritage Review. These projects were as follows:

- Categorisation of all existing heritage items by type, period and style
- Updating the Heritage Inventory Sheets for all existing local heritage items
- Updating the NSW Heritage Database
- Improving access to the NSW Heritage Database
- Review of National Trust listings
- Develop a short list of potential heritage items
- Assessment of Potential Heritage Items (Stage 1)
- Assessment of Potential Heritage Items (Stage 2)

Apart from the Stage 2 work which is discussed above, the only other components of the Comprehensive Heritage Review that remain outstanding are the updating of the NSW Heritage Database and improving the public's access to the same. Easy access to information could be seen as a support to property owners in itself. The database entry has been delayed on account of a series of staff vacancies and the prioritisation of other projects.

Proposal:

It would be beneficial if Council's work on the NSW Heritage Database could be completed, bringing to a close the Comprehensive Heritage Review. It is recommended that any unspent funds for the Comprehensive Heritage Review be directed to this end.

Consultation

There has been consultation with Council's Corporate Planning and Communications, Community Development, and Finance and Resource Management teams with respect to some aspects of this report.

Planning or Policy Implications

While changes to Council's existing controls and practices in respect to heritage paint colours and heritage approach are not recommended at this stage, it is anticipated that the LSPS work (particularly its public consultation and engagement processes) may reveal aspects of heritage controls or heritage policy that the community expects Council to explore. It is considered appropriate that changes to Council's DCP or heritage practice follow from the LSPS work.

Financial Implications

Many of the options outlined in this report would have substantial funding implications for Council.

While grants are available from the NSW Heritage Branch for specific project categories (e.g. heritage studies and maintenance of heritage buildings), Council is unlikely to receive funding assistance. Council has been unsuccessful in the past in obtaining grant funding for heritage studies. It is understood that the funding program tends to favour organisations with low income-generating capacity (i.e. community groups, charities, private owners).

Of the \$100,000 allocated for the Comprehensive Heritage Review for the 2012-2013 and 2013-2014 budgets (which were subsequently rolled-over), approximately \$33,700 remains to be spent.

It is recommended that the remaining budget allocation for the Comprehensive Heritage Review be directed to the engagement of heritage consultants (or similar resources) to assist with the assessment of heritage referrals, provision of expert advice to customers, development of a policy on the transfer of heritage floor space, and the entering of updated inventory sheets into the NSW Heritage Database.

Options

Several initiatives or opportunities are presented in this report.

Council's Code of Meeting Practice provides that any motion which requires an expenditure of funds on works and/or services other than those already provided for in Council's Operational Plan, must identify the source of funding for the expenditure.

Conclusion

This report discusses aspects of Council's approach to heritage conservation and possible opportunities or initiatives going forward. It is recommended that the Council refrain from making changes to heritage controls or practice in light of the LSPS work and community engagement which will be taking place.

Recommendation(s)

1. That the Council note the current controls and processes in respect to heritage colours and make no immediate changes to same.
2. That the Council note the current practices of Council aimed at promoting heritage, encouraging participation, or enhancing education and make no immediate changes to same.

3. That the Council note the comments made in respect to the Stage 1 assessment of potential heritage items and not proceed with Stage 2.
4. That the Council approves the remaining budget allocation for the Comprehensive Heritage Review be directed to the engagement of heritage consultants (or similar resources) to assist with the assessment of heritage referrals, provision of expert advice to customers, development of a policy on the transfer of heritage floor space, and the entering of updated inventory sheets into the NSW Heritage Database.

Attachments

- 1 [↓](#) Preparing a Heritage Paint Scheme Fact Sheet

Preparing a Heritage Paint Scheme Fact Sheet

Preparing a Heritage Paint Scheme

PROPOSED EXTERIOR PAINT SCHEME

24 Sample Road, Burwood



Paint Brand/Type: Dulux Exterior Solarguard

SW 7006
EXTRA WHITE

Verandah posts, verandah railing, window frames, front door architrave and jamb, gable

SW 6258
TRICOCHIN

Window shutters.

SW 2044
TIMBERED
WALLES

Main colour: rendered walls.

SW 7020
FOX

Garage panel-lift door, chimney moulding.

SW 6792
MINOR BLUE

Front door.

Notes:
Driveway finish and stairs remain unchanged. Wall colour extends to side and rear elevations.

What are the requirements for heritage properties? The consent of Council is required to alter the exterior appearance of a heritage item or a property within a conservation area. Council's Development Control Plan requires that 'new paint and heritage colour schemes must reflect the most significant design period of the heritage property'. So some bright or modern trend colours may not be appropriate.

How to prepare a paint scheme? Council will need to be provided clear details of the property, the proposed colours, and their placement on the house. Provide clear descriptions, photos, and paint details wherever possible. Refer to the sample as a guide to the level of detail required.

How to determine appropriate heritage colours? There are many good sources of information, including the book 'Colour Schemes for Old Australian Houses' available in Burwood Library. Try the heritage colour charts available from most popular paint brands, or there are fact sheets available online by several government bodies concerning paint colours and researching the original colour, including the NSW Heritage Branch's 'Information Sheet 7.2: Paint Finishes'.

Typically, what do heritage colour schemes comprise? In most instances, heritage schemes involve a light base colour for the main exterior walls, being the 'body' of the building. Two or three accent colours were then chosen to accentuate architectural features, like decorative timberwork, windows or moulding. The range of colours available was usually more limited, being based on natural earthy or stone, green, and red base colours.



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For more information, contact Council's Strategic Planning Team on 9911 9911.

(ITEM 64/19) ADOPTION - DRAFT PUBLIC INTEREST DISCLOSURES ACT 1994 - INTERNAL REPORTING POLICY AND PROCEDURE FOR ASSESSING PUBLIC INTEREST DISCLOSURES AND INVESTIGATIONS

File No: 19/37627

REPORT BY ACTING DEPUTY GENERAL MANAGER, CORPORATE, GOVERNANCE & COMMUNITY

Summary

To seek Council's approval of the draft *Public Interest Disclosures Act 1994* – Internal Reporting Policy and Procedure for Assessing Public Interest Disclosures and Investigations prior to the conduct of the Council approved Governance Training Program.

Operational Plan Objective

2.1.3 Ensure transparency and accountability in decision making

Background

Under Section 6D of the *Public Interest Disclosures Act 1994* (PID Act), public authorities are required to have a policy and procedures for receiving, assessing and dealing with public interest disclosures. The requirements are that Councils develop the Policy based on the NSW Ombudsman's model policy and guidelines. This policy meets the requirements of the NSW Ombudsman model policy.

Council adopted the current *Public Interest Disclosures Act 1994* – Internal Reporting Policy and the Procedure for Assessing Disclosures and Investigations at its meeting of 26 June 2018.

The draft *Public Interest Disclosures Act 1994* – Internal Reporting Policy is based on the NSW Ombudsman's Model Internal Reporting Policy for Local Government dated June 2014.

The documents have been reviewed and amended ahead of Council's Governance Training Program, which will be rolled out in September-October across the organisation and in September with Councillors.

Proposal

The draft *Public Interest Disclosures Act 1994* – Internal Reporting Policy is based on the NSW Ombudsman's Model Internal Reporting Policy for Local Government.

The NSW Ombudsman states that the Policy:

- be strongly endorsed by the Mayor and General Manager
- show the Council's commitment to high standards of ethical and accountable conduct and confirm that it will not tolerate any form of wrongdoing
- conform with the code of conduct and/or other relevant ethical codes
- address the relevant provisions of the PID Act
- state that staff who come forward and report wrongdoing are helping to promote integrity, accountability and good management within the Council
- outline the Council's broader responsibilities under the PID Act, such as reporting on public interest disclosures
- state that it is supported by procedures based on the Ombudsman's guidelines
- refer to any other relevant policies or procedures, such as the council's code of conduct and grievance policy, and provide information about how staff can access that information
- be publicly available on your council's website
- be implemented by the council through staff awareness training

The Policy and the Procedures meet the requirements set by the NSW Ombudsman and must be adopted by Council.

The report also seeks that the General Manager is the delegated authority to amend the Procedure for Assessing Public Interest Disclosures and Investigations where he/she deems appropriate.

The revised *Public Interest Disclosures Act 1994* – Internal Reporting Policy and the Procedure for Assessing Public Interest Disclosures and Investigations are now submitted for the Council adoption.

Consultation

The revised Policy and Procedures have been endorsed by the General Manager and the Policy, Corporate Practice and Procedures Panel.

Planning or Policy Implications

Following adoption the Policy will be:

- Included as part of the Governance Training Program
- Published on Council's website
- Published on the Councillor Portal
- Included in Council's Procurement Packs
- Included in Council's Staff Induction Program
- Included in future Councillor Induction Programs
- Council Officers will be notified via email

Financial Implications

No Financial Implications

Conclusion

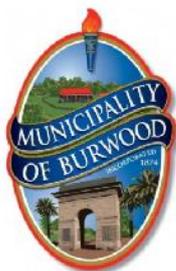
That Council adopt the revised *Public Interest Disclosures Act 1994* – Internal Reporting Policy and the Procedure for Assessing Public Interest Disclosures and Investigations for inclusion the Governance Training Program.

Recommendation(s)

1. That Council adopt the draft *Public Interest Disclosures Act 1994* – Internal Reporting Policy and the Procedure for Assessing Public Interest Disclosures and Investigations.
2. That Council delegate to the General Manager authority to amend the Procedure for Assessing Disclosures and Investigations where he/she deems appropriate.

Attachments

- 1 [↓](#) Revised - Public Interest Disclosures Act 1994 Internal Reporting Policy
- 2 [↓](#) Procedure for Assessing Public Interest Disclosures and Investigations



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DRAFT - PUBLIC INTEREST DISCLOSURES ACT 1994- INTERNAL REPORTING POLICY

Based on the NSW Ombudsman Office – Model Internal Reporting Policy – Local Government

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Public Document
Adopted by Council:
Document No. 2019/0034756
Version No: 7
Ownership: Manager Governance

ITEM NUMBER 64/19 - ATTACHMENT 1

Revised - Public Interest Disclosures Act 1994 Internal Reporting Policy

Public Interest Disclosures Act 1994 – Internal Reporting Policy

1 PURPOSE2
2 ORGANISATIONAL COMMITMENT2
3 WHO DOES THIS POLICY APPLY TO?3
4 ROLES AND RESPONSIBILITIES4
5 WHAT SHOULD BE REPORTED?6
6 ASSESSMENT OF REPORTS8
7 WHEN WILL A REPORT BE TREATED AS A PUBLIC INTEREST DISCLOSURE?8
8 WHO CAN RECEIVE A REPORT WITHIN BURWOOD COUNCIL?8
9 WHO CAN RECEIVE A REPORT OUTSIDE OF BURWOOD COUNCIL?9
10 HOW TO MAKE A REPORT10
11 CAN A REPORT BE ANONYMOUS?10
12 FEEDBACK TO COUNCIL OFFICERS WHO REPORT WRONGDOING11
13 MAINTAINING CONFIDENTIALITY11
14 MANAGING THE RISK OF REPRISAL AND WORKPLACE CONFLICT12
15 PROTECTION AGAINST REPRISALS12
16 SUPPORT FOR THOSE REPORTING WRONGDOING14
17 SANCTIONS FOR MAKING FALSE OR MISLEADING STATEMENTS14
18 THE RIGHTS OF PERSONS THE SUBJECT OF A REPORT14
19 REVIEW14
20 MORE INFORMATION14
21 FLOW CHART OF INTERNAL REPORTING PROCESS16
22 RESOURCES17
23 INTERNAL REPORT FORM18

1 Purpose

The purpose of this policy is to establish an internal reporting system for Council Officers and Councillors to report wrongdoing without fear of reprisal. The policy sets out who you can report wrongdoing to in Burwood Council, what can be reported and how reports of wrongdoing will be dealt with by Burwood Council.

This policy is designed to complement normal communication channels between supervisors and Council Officers. Council Officers are encouraged to raise matters of concern at any time with their supervisors, but also have the option of making a report about a public interest issue in accordance with this policy and the *Public Interest Disclosures Act 1994* (PID Act).

This policy is just one in the suite of Burwood Council's complaint handling policies:

1. *Public Interest Disclosures Act 1994 – Internal Reporting Policy*
2. Code of Conduct and the Procedures of the Administration of the Code of Conduct
3. Complaints Management Policy
4. Internal Ombudsman Policy
5. Grievance Corporate Practice and Procedures

The internal reporting system established under this policy is not intended to be used for staff grievances, which should be raised through the Grievance Corporate Practice and Procedures. If a staff member makes a report under this policy which is substantially a grievance, the matter will be assessed by the Assessment Panel and referred to People and Culture to deal with the complaint in accordance with the Grievance Corporate Practice and Procedures.

Definitions

Affected Person - the person about whom the Disclosure is made

Assessment Panel – a panel consisting of the General Manager, the Internal Ombudsman and the Group Manager People and Culture who are responsible for assessing complaints other than public interest disclosures.

Public Official - is an employee (staff member) of a local government authority, or any other individual who undertakes official public functions or acts in an official public capacity eg. Councillor, employee, consultants, contractors or volunteers

Source - the person making the Disclosure

Witness - another person who gives or affords evidence to the investigation

Support person - a person being interviewed is entitled to be accompanied by a support person during the interview. This person can also provide details of what happened during the interview if this is needed later

2 Organisational commitment

Burwood Council is dedicated to:

1. creating a climate of trust, where people are comfortable and confident about reporting wrongdoing
2. encouraging individuals to come forward if they are aware of wrongdoing within Council
3. keeping the identity of the person disclosing wrongdoing confidential, where this is possible and appropriate

4. protecting the person from any adverse action resulting from them making a report
5. dealing with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it
6. keeping the individual who makes a report informed of their progress and the outcome
7. encouraging the reporting of wrongdoing within the council, but respect any decision to disclose wrongdoing outside Council that is made in accordance with the provisions of the PID Act
8. ensuring managers and supervisors at all levels in the council understand the benefits of reporting wrongdoing, are familiar with this policy, and aware of the needs of those who report wrongdoing
9. reviewing the policy periodically to ensure it is relevant and effective
10. providing adequate resources, to:
 - encourage reports of wrongdoing
 - protect and support those who make them
 - provide training about how to make reports and the benefits of internal reports to the council and the public interest generally
 - properly assess and investigate or otherwise deal with allegations
 - properly manage any workplace issues that the allegations identify or that result from a report
 - appropriately address any identified problems

Tommaso Briscese
Acting General Manager

John Faker
Mayor of Burwood

Under the PID Act, the General Manager as the head of the public authority and is responsible for ensuring that:

- Council has an Internal Reporting Policy
- Public Official of Council are aware of the contents of the policy and the protection under the PID Act for people who make public interest disclosures
- Council complies with the policy and the council's obligations under the PID Act
- the policy delegates at least to one Council Officer as being responsible for receiving public interest disclosures. Clause 3.20 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW requires the Complaints Co-ordinator to be a Disclosures Co-ordinator. The Ombudsman recommends councils nominate more than one person as being responsible for receiving public interest disclosures

3 Who does this policy apply to?

This policy will apply to:

- both Council Officers and Councillors
- permanent employees, whether full-time or part-time
- temporary or casual employees

- consultants
- individual contractors working for Burwood Council
- employees of contractors providing services to Burwood Council
- other people who perform council official functions whose conduct and activities could be investigated by an investigating authority, including volunteers.
- the policy also applies to public officials of another council or public authority who report wrongdoing relating to Burwood Council

4 Roles and responsibilities

The role of Council Officers and Councillors

All Public Officials play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All Public Officials are obliged to:

- report all known or suspected wrongdoing and support those who have made reports of wrongdoing
- if requested, assist those dealing with the report, including supplying information on request, cooperating with any investigation and maintaining confidentiality
- treat any Council Officer or person dealing with a report of wrongdoing with courtesy and respect
- respect the rights of any person the subject of reports (affected person)

Public Officials must not:

- make false or misleading reports of wrongdoing
- victimise or harass anyone who has made a report

Additionally, the behaviour of all Public Official involved in the internal reporting process must adhere to Council's Code of Conduct. A breach of the code could result in disciplinary action.

The role of Burwood Council

Burwood Council has a responsibility to establish and maintain a working environment that encourages Public Officials to report wrongdoing and supports them when they do. This includes keeping the identity of sources confidential where practical and appropriate, and taking steps to protect sources from reprisal and manage workplace conflict.

Burwood Council will assess all reports of wrongdoing it receives from Public Officials and deal with them appropriately. Once wrongdoing has been reported, Burwood Council takes 'ownership' of the matter. This means it is up to us to decide whether a report should be investigated, and if so, how it should be investigated and by whom. Burwood Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person the subject of a report.

Burwood Council must report on our obligations under the PID Act and statistical information about public interest disclosures in our annual report and to the NSW Ombudsman every six months.

To ensure Burwood Council complies with the PID Act and deals with all reports of wrongdoing properly, all Council Officers and Councillors with roles outlined below and elsewhere in this policy will receive training on their responsibilities.

Roles of Key Positions

General Manager

The General Manager has ultimate responsibility for maintaining the internal reporting system and

Public Interest Disclosures Act 1994 – Internal Reporting Policy

workplace reporting culture, and ensuring Burwood Council complies with the PID Act. The General Manager can receive reports from Public Officials and has a responsibility to:

- assess reports received by or referred to them, with the assistance of the Disclosure Co-ordinator, to determine whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with
- deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Procedures for the Administration of the Code of Conduct
- ensure there are strategies in place to support sources, protect sources from reprisal and manage workplace conflict that may arise in relation to a report
- make decisions following any investigation or appoint an appropriate decision-maker
- take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified
- refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC)
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

Disclosures Co-ordinator

The Disclosures Co-ordinator has a central role in Burwood Council's internal reporting system. The Disclosures Co-ordinator can receive and assess reports, and is the primary point of contact in Burwood Council for the source. The Disclosures Co-ordinator has a responsibility to:

- assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (under delegation of authority)
- deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Procedures for the Administration of the Code of Conduct
- co-ordinate Burwood Council's response to a report
- acknowledge reports and provide updates and feedback to the source
- assess whether it is possible and appropriate to keep the source's identity confidential
- assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified
- where required, provide or co-ordinate support to Council Officers involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report
- ensure Burwood Council complies with the PID Act
- provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

Burwood Council's Disclosures Co-ordinator is the Internal Ombudsman and the Alternate Disclosure Co-ordinator is the Manager Governance.

Disclosures Officers

Disclosures Officers are additional points of contact within the internal reporting system. They can provide advice about the system and the Internal Reporting Policy, receive reports of wrongdoing and assist Council Officers and Councillors to make reports.

Disclosures Officers have a responsibility to:

- document in writing any reports received verbally, and have the document signed and dated by the source
- make arrangements to ensure sources can make reports privately and discreetly when requested, if necessary away from the workplace
- discuss with the source any concerns they may have about reprisal or workplace conflict
- carry out preliminary assessment and forward reports to the Disclosures Co-ordinator

Mayor

The Mayor can receive reports from Council Officers and Councillors about the General Manager. Where the Mayor receives such reports, the Mayor has a responsibility to:

- assess the reports to determine whether or not they should be treated as a public interest disclosure, with the assistance of the Disclosure Co-ordinator and to decide how they will be dealt with
- deal with reports made under Council's Code of Conduct in accordance with Council's adopted Procedures for the Administration of the Code of Conduct
- refer reports to an investigating authority, where appropriate
- liaise with the Disclosures Co-ordinator to ensure there are strategies in place to support sources, protect sources from reprisal and manage workplace conflict that may arise in relation to a report
- refer actual or suspected corrupt conduct to the ICAC
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC

Supervisors and Line Managers

Supervisors and line managers play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Supervisors and line managers should be aware of the Internal Reporting Policy and are responsible for creating a local work environment where Council Officers are comfortable and confident about reporting wrongdoing. They have a responsibility to:

- encourage Council Officers to report known or suspected wrongdoing within the organisation and support Council Officers when they do
- identify reports made to them in the course of their work which could be public interest disclosures, and assist the Council Officer to make the report to an officer authorised to receive public interest disclosures under this policy
- implement local management strategies, in consultation with the Disclosures Co-ordinator, to minimise the risk of reprisal or workplace conflict in relation to a report
- notify the Disclosures Co-ordinator or General Manager immediately if they believe a Council Officer is being subjected to reprisal as a result of reporting wrongdoing, or in the case of suspected reprisal by the General Manager, notify the Mayor

5 What should be reported?

You should report any suspected wrongdoing within Burwood Council, or any activities or incidents you see within Burwood Council that you believe are wrong.

Reports about these five categories meet the criteria of a public interest disclosure, and will be dealt with under the PID Act and according to this policy:

1. serious misconduct – corrupt conduct
2. maladministration
3. serious and substantial waste of public money
4. breach of the Government Information (Public Access) Act (GIPA Act)
5. and local government pecuniary interest contravention

All other wrongdoing or suspected wrongdoing should be reported to a supervisor, to be dealt with in line with the relevant policies. This might include:

- harassment or unlawful discrimination
- practices that endanger the health or safety of Public Officials or the public

Even if these reports are not dealt with as public interest disclosures, Burwood Council recognises such reports may raise important issues. We will respond to all reports and make every attempt to protect the Council Officers making the report from reprisal.

Corrupt Conduct

Corrupt conduct is the dishonest or partial exercise of official functions by a public official.

For example, this could include:

- the improper use of knowledge, power or position for personal gain or the advantage of others
- acting dishonestly or unfairly, or breaching public trust
- a council official being influenced by a member of public to use their position in a way that is dishonest, biased or breaches public trust

Maladministration

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For example, this could include:

- making a decision and/or taking action that is unlawful
- refusing to grant an approval for reasons that are not related to the merits of their application

Serious and Substantial Waste of Public Money

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in losing or wasting public money.

For example, this could include:

- not following a competitive tendering process for a large scale contract
- having bad or no processes in place for a system involving large amounts of public funds

Breach of the GIPA Act

A breach of the *Government Information (Public Access) Act 2009* (GIPA Act) is a failure to properly fulfil functions under that Act.

For example, this could include:

- destroying, concealing or altering records to prevent them from being released
- knowingly making decisions that are contrary to the legislation
- directing another person to make a decision that is contrary to the legislation

Local Government Pecuniary Interest Contravention

A local government pecuniary interest contravention is a failure to comply with requirements under the *Local Government Act 1993* relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests returns, disclose pecuniary interests at Council and Council Committee meetings and leave the meeting while the matter is being discussed. A

Public Interest Disclosures Act 1994 – Internal Reporting Policy

pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

For example, this could include:

- a senior Council Officers recommending a family member for a council contract and not declaring the relationship
- a Burwood Local Planning Panel Member participating in consideration of a DA for a property they or their family have an interest in

6 Assessment of Reports

All reports will be promptly and thoroughly assessed to determine what action will be taken to deal with the report and whether or not the report will be treated as a public interest disclosure.

The Disclosures Co-ordinator is responsible for assessing reports, in consultation with the General Manager where appropriate. All reports will be assessed on the information available to the Disclosures Co-ordinator at the time. It is up to the Disclosures Co-ordinator to decide whether an investigation should be carried out and how that investigation should be carried out. In assessing a report the Disclosures Co-ordinator may decide that the report should be referred elsewhere or that no action should be taken on the report.

7 When will a report be treated as a public interest disclosure?

Burwood Council will treat a report as a public interest disclosure if it meets the criteria of a public interest disclosure under the PID Act. These requirements are:

- the report must be about one of the following five categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, or local government pecuniary interest contravention
- the person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing
- the report has to be made to either the General Manager or, for reports about the General Manager the Mayor, a position nominated in this policy (see section 8), an investigating authority or in limited circumstances to an MP or journalist (see section 9)

Reports by Council Officers are not public interest disclosures if they:

- mostly question the merits of government policy (see section 17)
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action (see section 18)

8 Who can receive a report within Burwood Council?

Council Officers are encouraged to report general wrongdoing to their supervisor. However the PID Act requires that, for a report to be a public interest disclosure, it must be made to certain public officials identified in this policy or any supporting procedures.

The following positions are the only people within Burwood Council who are authorised to receive a public interest disclosure. Any supervisor who receives a report that they believe may be a public interest disclosure is obliged to assist the Council Officers to make the report to one of the positions listed below. The broader responsibilities of these positions are outlined under Roles and Responsibilities (section 4).

If your report involves a Councillor, you should make it to the General Manager. If your report relates to the General Manager, you should make it to the Mayor.

- General Manager [Phone: 9911 9849]
- Mayor (if disclosure concerns or involves the General Manager) [Phone: 9911 9801 or mobile 0419 643 333]

Disclosure Co-ordinator

- Disclosure Co-ordinator - Internal Ombudsman [Phone: 9911 9993]
- Alternate Disclosure Co-ordinator - Manager Governance [Phone: 9911 9910]

Disclosures Officers

- Manager Governance [Phone: 9911 9910]
- Disclosure Co-ordinator - Internal Ombudsman [Phone: 9911 9993]
- Group Manager People and Culture [Phone: 9911 9857]
- People and Culture Business Partner [Phone: 9911 9907]
- Deputy General Manager – Corporate, Governance & Community [Phone: 9911 9815]
- Deputy General Manager – Land, Infrastructure & Environment [Phone: 9911 9850]
- General Manager [Phone: 9911 9849]
- Mayor (if disclosure concerns or involves the General Manager) [Phone: 9911 9801 or mobile 0419 643 333]

9 Who can receive a report outside of Burwood Council?

Council Officers and Councillors are encouraged to report wrongdoing within Burwood Council, but internal reporting is not your only option. You can also make a public interest disclosure to:

- an investigating authority
- a Member of Parliament or a journalist, but only in the limited circumstances outlined below

Investigating authorities

The PID Act lists a number of investigating authorities in NSW that Council Officers and Councillors can report wrongdoing to and the type of wrongdoing each authority can deal with. In certain circumstances it may be preferable to make a report of wrongdoing to an investigating authority, for example a report about either the General Manager or the Mayor.

The relevant investigating authorities for Burwood Council are:

- the Independent Commission Against Corruption (ICAC) — for reports about corrupt conduct
- the Ombudsman — for reports about maladministration
- the Information Commissioner — for disclosures about a breach of the GIPA Act
- the Office of Local Government— for disclosures about local councils

You should contact the relevant investigating authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this policy.

You should be aware that the investigating authority may well discuss any such reports with Burwood Council. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. We will also provide appropriate support and assistance to Council Officers or Councillors who report wrongdoing to an investigating authority, if we are made aware that this has occurred.

Members of Parliament or Journalists

To have the protections of the PID Act, Council Officers reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:

- a person nominated in this policy, including the Mayor for reports about the General Manager
- an investigating authority

Also, Burwood Council or the investigating authority that received your initial report must have either:

- decided not to investigate the matter
- decided to investigate the matter, but not completed the investigation within six months of the original report
- investigated the matter but not recommended any action as a result
- not told the person who made the report, within six months of the report being made, whether the matter will be investigated

Most importantly – to be protected under the PID Act – if you report wrongdoing to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true (see section 19).

Other External Reporting

If you report wrongdoing to a person or authority that is not listed above, or make a report to an MP or journalist without following the steps outlined above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or our Code of Conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside Burwood Council, contact the Disclosures Co-ordinator or the NSW Ombudsman’s Public Interest Disclosures Unit. Their contact details are provided at the end of this policy.

10 How to make a report

You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation (see Section 23 Internal Report Form)

If a report is made verbally, the person receiving the report will make a comprehensive record of the report and ask the person making the report to sign this record. The source should keep a copy of this record.

11 Can a report be anonymous?

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by Burwood Council, it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about what action is to be taken or has been taken to deal with the issues raised in the report, or the outcome of any investigation.

It is important to realise that an anonymous disclosure may not prevent you from being identified by the subjects of the report or your colleagues. If we do not know who made the report, it is very difficult for us to prevent any reprisal should others identify you.

12 Feedback to Council Officers who Report Wrongdoing

Public Officials who report wrongdoing will be told what is happening in response to their report.

Acknowledgement

When you make a report, Burwood Council will contact you to confirm that your report has been received and to advise:

- the timeframe within which you will receive further updates
- the name and contact details of the people who can tell you what is happening or handle any concerns you may have

After a decision is made about how your report will be dealt with, Burwood Council will send you an acknowledgment letter, providing:

- information about the action that will be taken in response to your report
- the likely timeframes for any investigation or other action
- information about the internal and external resources or services available that you can access for support

We will provide this information to you within ten working days from the date you make your report. We will also advise you if we decide to treat your report as a public interest disclosure and provide you with a copy of this policy at that time, as required by the PID Act.

Please note, if you make a report which meets the requirements of the PID Act but the report was made under a statutory or legal obligation or incidental to the performance of your day to day functions, you will not receive an acknowledgement letter or a copy of this policy.

Progress Updates

While your report is being dealt with, such as by investigation or making other enquiries, you will be given:

- information about the progress of the investigation or other enquiries and reasons for any delay
- advice of any decision by Burwood Council not to proceed with the matter
- advice if your identity needs to be disclosed for the purposes of investigating the matter or making enquiries, and an opportunity to talk about this beforehand

Feedback

Once the matter has been finalised you will be given:

- enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified
- advice about whether you are likely to be called as a witness in any further matters, such as disciplinary or criminal proceedings

13 Maintaining Confidentiality

Burwood Council realises sources may want their identity and the fact they have made a report to remain confidential. This can help to prevent any action being taken against them for reporting wrongdoing.

Public Interest Disclosures Act 1994 – Internal Reporting Policy

Where possible and appropriate we will take steps to keep your identity, and the fact you have reported wrongdoing, confidential. We will discuss with you whether it is possible to keep your identity confidential.

If confidentiality cannot be maintained, we will develop a plan to support and protect you from reprisal in consultation with you.

If you report wrongdoing, it is important that you only discuss your report with those responsible for dealing with it. This will include the Disclosures Co-ordinator and the General Manager, or in the case of a report about the General Manager, the Disclosures Co-ordinator and the Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal.

Any Council Officers or Councillors involved in the investigation or handling of a report, including witnesses, are also required to maintain confidentiality and not disclose information about the process or allegations to any person except for those people responsible for handling the report.

14 Managing the risk of reprisal and workplace conflict

When a Public Official reports wrongdoing, Burwood Council will undertake a thorough risk assessment to identify the risk to you of detrimental action in reprisal for reporting, as well as indirect but related risks of workplace conflict or difficulties. The risk assessment will also identify strategies to deal with those risks and determine the level of protection and support that is appropriate.

Depending on the circumstances, Burwood Council may:

- relocate the source or the Council Officers who is the subject of the allegation within the current workplace
- transfer the source or the Council Officers who is the subject of the allegation to another position for which they are qualified
- grant the source or the Council Officers who is the subject of the allegation leave of absence during the investigation of the disclosure

These courses of action are not punishment and will only be taken in consultation with the source.

15 Protection Against Reprisals

Burwood Council will not tolerate any reprisal against Public Officials who report wrongdoing or are believed to have reported wrongdoing.

The PID Act provides protection for Council Officers and Councillors who have made a public interest disclosure by imposing penalties on anyone who takes detrimental action against another person substantially in reprisal for that person making a public interest disclosure. These penalties also apply to cases where a person takes detrimental action against another because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not.

Detrimental action means action causing, comprising or involving any of the following:

- injury, damage or loss
- intimidation or harassment
- discrimination, disadvantage or adverse treatment in relation to employment
- dismissal from, or prejudice in, employment
- disciplinary proceedings

Public Interest Disclosures Act 1994 – Internal Reporting Policy

A person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines, and may be required to pay the victim damages for any loss suffered as a result of the detrimental action. Taking detrimental action in reprisal is also a breach of the council's code of conduct which may result in disciplinary action. In the case of Councillors, such disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

It is important for Public Officials to understand the nature and limitations of the protection provided by the PID Act. The PID Act protects sources from detrimental action being taken against them because they have made, or are believed to have made, a public interest disclosure. It does not protect sources from disciplinary or other management action where Burwood Council has reasonable grounds to take such action.

Responding to Allegations of Reprisal

If you believe that detrimental action has been or is being taken against you or someone else in reprisal for reporting wrongdoing, you should tell your supervisor, the Disclosures Co-ordinator or the General Manager immediately. In the case of an allegation of reprisal by the General Manager, you can alternatively report this to the Mayor.

All supervisors must notify the Disclosures Co-ordinator or the General Manager if they suspect that reprisal against a Council Officers is occurring or has occurred, or if any such allegations are made to them. In the case of an allegation of reprisal by the General Manager, the Mayor can alternatively be notified.

If Burwood Council becomes aware of or suspects that reprisal is being or has been taken against a person who has made a disclosure, Burwood Council will:

- assess the allegation of reprisal to decide whether the report should be treated as a public interest disclosure and whether the matter warrants investigation or if other action should be taken to resolve the issue
- if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced member of staff
- if it is established that reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the source
- take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure
- refer any breach of Part 8 of the council's code of conduct (reprisal action) by a councillor or the General Manager to the Office of Local Government
- refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force

If you allege reprisal, you will be kept informed of the progress and outcome of any investigation or other action taken in response to your allegation.

If you have reported wrongdoing and are experiencing reprisal which you believe is not being dealt with effectively, contact the Office of Local Government, the Ombudsman or the ICAC (depending on the type of wrongdoing you reported). Contact details for these investigating authorities are included at the end of this policy.

Protection Against Legal Action

If you make a public interest disclosure in accordance with the PID Act, you will not be subject to any liability, and no action, claim or demand can be taken against you for having made the public interest disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

16 Support for those reporting wrongdoing

Burwood Council will make sure that Council Officers who have reported wrongdoing, regardless of whether their report is treated as a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management or counselling services.

Access to support may also be available for other Council Officers involved in the internal reporting process where appropriate. Sources and other Council Officers involved in the process can discuss their support options with the Disclosures Co-ordinator.

17 Sanctions for Making False or Misleading Statements

It is important all Council Officers and Councillors are aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. Burwood Council will not support Council Officers or Councillors who wilfully make false or misleading reports. Such conduct may also be a breach of the code of conduct resulting in disciplinary action. In the case of Councillors, disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

18 The Rights of Persons the Subject of a Report

Burwood Council is committed to ensuring Council Officers or Councillors who are the subject of a report of wrongdoing are treated fairly and reasonably. This includes keeping the identity of any person the subject of a report confidential, where this is practical and appropriate.

If you are the subject of the report, you will be advised of the allegations made against you at an appropriate time and before any adverse findings. At this time you will be:

- advised of the details of the allegation
- advised of your rights and obligations under the relevant related policies and procedures
- kept informed about the progress of any investigation
- given a reasonable opportunity to respond to any allegation made against you
- told the outcome of any investigation, including any decision made about whether or not further action will be taken against you

Where the reported allegations against the subject officer are clearly wrong, or have been investigated and unsubstantiated, the subject officer will be supported by Burwood Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.

19 Review

This policy will be reviewed every two years. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.

20 More Information

More information around public interest disclosures is available on our intranet. Council Officers can also seek advice and guidance from the Disclosures Co-ordinator and the NSW Ombudsman's website at www.ombo.nsw.gov.au.

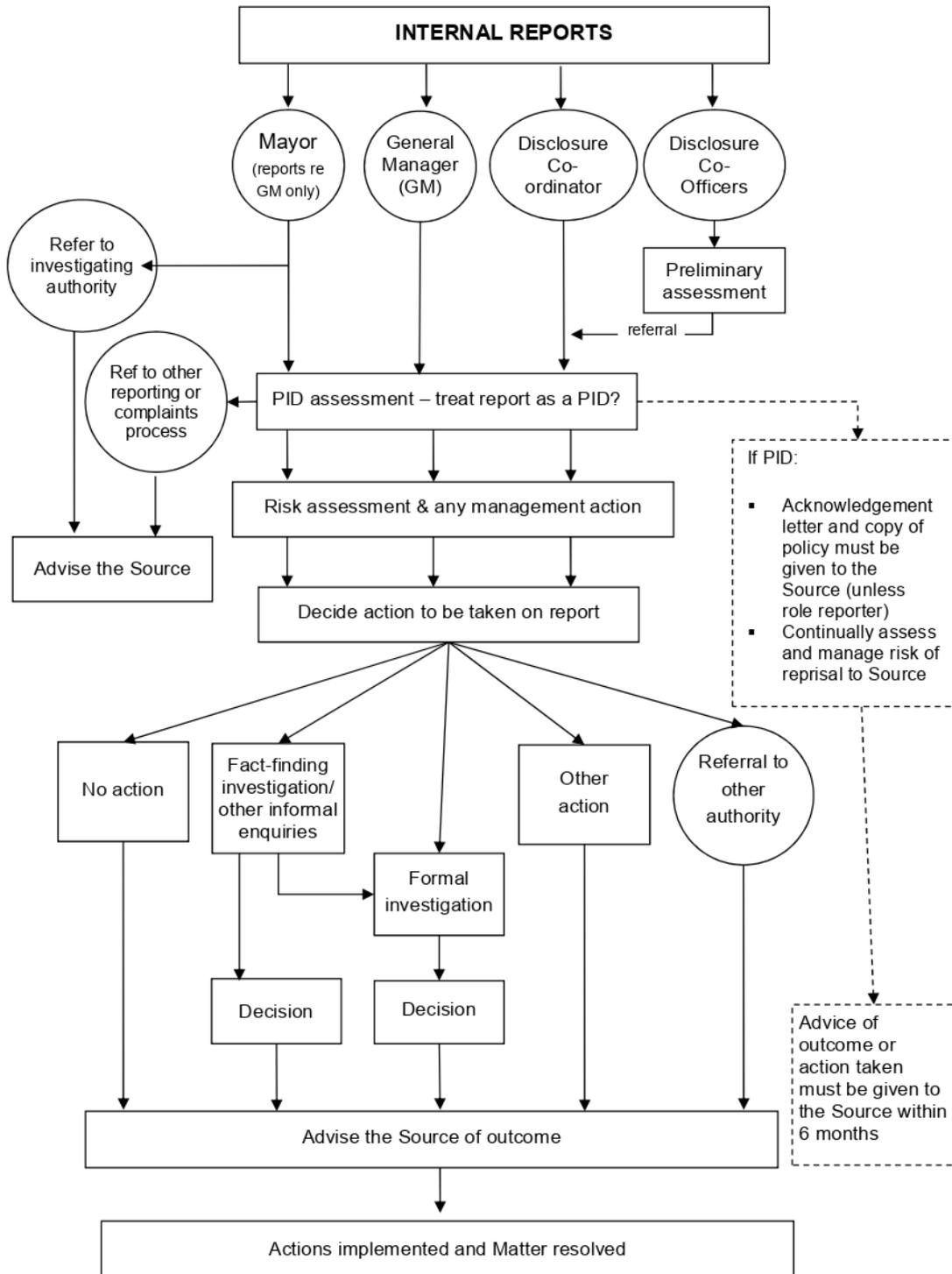
- Code of Conduct and the Procedure for the Administration of the Code of Conduct
- Complaints Against Council Officers - Process

- Complaints Management Policy
- Conflicts of Interest Policy
- Discipline and Formal Warning Corporate Practice
- Fact-Finder A 20 Step Guide to Conducting an investigation in your Organisation ICAC Publication
- Fraud and Corruption Prevention Policy
- *Government Information (Public Information) Act 2009*
- Grievance Corporate Practice and Procedures
- *Independent Commission Against Corruption Act 1988*
- *Local Government Act 1993*
- Media Policy
- NSW Ombudsman Model Internal Reporting Policy
- NSW Ombudsman Model Internal Reporting Policy – July 2013
- NSW Ombudsman Public Interest Disclosures Guidelines – April 2009
- Ombudsman Act 1974
- *Police Integrity Commission Act 1996*
- Procedures for Assessing Public Interest Disclosures and Investigations
- *Public Finance and Audit Act 1983*
- *Public Interest Disclosures Act 1994*
- Public Interest Disclosures Fact Sheet – Am I Dealing with a Public Interest Disclosures – Office of Local Government
- *Workplace Video Surveillance Act 1998*

For further advice you can also contact:

- ICAC
- NSW Ombudsman

21 Flow Chart of Internal Reporting Process



22 Resources

The contact details for external investigating authorities that Councillors and Council Officers can make a public interest disclosure to or seek advice from are listed below:

For disclosures about corrupt conduct:

Independent Commission Against Corruption (ICAC)
 Phone: 02 8281 5999
 Toll free: 1800 463 909
 Tel. typewriter (TTY): 02 8281 5773
 Facsimile: 02 9264 5364
 Email: icac@icac.nsw.gov.au
 Web: www.icac.nsw.gov.au
 Address: Level 7, 255 Elizabeth Street
 Sydney NSW 2000
 Australia

For disclosures about maladministration:

NSW Ombudsman
 Phone: 02 9286 1000
 Toll free (outside Sydney metro): 1800 451 524
 Tel. typewriter (TTY): 02 9264 8050
 Facsimile: 02 9283 2911
 Email: nswombo@ombo.nsw.gov.au
 Web: www.ombo.nsw.gov.au
 Address: Level 24, 580 George Street, Sydney
 NSW 2000

For disclosures about breaches of the GIPA Act:

Information and Privacy Commission (IPC)
 Toll free: 1800 472 679
 Facsimile: 02 8114 3756
 Email: ipcinfo@ipc.nsw.gov.au
 Web: www.ipc.nsw.gov.au
 Address: Level 17, 201 Elizabeth Street,
 Sydney NSW 2000

For disclosures about Council:

Chief Executive
 Office of Local Government
 Department of Planning and Environment
 Phone: 02 4428 4100
 Tel. typewriter (TTY): 02 4428 4209
 Facsimile: 02 4428 4199
 Email: olg@olg.nsw.gov.au
 Web: www.olg.nsw.gov.au
 Address: 5 O'Keefe Avenue, Nowra, NSW 2541

23 Internal Report Form

Details of reporter <i>(You can make an anonymous report by leaving this section blank)</i>		
Name:		
Position:		
Division/Unit:		Preferred method of contact
Telephone:		<input type="checkbox"/> Telephone
Email:		<input type="checkbox"/> Email
Postal address:		<input type="checkbox"/> Post
Details of the wrongdoing being reported		
Description:		
<ul style="list-style-type: none"> • What happened? • Where did this happen? • When did this happen? • Is it still happening? <p><i>[Attach an additional page if required]</i></p>		
How did you become aware of this?		
Name and position of people involved in the wrongdoing:	Name	Position
Attach any additional relevant information or indicate where supporting evidence may be found:	Supporting evidence	Attached
		<input type="checkbox"/>
		<input type="checkbox"/>
Name and position of other people who may have additional information:	Name	Position
Statement		

Public Interest Disclosures Act 1994 – Internal Reporting Policy

I honestly believe that the above information shows or tends to show wrongdoing.

Signature of reporter

(Do not sign if you want to make an anonymous report)

Date report submitted

(Essential information)



Burwood Council

heritage ▪ progress ▪ pride

REVISED - PROCEDURE FOR ASSESSING PUBLIC INTEREST DISCLOSURES AND INVESTIGATIONS

Modelled on the ICAC – A 20 Step Guide to Conducting an Investigation in your Organisation and NSW Ombudsman –
Guidelines

Suite 1, Level 2, 1-17 Elsie Street, BURWOOD NSW 2134
PO Box 240, BURWOOD NSW 1805
Phone: 9911-9911 - Fax: 9911-9900
Email: council@burwood.nsw.gov.au
Website: www.burwood.nsw.gov.au

Corporate Document
Adopted by Council:
Document No.: 2019/0034755
Ownership: Governance Co-ordinator
Version No: 6

Procedure for Assessing Public Interest Disclosures and Investigations

DEFINITIONS 3

 Keeping the identity of the Source confidential..... 4

KEEPING IT CONFIDENTIAL..... 4

DEALING WITH THE MEDIA..... 4

GET THE SOURCE TO KEEP THINGS CONFIDENTIAL..... 4

 Conflicts 4

 Conflicts of Interest Generally 5

 Protected Disclosure or not? 5

 Frivolous or vexatious matters..... 6

 Deciding whether to investigate..... 6

 Powers of the Disclosure Co-ordinator 6

 Interviewing Sources/Affected Persons/Other People 7

LOCATION AND TIME..... 7

GENERAL DETAILS TO BE RECORDED AT INTERVIEWS..... 7

ANONYMOUS SOURCES 6

INTERVIEWING THE SOURCE 8

INTERVIEWING THE AFFECTED PERSON..... 8

INTERVIEWING PEOPLE 8

STATEMENTS..... 8

USE OF INTERPRETERS 9

RECORDING OF INTERVIEWS..... 9

INTERVIEWING OVER THE PHONE..... 9

FOLLOW-UP INTERVIEWS 9

SUPPORT PERSONS 9

 Analysing the information collected 9

WHAT TO INCLUDE?..... 9

 Side issues found not part of a Protected Disclosure 10

 Case File..... 10

REFERRAL TO ICAC/POLICE 12

Purpose

The overall objective of the *Public Interest Disclosures Act 1994* (the **Act**) is to encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration, serious and substantial waste in the public sector and government information contravention.

This procedure establishes a guide to assessing potential Public Interest Disclosures when complaints or reports are received. The Procedure is also designed to assist the conduct of any investigation once it has been established that the complaint or report is a Public Interest Disclosure.

Disclosures made about the General Manager will be overseen by the Mayor and any investigations are co-ordinated by the Disclosure Co-ordinator conducted by ~~Council's Conduct Reviewer/Review Committee~~ in accordance with the Procedures for the Administration of the Code of Conduct.

Definitions

Affected Person - the person about whom the disclosure is made

Assessment Panel – a panel consisting of the General Manager, the Internal Ombudsman and the Group Manager People and Culture who are responsible for assessing complaints other than public interest disclosures.

Disclosure Co-ordinator - the person who is delegated to carry out the preliminary assessment report to the General Manager and conduct investigations (the Internal Ombudsman and the Manager Governance as this Alternate Disclosure Co-ordinator)

Nominated Person - the person to whom the disclosure has been made

Disclosure Officers – is an officer who is responsible for receiving, forwarding and/or acting upon disclosures in accordance with this Policy. The following Council Officers are able to received disclosures as Disclosure Officers:

- ~~Manager Governance Co-ordinator~~ [Phone: 9911 9910]
- Disclosure Co-ordinator - Internal Ombudsman [Phone: 9911 9993]
- ~~Group Manager People and Culture Executive Manager Organisation Development~~ [Phone: 9911 9857 Mobile: 0466 601 859]
- ~~People and Culture Business Partner~~ [Phone: 9911 9907]
- Deputy General Manager – Corporate, Governance & Community [Phone: 9911 9815]
- Deputy General Manager – Land, Infrastructure & Environment [Phone: 9911 9850]
- General Manager [Phone: 9911 9849]
- Mayor (if disclosure concerns or involves the General Manager) [Phone: 9911 9801 or mobile 0419 643 333]

Source - the person making the disclosure

Witness - another person who gives or affords evidence to the investigation

Scope

This procedure supports the implementation of the *Public Interest Disclosures Act 1994* – Internal Reporting Policy by the Disclosure Co-ordinator, Disclosure Officers, the General Manager and the Mayor.

Preliminary Assessment and Investigation - Confidentiality

Keeping the identity of the Source confidential

The identity of the Source must be kept confidential. Do not release any information that might reveal the identity of the Source. Doing so is in contravention of Section 22 of the Act and can have detrimental effects on the Source. **However, there may be times where there are exceptions. Please consult with the Disclosure Co-ordinator.**

Discuss with the Source any fears they may have if their identity was revealed. Even if the Source consents in writing to their identity being revealed, endeavour to keep it confidential. Doing so will help protect the integrity of the investigation, protect the Source and contribute to a general understanding within the organisation that the identity of a Source will be kept confidential.

Keeping it confidential

It is essential that during the investigation when questioning anyone or asking for information, they must be informed that the fact that you have talked to them and what was talked about is confidential. You may also seek confidential undertakings from each person which are to be minuted and recorded accordingly.

Dealing with the media

The media might be enquiring about a disclosure. They may have been given information by a member of the public or an employee. Do not try to deflect or manage possible media coverage by discussing your investigation with anyone, including journalists. Confidentiality means keeping the details to yourself.

The safe response is to direct any media enquiries to the General Manager or the Internal Ombudsman.

Get the Source to keep things Confidential

It is worthwhile explaining to the Source that it is in their best interests to remain unidentified and that it would assist the investigation of the complaint if confidentiality is maintained regarding:

- the fact that they have spoken to you
- what they have said to you

Suggest to the Source to seek legal advice about possible defamation if they tell you that they intend to make allegations elsewhere.

Conflicts

As the Disclosure Co-ordinator is solely responsible for gathering and assessing the information during an investigation, it is fundamentally important that he/she is both unbiased and seen to be so. There can be no confidence in the investigation if there is a hint of bias.

The Disclosure Co-ordinator must be mindful of any potential for conflicts between the subject of the investigation and matters personal to them.

Questions to ask:

- Do I have, or will I have, a personal relationship with any of the people involved in the investigation?

Procedure for Assessing Public Interest Disclosures and Investigations

(Mere knowledge of a person, or the fact that you have worked with them, is not enough to make out bias on your part. You should look to see whether your personal relationship with the person is based on a close friendship and favouritism, or based on animosity. If it is, you should not be involved in inquiring into matters concerning that person.)

- Was I a participant in any of the issues involved in the investigation?
(If you witnessed something or managed or supervised a particular area that is subject to the disclosure, you should not be involved in inquiring into those matters.)
- Do I have a financial interest in any matter involved in the investigation?
(If there is a likelihood that you or a family member are likely to gain or lose money from a decision or finding of the investigation you should not be a part of it.)
- Am I prejudiced in any way towards a person involved in the investigation, or does my behaviour or comments suggest I may have prejudged issues or people?
(If the answer is 'yes', you should not be involved in the investigation.)

If this is the case you should complete a Conflict of Interest Disclosure and immediately refer it to the General Manager to resolve the conflict situation and seek advice as deemed necessary.

Conflicts of Interest Generally

All Council Officers must be aware of their obligations under Council's Code of Conduct, including the requirements in dealing with Conflicts of Interest. The onus is on the Council official to identify and manage any conflict of interest.

If any Council Officer has a Conflict of Interest you must report the conflict to the Disclosure Co-ordinator.

Determining Public Interest Disclosures – Preliminary Assessment

Public Interest Disclosure or not?

When a complaint or report is received, the first step is to determine whether the matter falls under the PID Act or into another category which may be handled by other internal mechanisms. The onus is on the assessing officer to determine whether the matter falls within the auspices of the PID Act, not for the discloser to state whether they believe or want the matter to be treated as a Public Interest Disclosure.

The following questions will help determine if the information that a public official has given the Disclosure Co-ordinator, the General Manager or a Nominated Disclosure Officer might be a Public Interest Disclosure.

If the answer to the following question is 'yes' then it is a Public Interest Disclosure:

- Does the information 'show or tend to show' (not just allege) corrupt conduct, maladministration, serious and substantial waste or government information contravention?

If the answer to any of the questions below is 'yes', the matter is unlikely to be a Public Interest Disclosure:

- Was the disclosure not made voluntarily?
- Was the disclosure made substantially to avoid disciplinary action?
- Was the disclosure made frivolously or vexatiously?
- Does the disclosure principally question the merits of a Council Policy?

Procedure for Assessing Public Interest Disclosures and Investigations

If an oversight body, such as the Independent Commission Against Corruption (ICAC) or the New South Wales Ombudsman has referred the matter to Council as a Public Interest Disclosure, then it must be treated as one.

If it is deemed not to be a Public Interest Disclosure the complaint is to be referred to the Assessment Panel (refer to the Complaints About Staff – Process).

Frivolous or vexatious matters

A frivolous matter is a matter that is trivial, of little or no weight or not worth serious attention and does not need to be investigated.

A vexatious matter is a matter that is reported solely to cause inconvenience to a person or the organisation and is devoid of merit. Working out whether a matter is vexatious is not an easy task. The fact that the Source of the information is aggrieved, angry or upset does not necessarily make the matter vexatious. If the disclosure is deemed to be vexatious then it does not need to be investigated.

Deciding whether to investigate

After the initial assessment of the matter, the Disclosure Co-ordinator may recommend not to conduct an investigation. The reasons for not conducting an investigation must be reported to the General Manager for approval.

The decision to not carry out an investigation should be confidentially communicated to the Source.

If the Disclosure Co-ordinator recommends the matter should be investigated then the reasons for conducting the investigation must be reported to the General Manager for approval. If appropriate, both the Source and the Affected Person may be notified of the investigation.

Anonymous Sources

Information from an Anonymous Source may be investigated, and an anonymous complaint can be assessed as a Public Interest Disclosure, if the assessing officer is satisfied, with regard to the information provided, that the disclosure meets the assessment criteria. The following questions can be used to assess whether information from Anonymous Sources may require investigation:

- Do I have enough information based on the allegation to conduct an investigation?
- Can I verify the information from elsewhere?
- Is it a significant issue for the organisation?

Try not to guess the Source's identity and track him or her down. You could be wrong.

Investigation

The purpose of the investigation is to gather the evidence or information and to use this information to find the facts and then report on it.

Powers of the Disclosure Co-ordinator

The Internal Ombudsman, as Council's Disclosure Co-ordinator, **or the Manager Governance, as the Alternate Disclosure Co-ordinator**, has the authority while carrying out an investigation to:

- search any locations or property belonging to the organisation, if this is deemed to necessary in the conduct of an investigation. This includes, but is not limited to, offices, vehicles, computers, desks and bins.

Procedure for Assessing Public Interest Disclosures and Investigations

When conducting a search:

- check your employment agreements or awards for any details on searches
- do not telegraph the proposal to search
- aim to cause as little disruption as possible
- do not conduct a search in a way that will enable a person to destroy or hide documents, e.g. do not leave the person unsupervised at the search location after the search has started
- try to have an independent person present, who can observe the way you carry out the search
- try to record the search process on videotape and document what you find and where
- ensure you have keys to any relevant drawers, desks, containers etc before beginning your search. If the keys are not available, prior approval to break the container open should be obtained from the General Manager

The Disclosure Co-ordinator does not have the right to:

- a person's personal possessions such as handbags, wallets, or pockets
 - a person's clothing or body
 - a private vehicle or an employee's home
- request that any employee answers reasonable questions or provide documents that relates to or involves the work of the organisation. Contractors can also be asked about the performance of their contract with Council.

It is illegal to intercept phone calls or to record and listen to private conversations of any people, including Council Officers. Do not tape people's conversations unless you are a party to the conversation and all the people present consent to the taping.

~~Do not~~ Be cautious about accepting audio or video tapes of conversations from people. Advise them that it might be illegal for you to do so. Get them to tell you why it was taped and the details of the conversation. Seek legal advice. If the informant tells you it relates to a suspected crime, suggest they take it to the police or their own lawyer to obtain legal advice.

Interviewing Sources/Affected Persons/Other People

Location and time

It is important that the person being interviewed feels comfortable. The interview should be conducted away from his or her workplace, in a private location and at a time that will not arouse suspicions. Allow plenty of time for the interview in order to get as much detail as possible.

General details to be recorded at interviews

The following will be recorded, and will cover:

- a. time, date and location of the interview
- b. brief details of the matter being inquired into
- c. details of everyone present (including you and any support person(s))
- d. short explanation of how the interview will be conducted
- e. details of the person's name, address and occupation
- f. the person's consent to the taping of the interview

Interviewing the Source

- How did the Source become aware of the information?
- Does the Source know of any other people or evidence that might assist an investigation?
- Has the Source reported the matter elsewhere?
- Has the Source consented in writing to his or her identity being revealed now or at a later stage?
- Who is implicated in the allegations?
- Record the time, date and location of the interview

The Source will be requested to read the record of interview, check it, and sign it.

Interviewing the Affected Person

The whole point of an interview with an Affected Person is to provide procedural fairness to the person. Explain things carefully and give him or her ample opportunity to respond to questions. If the person raises relevant issues during the interview of which you were unaware, it is your duty to go away and inquire into them while retaining the Source's confidence.

A record of interview serves the useful purpose of identifying which issues may be verified or agreed to by the Affected Person.

Action to be taken by the Disclosure Co-ordinator:

- detail what the Affected Person's rights and obligations are
- seek a confidentiality undertaking from the Affected Person and minute it accordingly
- obtain agreement for the process of the interview
- ask "Do you agree?" questions
- ask "What happened?" questions
- provide the Affected Person with as much evidence as possible that will not reveal the Source's identity
- obtain specific details
- close the interview

Interviewing people

You should try to record in writing what a person has seen or done and seek their clarification and/or correction. You might get the person to give you a written version of specific events or details and then use this to form the basis of a statement. Send the draft back to the person and get them to add or amend the statement and to sign and date.

Statements

A statement is a written record of a person's recollection of events. When taking a statement from a person remember to:

- identify the person by their full name, position and length of service with Council
- frame the statement in first person. 'I saw...' 'I heard...' etc
- use the person's own words or phrases
- keep it in chronological order
- record conversations in direct speech: 'I said "(exact words)...", 'she said "(exact words)..."
- refer to documents or things used by the person and attach copies of them to the statement. If the person's statement says: 'I produce that document/thing being a ... (describe the document or thing)(Annexure 1)'
- rule through any blank spaces at the end of the statement to avoid additions being made later

Procedure for Assessing Public Interest Disclosures and Investigations

Send the draft back to the person and get them to add or amend the statement, ultimately arriving at a statement that is signed and dated by the person.

In place of a written statement, a person may choose to give their permission for you to make a tape and/or video recording which would then act as their statement.

Use of interpreters

If a person cannot adequately express himself or herself in spoken or written English, you should arrange for an interpreter. The interpreter should be qualified and independent. Do not ask a relative or friend of the person to interpret. Get the person to speak or write in his or her own language and sign or adopt (formally verify) what has been recorded and have the interpreter translate into English what was said, written or signed.

Recording of Interviews

Tape recording of interviews is permitted for record keeping purposes with the consent of the person being recorded. You should have the person provide you with **written** consent.

Interviewing over the phone

It is a good idea to interview a witness face-to-face because the assessment of their credibility will probably be more accurate. However, if a matter is urgent or if a witness is a long distance away you might want to interview the person over the phone. Advise the person that notes of the conversation are being taken.

Follow-up interviews

The person you are interviewing may be required to participate in a further interview or provide further information at a later date. The person should be given the opportunity to subsequently give additional information if he or she thinks of anything else.

Support persons

A person being interviewed is entitled to be accompanied by a support person during the interview. This person can also provide details of what happened during the interview if this is needed later.

Analysing the information collected

The aim of analysing the information collected is to come up with an accurate, factual description of what happened in relation to the disclosure made. The facts must be based on evidence from the documents collected and interviews conducted.

The Report

What to include?

The following must be included in the Report:

- an executive summary that briefly describes how the investigation came about, how long it took, who was involved, how the investigation was conducted, findings and recommendations
- a list of documents that were collected, and from whom they were provided
- a list of witnesses who were interviewed
- a list of the Affected Person(s) interviewed
- the findings including any charts or diagrams or photos that might help explain the findings. The findings of fact should include:

Procedure for Assessing Public Interest Disclosures and Investigations

- when the act occurred (time/date/place)
- who did what and how they did it
- if possible, why they did it

If certain facts are disputed by the Affected Person(s), an analysis of how the conclusion came about based on what you found and the person's version of events. A statement as to why the information is considered reliable or unreliable must be included in the Report.

The report is then forwarded to the General Manager for approval and implementation.

Side issues found not part of a Public Interest Disclosure

During the investigation if other side issues are raised separate from the Public Interest Disclosure, these should be reported to the General Manager for action.

Case File

All information obtained should be promptly placed on the case file and kept in the safe with the Disclosure Co-ordinator. This prevents unauthorised access to the case file. All information collected must be placed on the case file under the following headings:

- **Information from the Source** - Keep details of the information supplied by the Source under this heading such as any initial complaints, details of any interviews with the Source and any correspondence received or sent.
- **Assessment** - The details of any assessment made including any correspondence to the Source.
- **Referrals** - File notes or correspondence dealing with any referrals of the matter to other agencies and responses, if any, from the agencies.
- **Delegation** - A copy of the authorisation that gives the Disclosure Co-ordinator the right to conduct an investigation on behalf of Council.
- Copy of any authorisations from the General Manager to exercise any powers. Include here any formal requests for information from people, or documents that show the use of powers, if any.
- **List of 'Affected Persons'** - A list of 'Affected Persons' and their contact addresses and telephone numbers. Place on file any correspondence to and from such people. Refer to this list before you make your report, and make sure each 'Affected Person' has been given the opportunity to respond to any adverse comment likely to be made about him or her. Also, keep a copy of any interview conducted with 'Affected Persons' or any submissions received from them.
- **Documents Collected** - All documents collected during your investigation must be placed on the case file. These documents must be indexed.
- **Interviews and Statements** - All statements or interviews conducted with people during the investigation and any expert reports obtained.
- **Reports** - Keep the original final report and any correspondence relating to it. Any progress reports sent to the head of the organisation can also be placed under this heading.

Information Supplied to the Source

Procedure for Assessing Public Interest Disclosures and Investigations

A person who makes a Public Interest Disclosure must be notified, within six months of the disclosure being made, of the Public Interest Disclosure Action taken or proposed to be taken in respect of the disclosure. Council may make contact several times in that six month period to keep the Source abreast of the progress of the investigation.

If a disclosure is made in accordance with this Policy, the Disclosure Co-ordinator is responsible for the six month notification to the person who made the disclosure, unless this responsibility has been retained by or allocated to another staff member by the General Manager.

However, if a disclosure is made to the Mayor under this policy, the Mayor is responsible for the six month notification to the person who made the disclosure, unless he or she directs the General Manager, Disclosure Co-ordinator or another nominated officer to assume this responsibility.

The notification provided to the person who made the disclosure should contain sufficient information to demonstrate that adequate and appropriate action was taken, or is proposed to be taken, in respect of the disclosure. **This should include a statement of the reasons for the decisions made or action taken in response to the disclosure.**

This feedback will include:

- Within two working days:
 - acknowledgment of receipt of the disclosure
 - the timeframe within which they will be advised of action to be taken
 - the name and contact details of a person who will be able to advise them on what is happening
- Within ten working days after a decision is made as to how their disclosures will be dealt with:
 - the Public Interest Disclosure Action that will be taken on their disclosure
 - likely timeframes for any investigation
 - information about the resources available within Council to handle any concerns
 - information about external agencies and services which can be accessed for support
- During the course of any investigation:
 - the ongoing nature of the investigation
 - progress and reasons for any delay
 - seek written consent to disclose their identity
 - advance warning if their identity is to be disclosed and whether that disclosure is necessary in order to investigate the matter effectively or is otherwise in the public interest to do so
- At the completion of the investigation:
 - sufficient information to demonstrate that adequate and appropriate action was taken and/or is proposed in respect of their disclosure and that any systemic issue was brought to light and how this will be dealt with
 - involvement as a witness in any further matters, such as disciplinary or criminal proceedings
 - what their rights are if they do not agree with the findings

One of the purposes of this feedback is to give the Source enough information to be able to properly assess whether it is appropriate or warranted to make a disclosure to an MP or journalist.

Information Supplied to the Affected Person

Procedure for Assessing Public Interest Disclosures and Investigations

The Affected Person is entitled to feedback and will include:

- ~~At the outset~~ At an appropriate time in the investigation:
 - details of the disclosure
 - the timeframe within which they will be advised of action to be taken
 - the name and contact details of a person who will be able to advise them on what is happening
- After a decision is made as to how the disclosures will be dealt with:
 - the action that will be taken on the disclosure
 - likely timeframes for any investigation
- At the completion of the investigation:
 - ~~sufficient information to demonstrate that adequate and appropriate action was taken and/or is proposed in respect of the disclosure and any systemic issue brought to light~~
 - the findings of the investigation
 - advice of their rights if they do not agree with the findings

Referral to ICAC/Police

In accordance with Section 11(2) of the ICAC Act, matters of corrupt conduct must be referred to the ICAC. The General Manager is tasked with reporting matters of corrupt conduct to the ICAC and criminal matters to the Police.

Record Keeping

The *State Records Act 1998 General Disposal Authority – Local Government Records* sets out the retention periods for records related to disciplinary action taken against employees in Section 22.4.0 as follows:

No	Description of records	Disposal action
22.4.1	Records relating to allegations and disciplinary proceedings where the Ombudsman and the Commission for Children and Young People are notified (e.g. cases involving suspected abuse or neglect of children). This includes records concerning investigations, charges, inquiries and punishments and matters that have been referred to external bodies for investigation (e.g. NSW Department of Community Services). It also includes false, malicious or disproved allegations. Records include: <ul style="list-style-type: none"> ▪ advice of allegation and response ▪ investigation documentation and reports ▪ referrals to external bodies ▪ records of remedial and/or disciplinary action 	Retain minimum of 99 years after action completed, then destroy
22.4.2	Records relating to allegations and disciplinary proceedings where an officer is found to have committed a breach and serious disciplinary action (such as a fine, demotion, suspension, direction to resign, dismissal or annulment of appointment) is	Retain minimum of 25 years after action completed, then

ITEM NUMBER 64/19 - ATTACHMENT 2

Procedure for Assessing Public Interest Disclosures and Investigations

Procedure for Assessing Public Interest Disclosures and Investigations

No	Description of records	Disposal action
	<p>taken, but the offence has not involved a child or young person. This includes records concerning investigations, charges, inquiries and punishments and matters that have been referred to external bodies for investigation (e.g. NSW Police Service, ICAC). Records include:</p> <ul style="list-style-type: none"> ▪ advice of allegation and response ▪ investigation documentation and reports ▪ referrals to external bodies ▪ records of remedial and/or disciplinary action 	destroy
22.4.3	<p>Records relating to disciplinary proceedings where an officer is found to have committed a breach of discipline but minor or no disciplinary action is taken (e.g. caution or reprimand) and the offence has not involved a child or young person. This includes records concerning investigations, charges, formal enquiries and/or punishments. Records include:</p> <ul style="list-style-type: none"> ▪ advice of allegation and response ▪ reports ▪ investigation documentation ▪ records of any remedial or disciplinary action taken 	Retain minimum of 7 years after action completed, then destroy
22.4.4	<p>Records relating to preliminary/fact finding investigations of misconduct that were not proceeded with or where an officer is found not to have committed a breach of discipline (i.e. the allegations have been found to be false, vexatious or misconceived or could not be substantiated) and the accusation has not involved a child or a young person. Records include:</p> <ul style="list-style-type: none"> ▪ advice of allegation and response ▪ reports ▪ investigations ▪ interview transcripts ▪ signed statements 	Retain minimum of 7 years after action completed, then destroy

Related Information/Glossary

Legislation/External Guidelines/Policy/Corporate Practices:

- *Public Interest Disclosures Act 1994*
- *Independent Commission Against Corruption Act 1988*
- *Workplace Video Surveillance Act 1998*
- *Ombudsman Act 1974*
- *Public Finance and Audit Act 1983*
- *Police Integrity Commission Act 1996*
- *Local Government Act 1993*
- *Government Information (Public Information) Act 2009*
- NSW Ombudsman - Internal Reporting Policy and Procedures – Guideline
- NSW Ombudsman – Who can report wrongdoing? - Guideline
- NSW Ombudsman – What should be reported – Guideline
- NSW Ombudsman – Roles and responsibilities – Guideline

Procedure for Assessing Public Interest Disclosures and Investigations

- Thinking about reporting serious wrongdoing? – NSW Ombudsman
- Fact-Finder A 20 Step Guide to Conducting an investigation in your Organisation - ICAC Publication
- *Public Interest Disclosures Act 1994* – Internal Reporting Policy
- Code of Conduct and the Procedures for the Administration of the Code of Conduct
- Discipline and Formal Warning Corporate Practice
- Media Policy
- Conflicts of Interest Policy
- Complaints Management Policy
- Fraud and Corruption Prevention Policy
- Public Interest Disclosures Fact Sheet – Am I Dealing with a Public Interest Disclosures – Office of Local Government

Contact Person

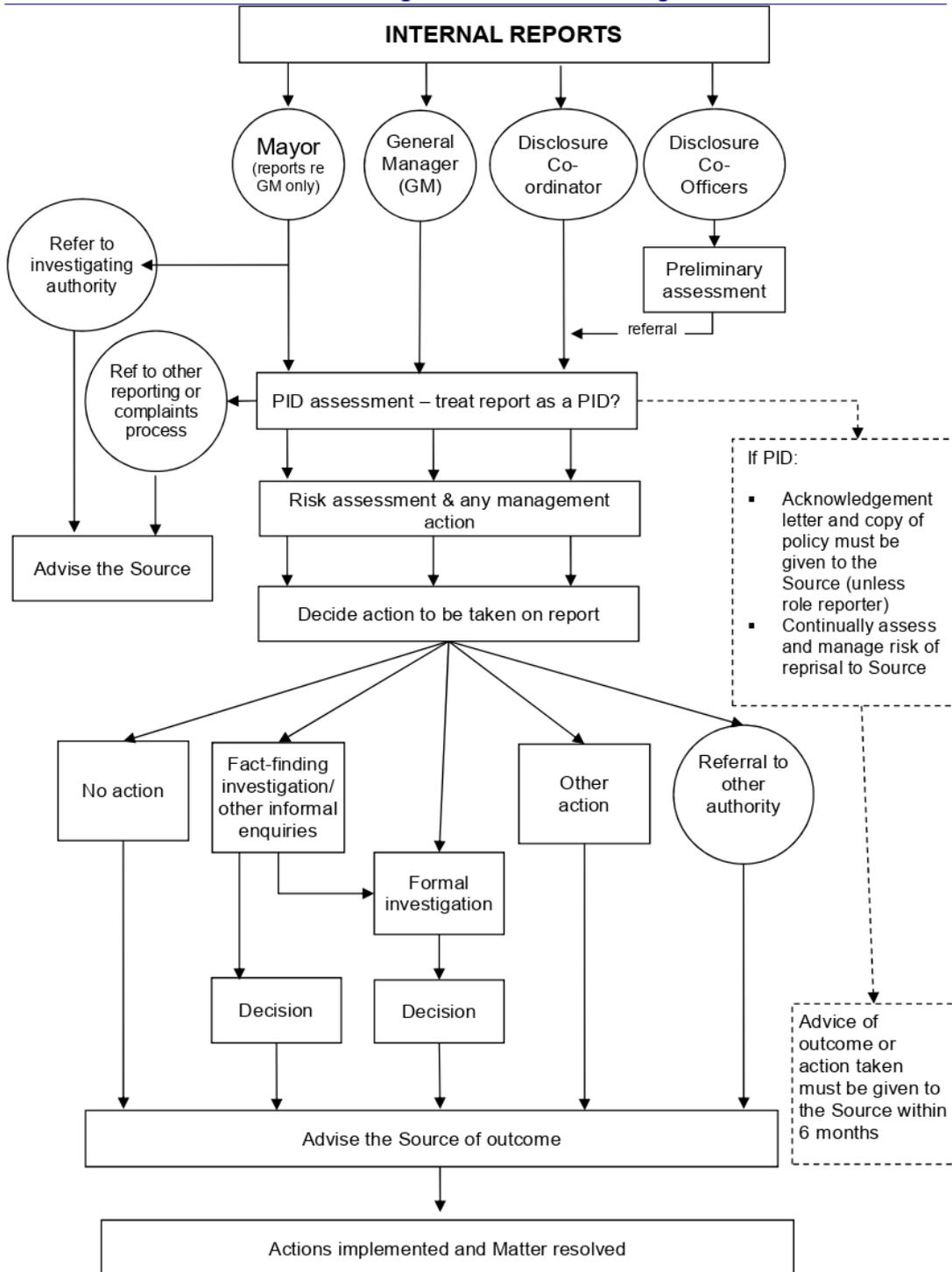
Disclosure Co-ordinator (Internal Ombudsman) 9911 9993 or Alternate Disclosure Co-ordinator on 9911 9910

Review of Guidelines

The General Manager has the delegated authority to amend these procedures where he/she deems appropriate.

The Procedures will be reported to Council following the election of the new Council.

Public Interest Disclosures – Assessing Disclosures and Investigations – Flowchart



(ITEM 65/19) ADOPTION - REVISED COMPLAINTS MANAGEMENT POLICY

File No: 19/37753

REPORT BY ACTING GENERAL MANAGER

Summary

To seek Council's approval of the revised Complaints Management Policy prior to the conduct of the Governance Training Program.

The Policy ensures a clear and simple process is available for the community to submit complaints, and to introduce defined standards for Council Officers to address and respond to the community's feedback.

Operational Plan Objective

2.1.3 Ensure transparency and accountability in decision making

Background

The Policy has been developed to ensure a clear and simple process is available for the public to submit complaints, and to introduce defined standards for Council Officers to address and respond to the public's feedback.

The Policy is based on the customer satisfaction formula suggested by the NSW Ombudsman's Effective Complaint Handling Guidelines (2004) and the Australian Standard ISO 10002:2004, MOD, Customer Satisfaction – Guidelines for complaints handling in organisations.

Doing the job right the first time + **Effective customer contact / complaint handling** = **Increased customer satisfaction / support**

It is believed that effective complaints management will benefit Council in the following ways:

- promote active citizenship by providing clearly communicated mechanisms for the community to have input into service delivery and improvement
- provide valuable feedback on Council's performance
- allow Council to identify areas, processes or skills that need improvement
- give Council a second chance to serve, satisfy or clarify issues for dissatisfied customers
- ensure that complaints are dealt with through the correct channels

Proposal

With the clear aim of protecting and promoting the public's right to comment and ensuring Council's response is timely and adequate, the Policy is based on the following principles:

- all complaints are dealt with in a timely and effective manner
- information that can assist in improving the Council is captured in a systematic way, allowing corrective actions to be put in place where necessary
- the community's satisfaction with Council services is increased and in turn contributes to the job satisfaction of Council Officers

It is important for Council to have a clear and defined process for receiving and addressing complaints.

The amendments to the Policy are as follows:

1. The Acting General Manager has introduced an “Assessment Panel” to assist with the determination of complaints made against staff and which avenue the complaints are to be dealt with.
2. The implementation of a register of difficult complainants which is managed by the Internal Ombudsman.
3. Position title changes as per the organisation structure.

All amendments are in red.

The report also seeks that the General Manager is the delegated authority to amend the Complaints Management Policy in relation to the procedures where he/she deems appropriate.

The Policy is now submitted to Council for adoption.

Consultation

The revised policy and procedures have been endorsed by the General Manager and the Policy, Corporate Practice and Procedures Panel.

Conclusion

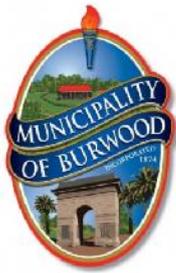
The revised Complaints Management Policy has been prepared to ensure a clear and simple process is available for the public to submit complaints, and to introduce defined standards for Council Officers to address and respond to the public’s feedback. This, in turn, is expected to improve customer satisfaction and confidence amongst the community. The adopted Policy will be included in Council’s Governance Training Program.

Recommendation(s)

1. That Council adopt the revised Complaints Management Policy.
2. That Council delegate to the General Manager authority to amend the Complaints Management Procedures where he/she deems appropriate.

Attachments

1 [↓](#) Revised - Complaints Management Policy



Burwood Council

heritage ▪ progress ▪ pride

REVISED - COMPLAINTS MANAGEMENT POLICY

PO Box 240, BURWOOD NSW 1805
Suite 1, Level 2, 1-17 Elsie Street, BURWOOD NSW 2134
Phone: 9911 9911 Fax: 9911 9900
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Corporate Document
Adopted by Council: 17 February 2014
Trim No.: 14/8188
Version No.: 2
Ownership: Internal Ombudsman

TABLE OF CONTENTS

1. Introduction 3

2. Purpose 3

3. Scope 3

4. Responsibilities 3

5. Principles 3

6. Definitions 4

 What is a Complaint 4

 Exceptions 4

 What is Not Considered a Complaint 4

 Complaints that will not be Investigated 4

 Anonymous Complaints 5

7. Confidentiality 5

8. Safeguards Against Victimisation and Retribution 5

9. Lodging a Complaint 5

10. Assistance with Lodging a Complaint 6

11. Service Standards 6

12. Complaint Handling Process 6

 Tier 1 – Frontline Complaints Handling 6

 Tier 2 – Management Complaints Handling 7

 Tier 3 – Escalation 7

 Tier 4 – Internal Review 7

 Tier 5 – External Review - Referral 7

13. Remedies 7

14. Special Complaints 8

 Complaints Concerning Councillors 8

 Complaints Concerning the General Manager 8

 Complaints Concerning Corrupt Conduct 8

 Complaints Concerning Child Protection 8

 Complaints Concerning Pecuniary Interests 9

 Complaints Concerning Public Interest Disclosures 9

 Complaints Concerning Competitive Neutrality 9

15. Challenging Complainants 9

 Malicious, Frivolous and Vexatious Complaints 9

 Persistent Complainants 10

 Difficult Complainants 11

 Administrative Control 11

 Review of Controls 11

16. Monitoring 11

17. Reporting 11

18. Implementation Statement 12

 Related Information / Glossary 12

 External Agencies 13

 Review 13

 Contact 13

 Complaints Flowchart 14

1. Introduction

Burwood Council endeavours to provide the highest level of customer service in its delivery of services and management of public funds. Council is committed to addressing and resolving enquiries and complaints, improving customer service delivery and increasing customer satisfaction.

2. Purpose

To ensure that:

- the community’s right to comment is protected and promoted
- all complaints are dealt with in a timely and effective manner
- information that can assist in improving the Council is captured in a systematic way, allowing corrective actions to be put in place where necessary
- the community’s satisfaction with Council services is increased and in turn contribute to the job satisfaction of staff

3. Scope

The Policy applies to Councillors, Council Officers and delegates who deal with customers, members of the public, other agencies, service providers, community organisations or other members of staff.

4. Responsibilities

All Council Officers are required to comply with the provisions of this policy.

Managers, Group Managers and Deputy General Managers are responsible for investigating complaints, determining outcomes and recommending appropriate remedy.

All complaints about Council Officers will be determined by the Complaints Against Council Officers Process via the Assessment Panel.

The Internal Ombudsman is responsible for dealing with serious or difficult complaints which have been escalated to him/her as per the provisions of this policy, and for organising legal service as required under this policy.

The General Manager is responsible for dealing with serious or difficult complaints which have been escalated to him/her as per the provisions of this policy.

5. Principles

This policy is based on the customer satisfaction formula suggested by the NSW Ombudsman’s Effective Complaint Handling Guidelines (2004) and the Australian Standard ISO 10002:2004, MOD, Customer Satisfaction – Guidelines for complaints handling in organisations.

$$\text{Doing the job right the first time} + \text{Effective customer contact / complaint handling} = \text{Increased customer satisfaction / support}$$

Effective complaints management benefits the organisation in the following ways:

- Promotes active citizenship by providing clearly communicated mechanisms for the community to have input into service delivery and improvement
- Provides valuable feedback on Council’s performance
- Allows Council to identify areas, processes or skills that need improvement

Complaints Management Policy

- Gives Council a second chance to serve, satisfy or clarify issues for dissatisfied customers

6. Definitions

What is a Complaint?

A complaint is an expression of dissatisfaction with Council's level and quality of service, its officers, agents, or policies and procedures affecting an individual or a group of customers.

The above complaints are considered general complaints, and they are dealt with and resolved inside Council.

Exceptions

This policy does not apply in circumstance where there is legislation covering the making of a complaint. For example:

- The making of a Public Interest Disclosure under the *Public Interest Disclosures Act 1994*
- The making of applications for internal review of alleged breaches of privacy under the *Privacy and Personal Information Act 1998*
- The making of applications for access to information under the *Government Information (Public Access) Act 2009* (GIPA Act)

Information on the above procedures is available from Council's website, or at Council's Customer Services Centre.

For complaints concerning Councillors, the General Manager, corrupt conduct, child protection, pecuniary interests, public interest disclosures, competitive neutrality, please see Section 14 – Special Complaints of this Policy.

What is Not Considered a Complaint?

Burwood Council will not consider the following as a complaint:

- an initial request for works or services
- a request for information or explanation of policies, procedures and decisions of Council
- a request for information regarding Council's assets or services
- an expression concerning the general direction or the performance of Council or its elected representatives
- reports concerning neighbours disputes
- an expression of disagreement with Council's policy, procedures or a lawfully made decision

Complaints that will not be Investigated

Burwood Council may determine that a complaint will not be investigated where that complaint:

- is considered frivolous, vexatious or not made in good faith or concerns a trivial matter
- is a second request for service received within the service level timeframe
- involves a matter where an adequate remedy or right of appeal exists, whether or not the complainant uses the remedy or right of appeal
- where a matter is subject to existing mediation process
- private neighbourhood disputes
- relates to a decision of Council
- relates to a matter awaiting determination by the Council
- relates to matters already under investigation by the Minister for Local Government, the ICAC, the NSW Ombudsman's office, a Minister of the Crown or Government Department or the NSW Police Force

Complaints Management Policy

- relates to a matter before a court or tribunal
- relates to the appointment or dismissal of any employee or an industrial or disciplinary issue
- relates to the actions or conduct of private individuals, not contracted by Council
- involves a matter where the complainant declines or refuses to provide further information deemed necessary for action to be taken
- involves threats made against Council
- relates to a decision, recommendation, act or omission which is more than one year old

Should the Council decide not to investigate a complaint, the complainant will be advised of the reason for the decision.

Anonymous Complaints

Burwood Council encourages complainants to provide full contact information when lodging complaints.

In the event of an anonymous complaint, Council will determine whether the complaint will be investigated dependent upon the seriousness of the complaint, and provided there is sufficient information in the complaint to enable an investigation to be conducted. Council will determine whether there is a statutory requirement for identification of the complainant.

An anonymous complainant cannot be provided with reasons for any decision made about their complaint.

7. Confidentiality

Council will not disclose the identity of complainant(s), should the complainant request their details remain confidential at the time the complaint is lodged. Burwood Council manages personal and private information collected by Council in accordance with Council's Privacy Management Plan [2011](#), the *Privacy and Personal Information Protection Act 1988*.

Council will take all care that reporting of complaints about Council activities will not result in the complainant experiencing any form of victimisation or retribution as a result of the complaint.

8. Safeguards Against Victimisation and Retribution

Allegations of victimisation and retribution as a result of lodging a complaint will be investigated if substantiated. If a community member experiences such behaviour they should lodge a complaint with the General Manager or with Council's Internal Ombudsman.

9. Lodging a Complaint

When lodging a complaint, complainants should include details such as name, address and contact number, together with a brief description of the complaint.

Complaints may be lodged with Council:

- In Person
By attending Council's Customer Service Centre located at Level 2, 1-17 Elsie Street, Burwood. The Customer Service Centre is open 8.30am-4.45pm Monday to Friday.
- By Telephone
Direct to Council's Customer Service Centre on (02) 9911 9911.

- In Writing
 - Email: council@burwood.nsw.gov.au
 - Post: PO Box 240, BURWOOD NSW 1805
 - Fax: (02) 9911 9900
- To a Councillor

Complaints can be made to Councillors of Burwood Council. In these circumstances it will be the responsibility of the Councillor to ensure the matter is notified to the General Manager as soon as practicable after having received the complaint.

The General Manager will refer the complaint to the ~~Assessment Panel relevant Executive Member responsible for the area subject of complaint.~~

Upon receipt of a complaint, the procedure as outlined in Section 12 of this Policy will be followed.

10. Assistance with Lodging a Complaint

Council is committed to ensuring complainants are not disadvantaged and will provide assistance to any person who wishes to make a complaint.

Should an interpreter be required, Council will provide a language aide staff member or arrange for an interpreter through the Telephone Interpreter Service (TIS).

11. Service Standards

Burwood Council aims to address and finalise all complaints within the following specified timeframes:

- acknowledge the complaint within 2 working days by phone or email
- record the complaint in Council's ~~TRIM electronic document management system~~ on the same day
- finalise the response to the complainant within 10 working days of receiving the complaint
- if further information is required then the complainant will be informed of it within 10 working days.
- a finalised response will be sent to the complainant within 20 working days
- all actions undertaken will be recorded in Council's ~~TRIM electronic document management system~~

12. Complaint Handling Process

Complaints about Council Officers

All complaints about Council Officers will be determined by the Complaints Against Council Officers Process via the Assessment Panel.

Tier 1 – Frontline Complaints Handling

Complainants are encouraged to provide feedback and lodge their complaint with the Council Officer who provided the service or who dealt with the issues, as this is more likely to result in a speedy resolution to the complaint.

A staff member receiving a complaint of a minor nature should, within the scope of their sub-delegation of authority, deal with the complaint at that time or refer it immediately to the appropriate Council Officer who may be able to resolve the complaint on the spot.

Tier 2 – Management Complaints Handling

Where complaints cannot be resolved at the first point of contact, or where they are received in writing, they will be tasked to the appropriate Manager or Supervisor to investigate and address.

All complaints will be acknowledged within 2 working days by phone or email, allocated a **log document** number, which the customer can use to trace the progress of their complaint with Council, and recorded on Council's **TRIM-electronic document management system** on same day of receipt.

All complaints will be addressed within 10 working days of receipt, except where further information is required.

If further information is required, the complainant will be informed within 10 working days of receipt. A finalised response must be sent to the complainant within 20 working days.

Contractors conducting work on behalf of Burwood Council are required to report complaints regarding any aspects of their work to their Contract Administrator. On request from the complainant, the Contractor shall refer the complainant directly to the Contract Administrator.

All actions must be recorded by the Contract Administrator on **TRIM electronic document management system** and copied to their Manager.

Tier 3 – Escalation

If the complainant remains unsatisfied after speaking to or corresponding with the Council Officer who delivered the service or who dealt with the issue, or if they feel uncomfortable approaching the officer, then they may lodge the complaint with a more senior officer, Manager or supervisor.

All complaints and actions must be recorded on Council's **TRIM-electronic document management system**, and will be copied to the relevant Executive Member.

The relevant Deputy General Manager must sign off on the relevant Manager's response to the complaint.

Tier 4 – Internal Review

Should the processes undertaken by the Manager or supervisor fail to resolve the complaint, or the outcome be regarded as unsatisfactory to the complainant, or should the complaint be about an Executive Member of Council, the Manager or supervisor will refer the complaint to the Internal Ombudsman for further review.

Tier 5 – External Review - Referral

In circumstances where these internal processes are unable to resolve a complaint or satisfy the complainant, Council will recommend to refer the complaint to an appropriate external agency for review. Such agencies may include the NSW Ombudsman's Office, the Independent Commission Against Corruption, the **Division Office** of Local Government or the Office of the Information and **Privacy** Commissioner.

13. Remedies

Remedies may include:

- an apology where Council has made a mistake or where a Council Officer's comments or behaviour have offended
- provision of the desired service
- a refund of overcharged or incorrectly charged monies

Complaints Management Policy

- provision of more information about Council's policies and/or the decision making process including regular progress updates
- a commitment to investigate and/or review Council procedures or practices where a complaint is justified
- recommendation to refer the complaint to an external body where Council cannot resolve the matter to the satisfaction of the complainant

14. Special Complaints

Complaints Concerning Councillors

Complaints concerning Councillors of Burwood Council will be managed in accordance with Council's Code of Conduct and will be referred in the first instance to the General Manager.

The General Manager will assess the complaint in accordance with Council's Code of Conduct to determine if the complaint is to be referred to Council's Conduct Review Panel. Any matter referred to the Conduct Review Panel will be managed in accordance with Council's ~~Conduct Reviewer/Review Committee Policy Procedures for the Administration of the Code of Conduct.~~

Complaints Concerning the General Manager

Complaints concerning the General Manager will be managed in accordance with Council's Code of Conduct and will be referred in the first instance to the Mayor.

The Mayor will assess the complaint in accordance with Council's Code of Conduct to determine if the complaint is to be referred to Council's Conduct Reviewer/Review Committee. Any matter referred to the Conduct Review Panel will be managed in accordance with Council's ~~Conduct Reviewer/Review Committee Policy Procedures for the Administration of the Code of Conduct.~~

Complaints Concerning Corrupt Conduct

Complaints concerning allegations of corrupt conduct (as defined by Sections 7, 8 and 9 of the *Independent Commission Against Corruption Act 1988*) will be referred immediately and directly to the General Manager and/or the Internal Ombudsman.

Where there is reasonable suspicion that corrupt conduct is or may be involved, a report will be forwarded to the ICAC.

Under Section 11 of the *Independent Commission Against Corruption Act 1988*, the General Manager must report to the Independent Commission Against Corruption in circumstances where there is reasonable suspicion that corruption in any form has occurred within Council.

The reporting of such matters to ICAC will not delay reporting to the Police or any other authority.

Complaints Concerning Child Protection

In accordance with Council's Child Protection Policy any child protection concerns must be reported in the first instance to ~~senior-management~~ the Internal Ombudsman of the relevant work area. A mandatory report may be made to the Department of Community Services NSW following investigation by ~~senior-staff~~ the Internal Ombudsman and approval from General Manager.

Any Council Officer who is investigated and is found to have committed an offence against a child or young person will be subject to Council's disciplinary processes. Any allegation or conviction of child abuse against an employee of Council will immediately be forwarded by the Council's General Manager to the NSW Ombudsman.

Complaints Concerning Pecuniary Interests

All complaints relating to pecuniary interest matters will be forwarded to the General Manager for referral to the Chief Executive of the NSW **Division Office** of Local Government.

Complaints concerning pecuniary interests matters are required to be assessed and investigated by the Chief Executive of the NSW **Division Office** of Local Government.

Complaints Concerning Public Interest Disclosures

All complaints made which are public interest disclosures will be managed in accordance with Council's *Public Interest Disclosures Act 1994* – Internal Reporting Policy (2011).

Complaints Concerning Competitive Neutrality

Burwood Council supports the principles of competitive neutrality by ensuring that Council business operates without any net competitive advantages over other businesses as a result of its public ownership.

Council will receive and consider any complaint alleging that Council has not abided by the spirit of competitive neutrality in the conduct of a business activity.

Any complaint of this nature received by Council will be managed in accordance with this policy and associated procedures.

15. Challenging Complainants

Burwood Council accepts that the process of making a complaint to an organisation can sometimes be difficult and distressing. It is acknowledged that this may result in difficulties in communicating concerns and distressed behaviour.

In a small percentage of cases, despite the best efforts of Council, it may be challenging to manage complainants whose conduct is unreasonable, and whose actions or motivations are unacceptable.

Council will treat all complaints with the utmost seriousness and will take reasonable steps to manage these situations, while fulfilling the obligation to provide its employees with a safe workplace and to ensure appropriate use of public resources.

In the case of malicious, frivolous and vexatious complaints, as well as persistent and difficult complainants, Burwood Council reserves the right to put in place administrative controls to assist in the management of the issue.

The following provisions apply to complainants and anyone acting on their behalf:

Malicious, Frivolous and Vexatious Complaints

Burwood Council will take no further action on the complaint if, following investigation, it is found that the complaint:

- was made maliciously to damage a person's career, reputation or livelihood
- is of trivial and superficial nature
- is not supported by any evidence and made primarily for the purpose of causing annoyance

A decision to take no further action on the complaint will be made by the General Manager or the Internal Ombudsman, and the complainant will be informed in writing of such decision.

Complaints Management Policy

Council management may, at its discretion, seek legal advice with respect to the implications of the suspected vexatious or malicious complaints. Council's Internal Ombudsman will arrange for such legal advice.

Council's Internal Ombudsman will determine whether the complainant should be requested to apologise in writing to the Council Officer and/or the Council or offer a full retraction.

Persistent Complainants

From time to time, the Council will encounter situations where:

- The complainants persistently change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response or whilst the complaint is being addressed (care must be taken not to disregard new issues which are significantly different from the original complaint as they need to be addressed as separate complaints).
- The complainants persist in pursuing a complaint, despite reasonable efforts of the Council to help them specify their concerns, and/or where the concerns identified are not within the realm of the Council to investigate.
- Complaints are about the same or similar issue(s) and the Council has either addressed or dismissed the issue(s) as being without substance.
- The complainants have excessive contact with the Council and place unreasonable demands on staff. For the purpose of determining an excessive number, a contact may be in person, by telephone, letter, email or fax. Discretion will be used in determining the precise number of excessive contacts applicable under this section, using judgement based on the specific circumstances of each individual case.
- There is any inference that the complainants have recorded meetings or face-to-face or telephone conversations without the prior knowledge and consent of other parties involved.
- The complainants are repeatedly unwilling to accept documented evidence given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions, or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- Persisting in interpreting the law or policy in a way that is not in accordance with generally accepted or expert views on the issue and insisting that action be taken accordingly.

Under these circumstances, in order to avoid resources to be unreasonably diverted, Council may decide to put in place an administrative control to limit responses to future complaints.

Details of the number and nature of the complaints and subsequent responses from Council will be provided to the responsible Council Executive Member, who will make a recommendation to the General Manager **and**/or the Internal Ombudsman that further correspondence and/or telephone contact is to be restricted.

If a decision is made to endorse the recommendation, the General Manager or the Internal Ombudsman will notify the complainant in writing, that the Council has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end, advising the complainant that they are being treated as a persistent complainant and as such the Council does not intend to engage in further correspondence dealing with the complaint.

Complaints Management Policy

The complainant will be advised that any future written material on the complaint subject will be filed.

With respect to telephone calls, the complainant may be told that their call will only be taken during restricted times and only by a specific person; or that no future telephone calls will be accepted or interviews granted on the same matter.

Difficult Complainants

Complainants who display aggressive or abusive behaviour such as abusive language (oral or written), threats, sexual remarks, rudeness, or have threatened or used physical violence towards Council Officers or property at any time, may be restricted from access to Council buildings or staff.

Details of such behaviour will be provided by Council Officers to the relevant Executive Member who will make a recommendation to the General Manager and/or the Internal Ombudsman that access to the Council and to Council Officers is to be restricted.

If a decision is made to restrict access, the General Manager or the Internal Ombudsman may notify the complainant:

- that the complainant is not permitted to enter Council buildings for a period of time
- that no phone calls will be accepted
- that they may only correspond with Council in writing
- of the nature and duration of restrictions placed upon them

At times Council may decide to nominate a legal representative to maintain contact with the complainant. The complainant will be notified of this person.

Administrative Control

Where Council has placed a ban on a complainant, Council will review the control depending on the severity of the matter. The complainant will be notified in writing of the ban.

All threats of violence will be reported to the NSW Police Force and the complainant will be banned from entering Council's premises for a period of time to be determined by Council. The complainant will be notified in writing by the Council General Manager.

The register of difficult complainants is managed by the Internal Ombudsman.

Review of Controls

Council The General Manager will review the ban depending on the severity of the matter. The complainant will be advised in writing once the ban has been lifted.

16. Monitoring

All complaints will be entered into Council's corporate database to allow for reporting and trend analysis. Specifically Council's Executive will be assessing whether issues are systemic or recurring, and subsequently implement steps to improve processes and reduce further complaints.

17. Reporting

Customer Service Complaints

On a monthly basis the Group Manager Customer Services Manager and Records will provide reports (from the corporate database) to the Executive on complaints received and subsequent

Complaints Management Policy

follow-up and departmental action. Reports will provide the following information on each complaint:

- the issue at the centre of the complaint
- dates and history of complaint, if available
- team/m
- Manager responsible to address the complaint
- action taken to address complainant's issues
- feedback from the complainant, where available, as to satisfactory resolution of the complaint or otherwise

Staff Complaints

The Internal Ombudsman is responsible for maintaining a register of complaints about staff.

On an annual basis the Internal Ombudsman will prepare a statistical summary of complaints received for the statutory annual report.

18. Implementation Statement

To ensure this policy is implemented effectively, Council will employ a variety of strategies involving awareness, education and training. These strategies will be aimed at Councillors, Burwood Council Officers and the community and will include:

- presentations and information sessions for Councillors
- training on complaints handling for staff as part of induction and training programs
- specific training for Managers on how to analyse and respond to complaint types, to promote a culture of continuous improvement
- development of a "How to lodge a complaint" brochure, made available at Council buildings and on Council's website
- articles in the Mayoral Column and in Council's newsletter Burwood Update
- use of Council website to promote policy and procedures

Related Information/Glossary

- **Complaints Against Council Officers - Process**
- *Local Government Act 1993*
- *Privacy and Personal Information Protection Act 1998*
- *Independent Commission Against Corruption Act 1988*
- *Ombudsman Act 1974*
- *NSW Ombudsman's Effective Complaint Handling Guidelines (2004)*
- *Australian Standard ISO 10002:2004, MOD, Customer Satisfaction – Guidelines for complaints handling in organisations*
- *Public Interest Disclosures Act 1994*
- Burwood Council's *Public Interest Disclosures Act 1994* – Internal Reporting Policy 2011
- *Government Information (Public Access) Act 2009*
- Burwood Council's Code of Conduct **and the Procedures for Administration of the Code Conduct**
- ~~Burwood Council's Conduct Reviewer/Review Committee Policy~~
- Burwood Council's Privacy Management Plan
- Burwood Council's Child Protection Policy
- NSW Ombudsman and Office of Local Government, Practice No 9 – Complaints management in Councils (2009)
- *Civil Liability Act (2002)*

External Agencies

Agency	Nature of Complaint
NSW Ombudsman Level 24, 580 George Street, SYDNEY NSW 2000 Phone: 02 9286 1000 or 1800 451 524 Fax: 02 9283 2911 Email: nswombo@ombo.nsw.gov.au	Matters concerning maladministration
NSW Division of Local Government Locked Bag 3015, NOWRA NSW 2541 Phone: 02 4428 4100 Fax: 02 4428 4199 Email: dlq@dlq.nsw.gov.au	Matters concerning serious Council misconduct or pecuniary interest matters
The Independent Commission Against Corruption GPO Box 500, SYDNEY NSW 2001 Phone: 02 9318 5999 or 1800 463 909 Fax: 02 9264 5364 Email: icac@icac.nsw.gov.au	Matters concerning corrupt conduct, which is defined as dishonest or partial exercise of any official functions by a public official. The General Manager is required to report suspected cases of corrupt conduct to the ICAC.
Anti-Discrimination Board PO Box a2122, SYDNEY SOUTH NSW 1235 Phone: 02 9268 5555 or 1800 670 812 Fax: 02 9268 5500	Matters in relation to discrimination, disability and harassment
Australian Competition and Consumer Commission GPO Box 3648, SYDNEY NSW 1044 Phone: 02 9230 9133 Fax: 02 9232 6107	Competitive neutrality complaints
Privacy NSW PO Box A2122, SYDNEY SOUTH NSW 1235 Phone: 02 9268 5588 Fax: 02 9268 5501 Email: Privacy_NSW@agd.nsw.gov.au	Breaches of the <i>Privacy and Personal Information Protection Act 1998</i>
Office of the Information Commissioner GPO Box 7011 SYDNEY NSW 2001 Free call phone: 1800 INFOCOM (1800 463 626) Email: oicinfo@oic.nsw.gov.au	Breaches of the <i>Government Information (Public Access) Act 2009</i> (GIPA Act)

Review

The Internal Ombudsman will conduct a review of Council's Complaint Handling Policy every four years to ensure the processes are responsive and appropriate in addressing issues raised by complainants. This review, along with any findings and recommendations, will form the basis of a report to Council.

The General Manager has the delegated authority to amend the procedures to this policy.

Contact

Internal Ombudsman (~~policy-matters~~) – 9911 9993.

Complaints Flowchart**Complaints about Council Officers**

All complaints about Council Officers will be determined by the Assessment Panel via the Internal Ombudsman.

Tier 1 – Frontline Complaints Handling

Council Officers receiving a complaint of a minor nature should, within the scope of their delegation of authority, deal with the complaint at that time or refer it immediately to the appropriate officer who may be able to resolve the problem on the spot.

Tier 2 – Management Complaints Handling

Where complaints cannot be resolved at the first point of contact, or where they are received in writing, they will be tasked to the appropriate officer to investigate and address.

All complaints will be acknowledged within 48 hours by phone or email, and will be allocated a log document number (TRIM electronic document management system) which the customer can use to trace the progress of their complaint with Council.

All complaints will be addressed within 10 working days of receiving the complaint, except where further information is required.

If further information is required then the complainant will be notified within 10 working days, and a finalised response sent within 20 working days.

Tier 3 – Escalation

If the complainant remains unsatisfied after speaking to or corresponding with the officer who delivered the service or who dealt with the issue, or if they feel uncomfortable approaching the officer directly, then they may lodge the complaint with a more senior officer, Manager or supervisor.

The relevant Deputy General Manager will be notified of all escalated complaints, and will sign off on the Manager's response to the complaint.

Tier 4 – Internal Review

Should the processes undertaken by the Manager or supervisor fail to resolve the complaint, or the outcome be regarded as unsatisfactory to the complainant, or should the complaint be about a Deputy General Manager, the Manager or supervisor will refer the complaint to the Internal Ombudsman for further review.

Tier 5 – External Review - Referral

In circumstances where these internal processes are unable to resolve a complaint or satisfy the complainant, Council will recommend to refer the complaint to an appropriate external agency for review. Such agencies may include the NSW Ombudsman's Office, the Independent Commission Against Corruption, the Division Office of Local Government or the Office of the Information Commissioner.

(ITEM 66/19) ADOPTION - REVISED AUDIT, RISK AND IMPROVEMENT COMMITTEE CHARTER

File No: 19/36539

REPORT BY ACTING DEPUTY GENERAL MANAGER, CORPORATE, GOVERNANCE & COMMUNITY

Summary

This report seeks Council's adoption of the revised Audit, Risk and Improvement Committee Charter (the Charter). The Charter meets the Office of Local Government's Audit Committee Charter model.

Operational Plan Objective

2.1.3 Ensure transparency and accountability in decision making

Background

The Audit, Risk and Improvement Committee amended and approved its Charter in February 2018.

Changes to the Charter include:

- Selection of Members: process amended to reflect composition of Council staff positions.

Proposal

The revised draft Audit, Risk and Improvement Committee Charter is submitted to has been reviewed in line with the Division of Local Government's Audit Committee Charter model (as per *Internal Audit Guidelines 2010*).

The Charter is now submitted to Council for adoption.

Consultation

The revised Charter has been endorsed by the Acting General Manager and Council's Policy, Corporate Practice and Procedures Panel.

Planning or Policy Implications

The adopted Charter will be communicated to the Audit, Risk and Improvement Committee and will be published on Council's website.

Financial Implications

Financial implications will remain unchanged. The two external independent members will receive compensation (\$1400 for the Chairperson, \$1000 for the other independent member) for each meeting they attend.

The Committee will meet at least four times a year.

Conclusion

The Charter is in accordance with the directives of the Office of Local Government and it is recommended that Council adopts the Charter to ensure efficient operations of the Committee.

Recommendation(s)

That Council adopts the revised Audit, Risk and Improvement Committee Charter.

Attachments

1 [↓](#) Revised - Audit, Risk and Improvement Committee Charter



Burwood Council
heritage • progress • pride

Suite 1, Level 2, 1-17 Elsie Street, BURWOOD NSW 2134,
PO Box 240, BURWOOD NSW 1805
Phone: 9911 9911 - Fax: 9911 9900 Email:
council@burwood.nsw.gov.au Website:
www.burwood.nsw.gov.au

AUDIT, RISK AND IMPROVEMENT COMMITTEE CHARTER

Version: 6

Public Document

Approved by Council: 14 February 2012

Endorsed by the Committee: 18 February 2018

Ownership: Deputy General Manager
Corporate, Governance and Community

1 Purpose

To identify the role, composition, authority, responsibilities and operation for the Burwood Council Audit, Risk and Improvement Committee.

2 Objective

To provide independent assurance and assistance to Burwood Council on risk management, control, governance and external accountability responsibilities.

3 Authority

Council authorises the Committee, within the scope of its role and responsibilities, to:

1. Obtain any information it needs from any employee or external party (subject to their legal obligation to protect information).
2. Discuss any matters with the external auditor or other external parties (subject to confidentiality considerations).
3. Request the attendance of any employee or Councillor at Audit, Risk and improvement Committee meetings.
4. Obtain external legal or other professional advice, as considered necessary to meet its responsibilities.

4 Role and Responsibilities

1. The role of the Audit, Risk and Improvement Committee is to oversee risk management, compliance, governance, external accountability and the internal control systems on behalf of Council.
2. The Committee has no executive powers, except those expressly provided by Council.
3. In carrying out its responsibilities, the Committee must at all times recognise that the primary responsibility for management of Council rests with Council and the General Manager as defined by the *Local Government Act 1993*.
4. The responsibilities of the Committee may be revised or expanded by Council from time to time.

Specifically, the Audit, Risk and Improvement Committee's responsibilities are:

Risk Management – oversee Council's risk management arrangements and review whether or not:

1. Council complies with AS/NZS ISO 31000: 2009 Risk Management, Principles and Guidelines, and any other relevant risk management standards.
2. Management has in place a current and comprehensive risk management framework, as well as associated procedures for effective identification and management of business and financial risks, including fraud.
3. A sound and effective approach has been followed in developing strategic risk management plans for major projects or undertakings.
4. A sound and effective approach has been followed in establishing business continuity planning arrangements, including whether or not plans have been tested periodically.

Control Systems – review whether or not:

1. Management has taken steps to embed a culture which is committed to achieving efficient and effective operations in an ethical and lawful behaviour.
2. Management has adequate and effective internal controls in place, including over external parties such as contractors and advisors.
3. Management has in place relevant policies and procedures, and if these are periodically reviewed and updated.
4. Appropriate processes are in place to assess compliance with policies and procedures.
5. Appropriate policies and procedures are in place for the management and exercise of delegations.

External Accountability

1. Be satisfied that the annual financial reports comply with applicable Australian Accounting Standards and are supported by appropriate management sign-off on the statements, as well as the adequacy of internal controls.
2. Review the External Audit opinion, including whether or not appropriate action has been taken in response to audit recommendations and adjustments.
3. Consider contentious financial reporting matters in conjunction with senior management and External Auditors.
4. Review the processes in place designed to ensure financial information included in the annual report is consistent with the signed financial statements.
5. Satisfy itself there are appropriate mechanisms in place to review and implement, where appropriate, relevant State Government reports and recommendations.

Compliance

1. Determine if management has appropriately considered legal and compliance risks as part of risk assessment and management arrangements.
2. Review the effectiveness of the system for monitoring compliance with relevant laws, regulations and associated government policies.

Internal Audit

1. Act as a forum for communication between Council, General Manager, senior management, as well as the Internal and External Audit functions.
2. In partnership with senior management and the Contracted Internal Auditor, develop and authorise the Internal Audit Program, including consideration of risk management issues.
3. Support the independence of the Internal Audit function.
4. Make recommendations to commission audits of any kind.
5. Review all audit reports and consider significant issues identified in audit reports and action taken on issues raised, including identification and dissemination of better practices.
6. Monitor the acceptance and implementation of Internal Audit recommendations by management.
7. Review the performance of all Contracted Internal Audits on an annual basis.

External Audit

1. Act as a forum for communication between the Council, General Manager and senior management with both the Internal and External Audit functions.
2. Provide input and feedback on the financial statements and performance audit coverage proposed by the External Auditor, and feedback on the External Audit services provided.
3. Review all external plans and reports in respect of planned or completed external audits, and monitor management's implementation of audit recommendations.
4. Consider significant issues arising in relevant reports and better practice guides.

Responsibilities of Members

Members of the Committee are expected to:

1. Understand the relevant legislative and regulatory requirements appropriate to Burwood Council.
2. Contribute the time needed to study and understand the papers provided.
3. Apply analytical skills, objectivity and sound judgment.
4. Express opinions frankly, ask questions and pursue independent lines of enquiry.
5. Undertake annual performance review of Internal Audit providers engaged by Council in the previous 12 months.

Additional Responsibilities of the Chair:

1. Review draft minutes of meetings and confirm accuracy within 10 working days from distribution.
2. Prepare an annual summary report of activities undertaken by the Committee by October each year, to be presented to Council at either a formal Council meeting or at a Councillor workshop.

5 Membership and Tenure of the Audit, Risk and Improvement Committee

Skills and Experience

1. The members of the Committee, taken collectively, will have a broad range of skills and experience relevant to the operations.
2. At least one external independent member of the Committee shall have accounting and related financial management experience, as well as an understanding of accounting and auditing standards in a public sector environment.

Membership of the Committee is by virtue of the appointed position; no delegates of the members are permitted.

Membership

Members (voting)

- Councillor x 2
- Independent external member (Chair)*
- Independent external member*

*not a member of the current or previous Council or staff

Attendees (non-voting)

- General Manager or nominee
- Deputy General Manager, Corporate, Governance and Community

▪ ~~Executive Manager Organisation Development~~

- Chief Finance Officer
- Representative of the External Auditor and the Contracted Internal Auditor (when required)
- Internal Ombudsman

Invitees (non-voting) for specific Agenda items

- Other officers may attend by invitation as requested by the Committee

Selection of Members

The selection criteria and process for the appointment of the independent external members shall ordinarily be as follows:

1. The Council shall seek nominations from persons interested in being appointed to the available position.
2. The eligible persons will be interviewed by a panel that may include the Deputy General Manager, Corporate, Governance and Community and the Internal Ombudsman.
3. Following receipt of recommendations from the above persons, the General Manager may appoint the independent external members.

Term of Office

The independent external members shall be appointed for a three year term, after which they will be eligible to re-apply for a further term of two years.

The maximum number of terms an independent external member can sit on the committee is two consecutive terms.

Vacancy/Absence

In the case of resignation from the committee by an independent external member, the General Manager will select a new independent member following the process outlined in this Charter.

In the case of resignation by the Chair, the other current serving independent external member will be appointed as Chair.

In the absence of the appointed Chair, the other current serving independent external member shall serve as the Chair for the period of absence of the duly nominated Chair.

Code of Conduct

All members of the Audit, Risk and Improvement Committee are to abide by Burwood Council's Code of Conduct.

Operational Handover

Following the appointment of a new Audit, Risk and Improvement Committee, the outgoing Chair will be invited to attend the first meeting of the new Committee to update the new Chair and independent members on activities undertaken by the Committee in the previous term.

Quorum

A quorum will consist of a majority of Committee members, including at least one independent external member.

Proceedings

Meetings

1. The Committee shall meet at least four times a year, with one of these meetings to include review and endorsement of the annual audited financial reports and external audit opinion as well as review and endorsement of the annual Internal Audit Plan.
2. Meetings can be held in person, by telephone or by video conference but preferably face-to-face.
3. A forward meeting plan, including meeting dates and agenda items, will be agreed to by the Committee each year. The forward meeting plan will cover all Committee responsibilities as detailed in this Audit, Risk and Improvement Committee Charter.

Where internal audit priorities change between meetings or new urgent issues arise, and where it is not possible to schedule an additional meeting, the Committee will be kept fully informed of all changes via email.

The Committee may, at any time, consider any other matter it deems of sufficient importance. In addition, at any time an individual Committee member may request a meeting with the Chair of the Committee.

Attendance of Non-Members:

1. The attendance of non-members is subject to invitation by the Chair.
2. Following each internal audit review, the Contracted Internal Auditor will be invited to attend a committee meeting to present the findings of the review.

Conflicts of Interest

1. Committee members must declare any conflicts of interest at the start of each meeting or before discussion of a relevant agenda item or topic. Details of any conflicts of interest should be appropriately minuted.
2. Where members or invitees at Committee meetings are deemed to have a real or perceived conflict of interest, it may be appropriate they be excused from Committee deliberations on the issue where the conflict of interest may exist. The final arbiter of such a decision is the Chair of the Audit, Risk and Improvement Committee.

Minutes

1. Secretariat support is provided to the Committee by Council Management.
2. The Secretariat will ensure the agenda for each meeting and supporting papers are circulated, at least one week before the meeting, and ensure minutes of the meetings are prepared and maintained.
3. Minutes shall be approved by the Chair and circulated to each member within three weeks of the meeting being held.

Induction

New members will receive relevant information and briefings on their appointment to assist them to meet their Committee responsibilities.

Reporting

The Committee shall prepare an annual summary report on activities undertaken by October each year, to be presented to Council at either a formal Council meeting or at a Councillor workshop.

Decision Making/Deliverables

1. The Committee makes decisions by resolutions, which are to be recorded in the minutes.
2. Each member of the Audit, Risk and Improvement Committee shall be entitled to one vote only. In the case of an equality of votes on any issue, the Chair shall have the casting vote.
3. Between meetings, the Chair may circulate to members by email specific proposals for adoption by the Committee. Members shall be given a set time – at least 5 (five) days – in which to reply to indicate their agreement with a particular proposal.
4. A member's failure to respond within the timeframe given shall be taken as a vote against the proposal. Any decision taken by the Committee by email is to be noted and minuted at the commencement of the next meeting.

The Contracted Internal Auditor, External Auditor and Council Officers are not voting members of the Committee.

Assessment of Committee Performance

1. The Chair will initiate a review of the performance of the Audit, Risk and Improvement Committee at least once every two years.
2. The review will be conducted on a self-assessment basis (unless otherwise determined by the Chair), with appropriate input from management and other relevant stakeholders, as determined by the Chair.
3. When reviewing the Committee's performance, the Chair should be satisfied that an effective, comprehensive and complete service is being provided.

Review of the Audit, Risk and Improvement Committee Charter

1. At least once every two years the Audit, Risk and Improvement Committee will review this Charter to ensure it remains current and reflects roles and objectives.
2. The Audit, Risk and Improvement Committee will endorse any changes to this Charter.

(ITEM 67/19) REFERRAL OF THE ANNUAL FINANCIAL REPORTS FOR 2018-2019 TO COUNCIL'S AUDITOR

File No: 19/34830

REPORT BY CHIEF FINANCE OFFICER

Summary

Council's Financial Reports must be in accordance with the *Local Government Act 1993* (the Act) and *Local Government (General) Regulation 2005* (the Regulation), the Australian Accounting Standards, the Local Government Code of Accounting Practice and Financial Reporting and the Local Government Asset Accounting Manual. This is to ensure that the Financial Reports for each year fairly present the Council's operating result and financial position for the year.

In accordance with Section 413 of the Act, Council's Annual Financial Reports must be authorised for referral to the Auditor for audit.

Operational Plan Objective

2.3.1 - Identify and maintain additional revenue sources to ensure financial sustainability

Background

Sections 413, 415 and 416 of the Act require Council's Annual Financial Reports for 2018-2019 to be prepared, referred to audit and audited by 31 October 2019.

In relation to this process, Council is required to authorise the referral of the Annual Financial Reports to Council's External Auditor (NSW Audit Office).

Section 413 of the Act states that the Annual Financial Reports must be accompanied by a Statement of Council's opinion on the general purpose financial report (Attachment 1) made pursuant to a resolution of Council and signed by the:

- Mayor
- Deputy Mayor
- General Manager
- Responsible Accounting Officer (Chief Finance Officer)

The Annual Financial Reports for 2018-2019 are subject to review by the External Auditor (NSW Audit Office) before they can be finalised.

Proposal

The 2018-2019 Annual Financial Reports are due for Audit Referral by 31 August 2019. In order to obtain sign-off prior to the Auditors commencing the audit on 16 September 2019, the draft Annual Financial Reports for 2018-2019 are tabled on the night of the Council meeting.

Consultation

The audited Annual Financial Reports will be presented to the Audit, Risk and Improvement Committee during October 2019 prior to completion of the external audit process. The Committee's comments will be included as part of the report to Council for the presentation of Council's Audited Annual Financial Reports for 2018-2019.

Conclusion

The Annual Financial Reports provide a snapshot of Council's operating performance and its financial position at a point in time and their completion and presentation is a statutory requirement under the Act and the Regulation.

Recommendation(s)

That in accordance with Section 413(2)(c) of the *Local Government Act 1993* and Clause 215 of the *Local Government (General) Regulation 2005*, Council resolve the following:

1. That authority is granted to the Mayor, the Deputy Mayor, the Acting General Manager and Responsible Accounting Officer to sign the Statements by Councillors and Management for the General Purpose Financial Reports and the Special Purpose Financial Reports for the Year Ended 30 June 2019.
2. That the signed statement be attached to the 2018-2019 Unaudited Annual Financial Reports and presented to Council's Auditor (NSW Audit Office) for the completion of the audit.
3. That the Auditor is invited to attend the Audit, Risk and Improvement Committee Meeting in October 2019 that will review the Annual Financial Reports and also to attend the Council Meeting that is to adopt the audited Annual Financial Reports.

Attachments

- 1 [↓](#) Statement by Councillors and Management 1 Page

Statement by Councillors and Management

Burwood Council

General Purpose Financial Statements

for the year ended 30 June 2019

Statement by Councillors and Management made pursuant to Section 413(2)(c) of the Local Government Act 1993 (NSW) (as amended)

The attached General Purpose Financial Statements have been prepared in accordance with:

- the *Local Government Act 1993* (NSW) (as amended) and the regulations made thereunder,
- the Australian Accounting Standards and professional pronouncements, and
- the *Local Government Code of Accounting Practice and Financial Reporting*.

To the best of our knowledge and belief, these statements:

- present fairly the Council's operating result and financial position for the year
- accord with Council's accounting and other records.

We are not aware of any matter that would render these statements false or misleading in any way.

Signed in accordance with a resolution of Council made on 27 August 2019

Councillor Faker
Mayor
27 August 2019

Councillor Furneaux-Cook
Councillor
27 August 2019

Tommaso Briscese
Acting General Manager
27 August 2019

Wayne Armitage
Responsible Accounting Officer
27 August 2019

(ITEM 68/19) INVESTMENT REPORT AS AT 31 JULY 2019

File No: 19/36331

REPORT BY CHIEF FINANCE OFFICER

Summary

In accordance with Clause 212 of the *Local Government (General) Regulation 2005*, this report details all money that Council has invested under Section 625 of the *Local Government Act 1993*.

Operational Plan Objective

2.3.1 Identify and maintain additional revenue sources to ensure financial sustainability

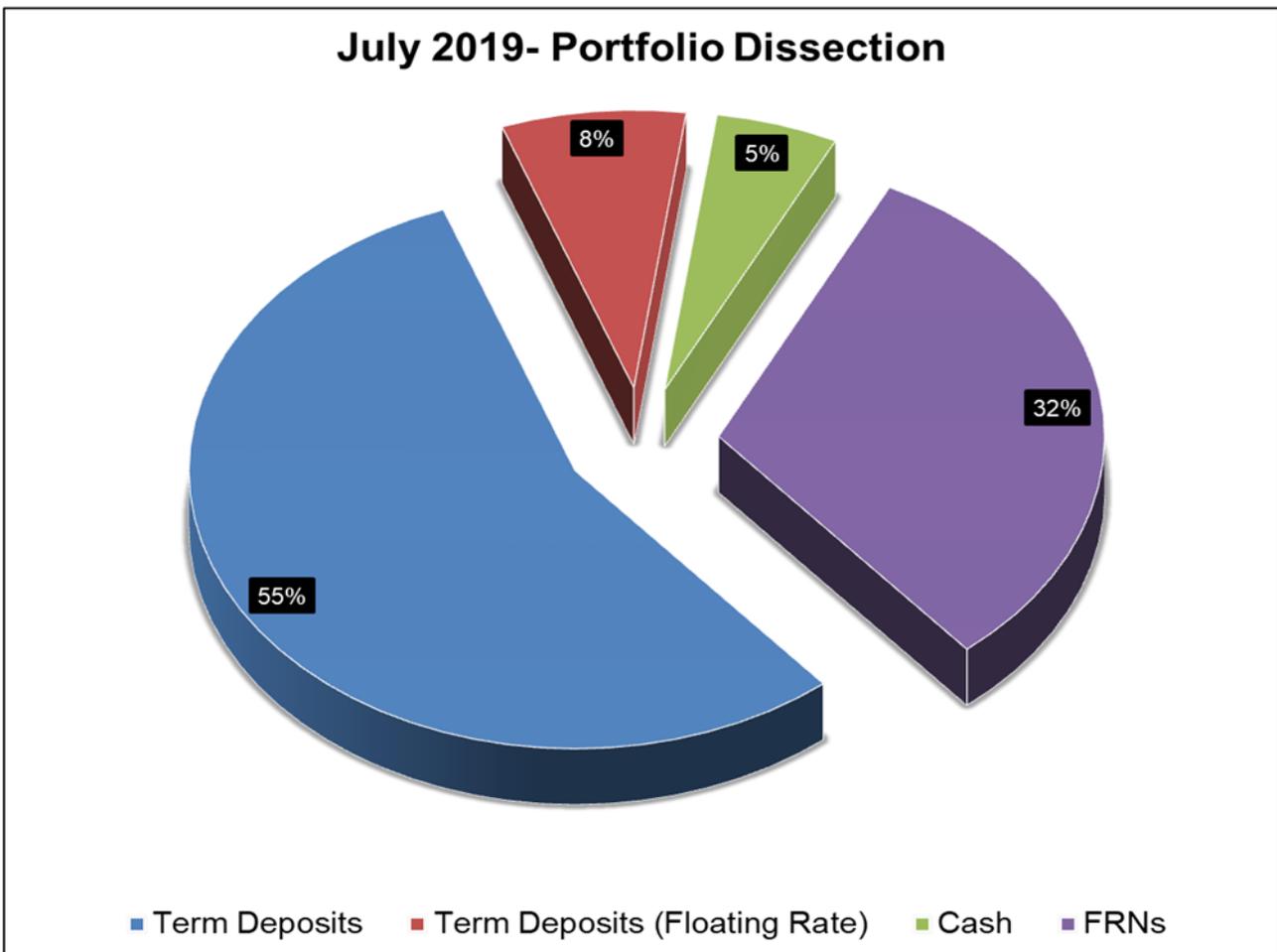
Background

As provided for in Clause 212 of the *Local Government (General) Regulation 2005*, a report listing Council's investments must be presented to Council.

Council's investments are made up of a number of direct investments some of which are managed or advised by external agencies.

Investment Portfolio

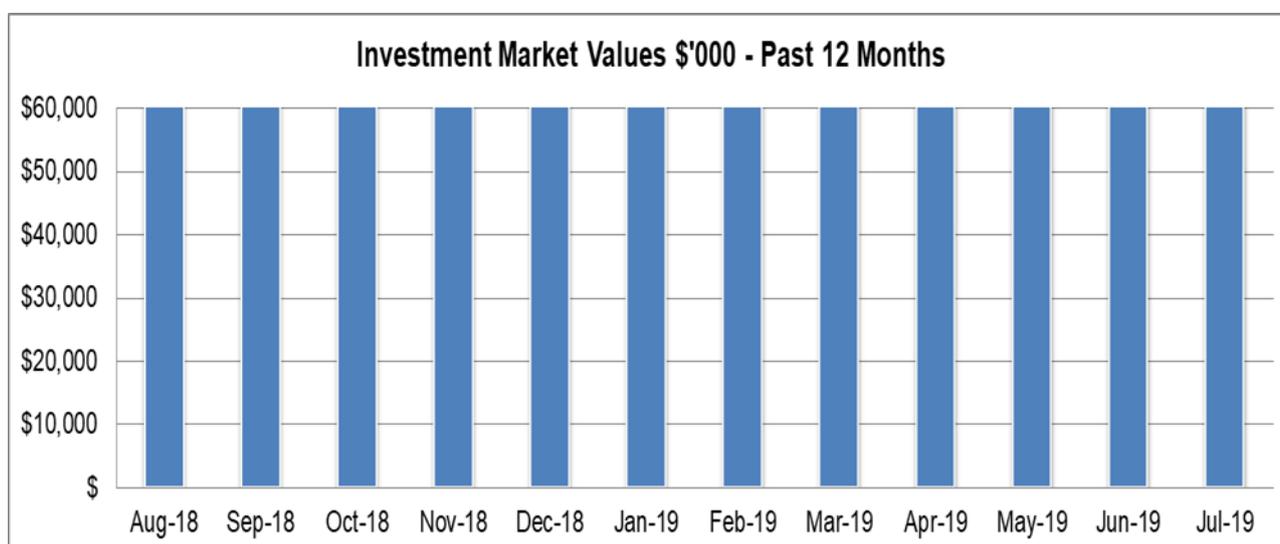
Council has a diversified investment portfolio and has a number of direct investments in term deposits. Its investment portfolio as at 31 July 2019 is:



As at 31 July 2019 Council held the following term deposits:

Purchase Date	Financial Institution	Principal Amount	Interest Rate	Investment Days	Maturity Date
31 Aug 18	Westpac	3,000,000	2.70%	365	31 Aug 19
23 Oct 17	ING Bank (Curve)	3,000,000	2.96%	730	23 Oct 19
30 Oct 17	ING Bank (Imperium)	2,000,000	2.91%	730	30 Oct 19
07 Nov 17	ING Bank (Imperium)	2,000,000	2.90%	730	07 Nov 19
07 Dec 17	ING Bank (Imperium)	3,000,000	2.83%	732	09 Dec 19
31 Aug 18	National Australia Bank	3,000,000	2.80%	731	31 Aug 20
26 Nov 18	National Australia Bank	3,000,000	2.75%	365	26 Nov 19
04 Jun 19	AMP Bank (Imperium)	3,000,000	2.65%	181	02 Dec 19
04 Jun 19	AMP Bank (Imperium)	2,000,000	2.65%	181	02 Dec 19
06 Jun 19	Bank of Queensland	3,000,000	2.15%	274	06 Mar 20
14 Jun 19	National Australia Bank	3,000,000	2.10%	210	10 Jan 20
16 Jul 19	BankWest	3,000,000	1.80%	273	14 Apr 20
24 Jul 19	Westpac	3,000,000	1.81%	365	23 Jul 20
Total		36,000,000			

The following graph highlights Council's investment balances for the past 12 months:



Council's investment portfolio is recognised at market value and some of its investments are based on the midpoint valuations of the underlying assets and are subject to market conditions that occur over the month.

Council's investment balances as at reporting date and for the previous two months are detailed in Attachment 1. Definitions on the types of investments are detailed in Attachment 2.

Investment Performance and Market Commentary

The Reserve Bank of Australia (RBA) at its 6 August 2019 Board Meeting left the official cash rate at 1.00% per annum. According to the RBA Governor "...The Board took this decision to support employment growth and provide greater confidence that inflation will be consistent with the medium-term target. The outlook for the global economy remains reasonable, however the increased uncertainty generated by the trade and technology disputes are affecting investment and means that the risks to the global economy remain tilted to the downside. The slow down in global trade has contributed to slower growth in Asia and China's authorities have taken steps to support the economy, while addressing risks in the financial system.

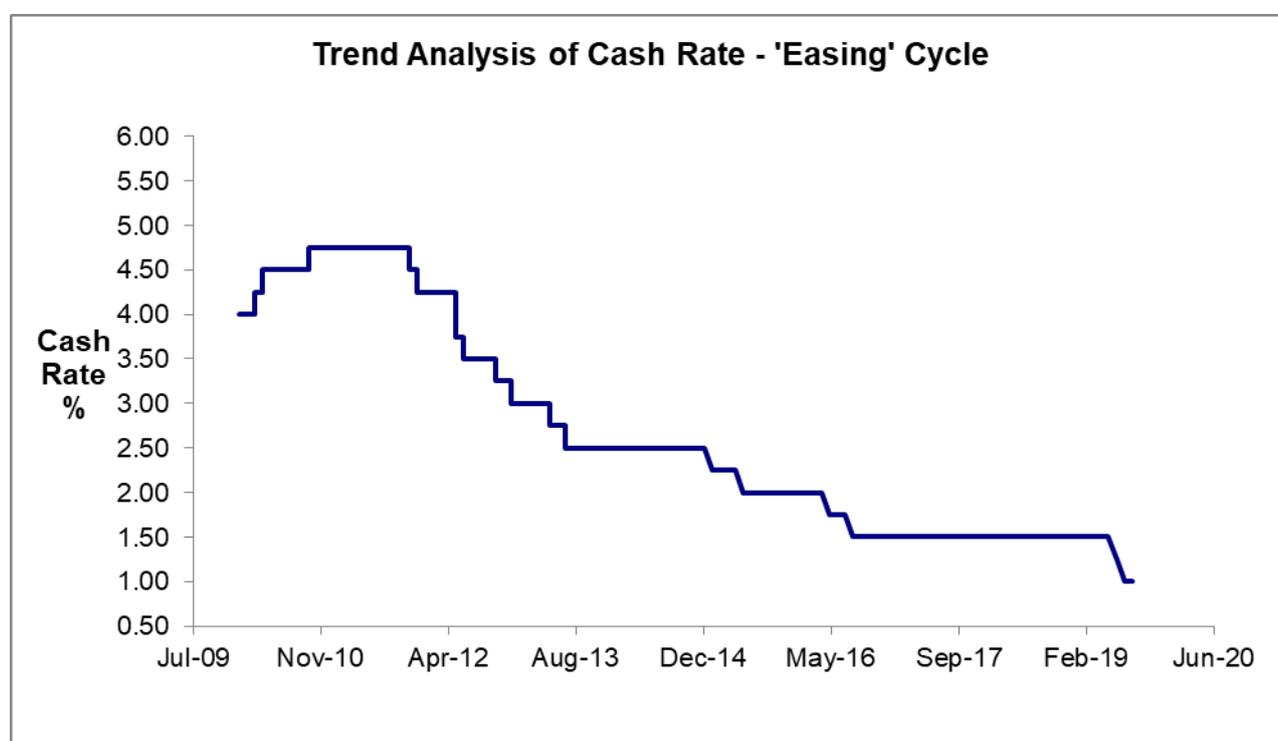
Economic growth in Australia over the first half of the year has been lower than earlier expected, with household consumption weighted down by a protracted period of low income growth and declining housing prices. Increased investment in infrastructure is providing an offset and a pick-up

in activity in the resources sector is expected, partly in response to an increase in the prices of Australia's exports.

Employment growth has grown strongly over recent years and labour force participation is at record high. There has, however, been little inroad into the spare capacity in the labour market with the unemployment rate having risen slightly to 5.2 per cent. Inflation pressures remain subdued across much of the economy. The recent inflation data were broadly as expected and confirmed that inflation pressures remain subdued across much of the economy. The central scenario remains for underlying inflation to be around 2 per cent in 2020 and a little higher after that.

Taking account of the available information, the Board judged it appropriate to leave the cash rate at 1.00%. The Board will continue to monitor developments in the labour market closely and adjust monetary policy if needed to support sustainable growth in the economy and the achievement of the inflation target over time...." Statement by Philip Lowe, Governor: Monetary Policy Decision – 6 August 2019.

The following graph provides information on the current RBA monetary policy:



Recommendations(s)

1. That the investment report for 31 July 2019 be received and endorsed.
2. That the Certificate of the Responsible Accounting Officer be received and noted.

Attachments

- 1 [↓](#) Investment Register July 2019 1 Page
- 2 [↓](#) Investment Types 1 Page

Investment Types

Types of Investments

Council's investment portfolio consists of the following types of investment:

1. **Cash and Deposits at Call** – Cash and Deposits at Call accounts are a flexible savings facility providing a competitive rate of interest for funds which are at call (available within 24hours). These accounts enable us to control Council's cashflows along with council's General Fund Bank account. Interest rates are updated in accordance with movements in market rates.

The following investments are classified as Cash and Deposits at Call:

- Commonwealth Bank of Australia – Operating Bank Account AA-
- Commonwealth Bank of Australia – Online Saver AA-
- AMP Business Saver and Notice – At Call/Notice A

2. **Floating Rate Notes (FRN)** - FRNs are a contractual obligation whereby the issuer has an obligation to pay the investor an interest coupon payment which is based on a margin above bank bill. The risk to the investor is the ability of the issuer to meet the obligation.

FRNs are either sub-debt or senior-debt which means that they are guaranteed by the bank that issues them with sub-debt notes rated a notch lower than the bank itself. The reason for this is that the hierarchy for payments of debt in event of default is:

- a. Term Deposits
- b. Global Fixed Income Deposits
- c. Senior Debt
- d. Subordinated Debt
- e. Hybrids
- f. Preference shares
- g. Equity holders

In the case of default, the purchaser of subordinated debt is not paid until the senior debt holders are paid in full. Subordinated debt is therefore more risky than senior debt.

(ITEM 69/19) REGISTER - TRIBUTES TO RESIDENTS - COUNCILLORS' EXPENSES AND FACILITIES POLICY

File No: 19/36357

REPORT BY ACTING GENERAL MANAGER

Summary

The Councillors' Expenses and Facilities Policy was amended via a Mayoral Minute on 16 April 2019 (MM 54/19) to include a \$2,500 budget for the Elected Body to offer wreaths, flowers or the equivalent including in the event of the passing of a resident.

Operational Plan Objective

2.1.3 Ensure transparency and accountability in decision making

Background

The Councillors' Expenses and Facilities Policy was amended via a Mayoral Minute on 16 April 2019 (MM 54/19), to include a \$2,500 budget for the Elected Body to offer wreaths, flowers or the equivalent including in the event of the passing of a resident.

The Policy states that:

Wreaths, flowers or the equivalent may be given for the purpose of a tribute to person(s) for the following reasons (these are to be labelled from the Mayor and Councillors, Burwood Council):

1. *As an appreciation for long service to Council (either employee or Councillor) at the cessation of their tenure or employment*
2. *A resident turning 100 years of age where Council has been notified*
3. *50 years of marriage where Council has been notified*
4. *Passing of a resident who has resided in the area:*
 - *Council has been notified of the death*
 - *a Councillor advised Council in writing of the death*
 - *Where it is decided under the discretion of the Mayoral office*

Approval to be sought within one business day

A budget allocation of \$2,500 is available each financial year, with all gifts to be capped at \$100, unless approved by the Council.

The attached table details the Register of Tributes for the period 16 April – 30 June 2019.

Proposal

That Council notes this report as per the requirements of the Councillors' Expenses and Facilities Policy.

Financial Implications

Within the approved budget allocation of \$2,500.

Conclusion

That Council receives and notes the tributes made to residents.

Recommendation(s)

That Council receives and notes the tributes made to residents.

Attachments

1 [↓](#) Register of Tributes - April 2019-30 June 2019

(ITEM IN23/19) DISCRETIONARY GRANTS - SMALL DONATIONS MADE FOR THE PERIOD 2018-2019

File No: 19/36344

REPORT BY ACTING GENERAL MANAGER

Summary

The Discretionary Grants – Small Donations Policy was reviewed by Council and adopted on 6 February 2018. As part of the Policy requirements, a list of donations made is to be reported to Council on a Quarterly basis, as well as an annual summary. The attached table details the Discretionary Grants for the period 2018-2019.

Operational Plan Objective

2.1.3 Ensure transparency and accountability in decision making

Background

The Mayor receives an annual budget of \$15,000 to provide civic leadership by supporting, through the allocation of small donations on behalf of Council, organisations or individuals for:

1. Personal development and achievements of individual community members representing NSW or higher in their chosen fields, including sporting, academic, cultural and artistic endeavours who require financial assistance to attend events or activities or compete in their chosen field.
2. Relief and other emergency organisations.
3. Charitable organisations (registered) which provide benefits to the Burwood Local Government Area.
4. Locally based groups and organisations located in the Burwood Local Government Area that have not applied under the community grants program and are established as not-for-profit, community based which includes P&C associations.
5. Mayor's discretion for requests of a humanitarian nature.
6. Mayor's discretion, when invited to an event that occurs for charity purposes, to make a donation whether it be a gift hamper or monetary (made via cheque to the charity) donation.

Financial assistance for all categories is capped at \$1,000.

Note: Community-based projects and activities of benefit to residents of Burwood Council which are substantial donations are to be applied through the Community Grants Program in accordance with Section 356 of the *Local Government Act 1993*.

Proposal

That Council notes this report as per the requirements of the Discretionary Grants – Small Donations Policy.

Financial Implications

Within the approved budget allocation of \$15,000.

No Decision – Information Item Only

Attachments

1 [↓](#) Mayoral Discretionary Grants - 2018-2019

ITEM NUMBER IN23/19 - ATTACHMENT 1

Mayoral Discretionary Grants - 2018-2019

Discretionary Grants - Small Donations Policy 2018-2019							Criteria 1 - Individual Residing in Burwood	Criteria 2 - Other Emergency Organisations - natural disasters	Criteria 3 - Charitable Organisations (Registered) - Provide benefits to Burwood	Criteria 4 - Groups and Organisations - Located in the Burwood and Provide Services to Burwood	Criteria 5 - Mayoral Discretion - Humanitarian Nature	Criteria 6 - Mayoral Discretion - Charity Event	Amount Donated \$	Budget Allocation \$
														\$ 15,000.00
1-Jul-18	St Pauls Anglican Church	205 Burwood Road, Burwood NSW 1805	Myorol donation towards the purchase of items towards Parish Pantry that helps people who are struggling - from Mayoral Discretionary Grants - Criteria 4 - Groups and Organisations - Located in the Burwood and Provide Services to Burwood						\$ 250.00				\$ 250.00	\$ 14,750.00
4-Jul-18	Burwood Netball Club	PO Box 176 Croydon NSW 2132	Myorol donation towards fundraiser event on Saturday 4th August 2018 to help raise funds to help the Club operate and further development of their members - from Mayoral Discretionary Grants						\$ 350.00				\$ 350.00	\$ 14,400.00
7-Aug-18	Asian Women At Work	28 Anglo Road Campsie NSW 2194	Myorol Donation towards anniversary celebration of Asian Women at Work on 5th August							\$ 200.00			\$ 200.00	\$ 14,200.00
7-Aug-18	Angelo Nicolas	C/- St Patricks College Strathfield, Francis Street, Strathfield NSW 2135	Myorol Donation for a copy of The Book If for Author Angelo Nicolas student of St Patricks College							\$ 300.00			\$ 300.00	\$ 13,900.00
24-Aug-18	Strathfield Rotary Club	52 Westromba Road, Strathfield NSW 2135	Myorol donation towards 2018 Police Officer of the Year Awards event on Wednesday 19 September 2018					\$ 100.00					\$ 100.00	\$ 13,800.00
7-Sep-18	Australian Youth Football Institute - Julian Trovato	123 Burwood Road Enfield NSW 2136	Myorol Donation towards Australian Youth Football Institute - Local Resident Julian Trovato - Resides at 123 Burwood Road Enfield				\$ 200.00						\$ 200.00	\$ 13,600.00
7-Sep-18	St Joseph's Primary School Enfield	128 Liverpool Road Enfield NSW 2136	Myorol Donation towards Literacy Program - Trivia Night Fundraiser						\$ 500.00				\$ 500.00	\$ 13,100.00
10-Sep-18	St Merkourios Charity	Unit 3, 6-20 Braidwood Street Strathfield South NSW 2136	Myorol donation towards St Merkourios Charity Event - Day at the Bay on Sunday 11 November 2018						\$ 1,000.00				\$ 1,000.00	\$ 12,100.00
12-Sep-18	The Greek Orthodox Parish	PO Box 106 Burwood NSW 1805	Myorol donation towards a Fundraising Dinner Dance - The Greek Orthodox Parish							\$ 500.00			\$ 500.00	\$ 11,600.00
12-Sep-18	Kurkovicz Family	27 Robinson Street Croydon NSW 2134	Myorol donation towards the 2018 Inner West Elstiedford				\$ 500.00						\$ 500.00	\$ 11,100.00
3-Oct-18	Inner West Elstiedford	PO Box 184 Burwood NSW 1805	Myorol donation towards - Boating For Brains - Fundraiser for Funding the position of a specialised neuroscientist for the management of brain scans in children with epilepsy, brain tumours, stroke and malformations.						\$ 200.00				\$ 200.00	\$ 10,900.00
31-Oct-18	Boating For Brains/ Sam Hill & Co	PO Box 1007 Burwood North NSW 2134	Donation of a Cheque towards the St Vincent de Paul for the Mayoral Christmas Reception of Canada Bay, St Vincent de Paul Charity provides food & items of donation to homeless people and provide support services, from Mayoral discretion for requests of a humanitarian nature.					\$ 250.00					\$ 250.00	\$ 10,650.00
4-Dec-18	St Vincent de Paul	PO Box 5, Petersham NSW 2049	Donation of a gift hamper towards the Mayoral Christmas Reception St Merkourios Charity provides food & items of donation to homeless people and provide support services, from Mayoral discretion for requests of a humanitarian nature.								\$ 100.00		\$ 100.00	\$ 10,550.00
4-Dec-18	St Merkourios Charity	Unit 3, 6-20 Braidwood Street Strathfield South NSW 2136	Myorol donation towards the Salvation Army Christmas Appeal - The Mayor was invited to and attended the Salvation Army Christmas Appeal Homeless Lunch on Saturday 8th December 2018 at Woodstock Burwood									\$ 100.00	\$ 100.00	\$ 10,450.00
10-Dec-18	Salvation Army	58 Earwood Avenue, Earwood NSW 2206	Myorol Donation to local Art Exhibition by Maronite Catholic Society of Australia for Rudy Rahme held in Enfield						\$ 1,000.00				\$ 1,000.00	\$ 9,450.00
2-Mar-19	Maronite Catholic Society of Australia	PO Box 697 STRATHFIELD NSW 2135	Myorol Donation towards World's Greatest Shave Fundraising fundraising							\$ 250.00			\$ 250.00	\$ 9,200.00
14-Mar-19	Christian Hawks	10 Elwin Street, Strathfield	Myorol donation towards Inner West Elstiedford 2019 Event										\$ 750.00	\$ 8,450.00
30/04/2019	Inner West Elstiedford Inc	PO Box 184 Burwood NSW 1805	Myorol donation towards Inner West Elstiedford 2019 Event										\$ 750.00	\$ 7,700.00
17-Apr-19	Baptist Community Church Burwood	23 Conder Street Burwood	Myorol donation towards Inner West Elstiedford 2019 Event										\$ 750.00	\$ 6,950.00
17-Apr-19	Holy Innocents Catholic Church	36 Cheltenham Road Croydon	Myorol donation towards St Joseph's Annual Youth Dinner 2019										\$ 500.00	\$ 6,450.00
23-Apr-19	St Joseph's Maronite Church	7 Acton Street Croydon	Myorol donation towards St Joseph's Senior and Youth Outreach Programmes							\$ 500.00			\$ 500.00	\$ 5,950.00
6-May-19	St Joseph's Maronite Church	7 Acton Street Croydon	Myorol donation towards St Joseph's Senior and Youth Outreach Programmes							\$ 500.00			\$ 500.00	\$ 5,450.00

Mayoral Discretionary Grants - 2018-2019

6-May-19	St Joseph's Parish St Joseph's Parents and Association	126 Liverpool Road Enfield NSW 2136 C/O St Joseph's Primary School 125 Liverpool Road Enfield NSW 2136	Mayoral donation towards fundraising by Catholic Women's League for fund towards Thanh Tam orphanages						\$ 500.00	\$ 5,450.00	
16-May-19			Mayoral donation towards fundraising for an Honour Board of School Captains	\$	500.00				\$ 500.00	\$ 4,950.00	
3-Jun-19	Burwood Asian Business Partnership Incorporation	Suite3, 10 Railway Parade Burwood	Mayoral donation towards fundraising for community programs hosted in 2019 by the Business Incorporation						\$ 1,000.00	\$ 3,950.00	
7-Jun-19	Holy Innocents Catholic Church	36 Cheltenham Road Croydon	Mayoral donation towards fundraising to purchase resources for children's programs held by the Church.	\$	500.00				\$ 500.00	\$ 3,450.00	
11-Jun-19	The Culture Project Australia	108 The Crescent Homebush West NSW 2140	Mayoral donation towards fundraising for projects and presentations to young people about suicide and self-harm preventative work.						\$ 250.00	\$ 3,200.00	
11-Jun-19	The Salvation Army Help For Hirschsprung	Burwood Corps 31 Wiga Street Burwood NSW 2134	Mayoral donation towards fundraising for the Salvation Army's Red Shield Appeal - maintaining the diverse welfare services and programs.	\$	300.00				\$ 300.00	\$ 2,900.00	
12-Jun-19	Dissease	Po Box 776 Ashfield NSW 2131	Mayoral donation towards fundraising for "Help For Hirschsprung Disease" - Ladies charity luncheon - 6 September 2019						\$ 200.00	\$ 2,700.00	
24-Jun-19	Wrap with Love Burwood	38 Roberts Street Strathfield	Mayoral donation towards fundraising for Wrap with Love based in Burwood Library with costs of purchasing yarn for wraps.	\$	500.00				\$ 500.00	\$ 2,200.00	
									Total Donated	\$ 12,800.00	
									Total Budget Remaining		\$ 2,200.00

(ITEM IN24/19) PETITIONS

File No: 19/36613

REPORT BY ACTING GENERAL MANAGER

Summary

Petitions received are reported to Council on a monthly basis. Council has received one petition since the June 2019 Council Meeting.

Operational Plan Objective

2.1.1 Provide opportunities for discussions and report decisions back to the community

Background

Date Received	Petition Subject	No. of Households and Businesses within the LGA	No. of Households outside the LGA	Responsible Council Division
31 July 2019	Petition received in objection to development application BD.2015.125 Section 4.55 – 360-362 Georges River Road Croydon Park - Modification of Communal Open Space on Rooftop Barbeque Area.	18	0	Land, Infrastructure and Environment

Comments

That Council notes that the Petitions have been referred to the appropriate Council Officers for attention.

No Decision – Information Item Only**Attachments**

There are no attachments for this report.

(ITEM IN25/19) ANSWERS TO QUESTIONS WITHOUT NOTICE - COUNCIL MEETING OF 23 JULY 2019

File No: 19/36684

REPORT BY ACTING GENERAL MANAGER

Summary

At the Council Meeting of 23 July 2019 the following Questions without Notice (QWN) were submitted by Councillors. Council Officers responded to the QWN and Councillors were notified on 6 August 2019 of the outcome of the QWN.

Operational Plan Objective

2.1.3 Ensure transparency and accountability in decision making.

These are now submitted as part of the Council Agenda for Public Notification:

QUESTIONS WITHOUT NOTICE – COUNCIL MEETING OF 23 JULY 2019	
Question	Response
<p><u>Councillor Lesley Furneaux-Cook</u></p> <p>Question 1:</p> <p>Following on from a previous Mayoral Minute relating to the Emergency Services Levy, what response have we had from the Minister for Emergency Services The Hon. David Elliott and the Minister for Local Government? I am aware that LGNSW is lobbying the Minister but he has not experienced pressure from councils.</p>	<p><u>Chief Finance Officer</u></p> <p>Letters were forwarded to the following Ministers and Shadow Ministers on 2 July 2019 under the Mayor's signature:</p> <ul style="list-style-type: none"> ▪ Minister for Police and Emergency Services, The Hon. David Elliott MP ▪ Minister for Customer Service, The Hon. Victor Dominello MP ▪ Minister for Local Government, The Hon. Shelley Hancock MP ▪ Shadow Minister for Local Government and Communities, The Hon. Peter Primrose ▪ Shadow Minister for Environment and Heritage, The Hon. Penelope Sharpe , MLC ▪ Member for Strathfield, Ms Jodi McKay MP <p>On 19 June 2019 the Mayor wrote to The Hon. Gladys Berejiklian, NSW Premier.</p> <p>As at 30 July 2019, Council has only received one response from the new Shadow Minister for Local Government, Shadow Minister for Veterans Affairs and Shadow Minister for Western Sydney, Mr Greg Warren MP outlining his disapproval with the way the NSW Government has handled the changes to the Fire and Emergency Services Levy.</p>
<p><u>Councillor Lesley Furneaux-Cook</u></p> <p>Question 2:</p> <p>Are there any updates from the Department of</p>	<p><u>Acting General Manager</u></p> <p>Council has taken all appropriate action in</p>

QUESTIONS WITHOUT NOTICE – COUNCIL MEETING OF 23 JULY 2019	
<p>Planning on combustible cladding on buildings in our Local Government Area?</p>	<p>relation to inspections and testing of the cladding material on buildings in Burwood and this has been reported to the Office of Local Government as required.</p> <p>In late 2018, and in relation to 1-17 Elsie Street, Burwood, Council received advice from the strata management agents that an initial sample of the cladding had been sent to the CSIRO for testing, which returned a result of Combustible Category A. However, the testing methodology and vetting system was indeterminate at that time. The Strata Manager has since arranged for a further report from Cladding Compliance Australia who tested a sample taken from the building on 14 March, 2019 and concluded that the product was Non-combustible Category D.</p> <p>Accordingly, the Strata Manager has now requested Cladding Compliance Australia to liaise with CSIRO to review their methodology of testing the product to confirm whether or not they agree on the cladding material being Non-combustible Category D.</p> <p>Both the Office of Local Government and NSW Fire & Rescue are aware of the actions Council is taking. Council will continue to act as required when buildings are brought to our attention from the responsible authorities.</p>
<p><u>Councillor Lesley Furneaux-Cook</u></p> <p>Question 3:</p> <p>Has Council investigated sightlines for cars exiting the Flower Power site turning right onto Mitchell Street? This is a busy egress/ingress and is often dangerous.</p>	<p><u>Manager Traffic & Transport</u></p> <p>A recent investigation of the exit onto Mitchell Street was undertaken which found unauthorised A-frames restricting sightlines for motorists. Council's Compliance team has been requested to contact Flower Power to have the signs removed immediately. Staff are also investigating traffic calming devices along Mitchell Street as part of the annual Federal Government Black Spot Funding Program to improve safety for road users.</p>

No Decision – Information Item Only

Attachments

There are no attachments for this report.