

ACTION ITEM

Ordinary Council Meeting
Tuesday 12 December 2023

SUBJECT: CON 12/12/23 – LATE ITEM OF BUSINESS - OUTCOME OF CODE OF CONDUCT MATTER

RESOLVED: (Councillors Richardson / Barrie)

That Council:

- 1 Notes in accordance with the resolution of Council dated 25 July 2023 and the letter from the Minister for Local Government dated 26 July 2023, that an independent investigation has been undertaken into alleged Code of Conduct breaches by City of Newcastle's (CN) Chief Executive Officer (CEO);
- 2 Notes that in accordance with CN's Procedure for Administration of the Code of Conduct (which is consistent with the Office of Local Government's Model Procedure for Administration of the Code of Conduct) (Procedure), the matter was referred to an external Conduct Reviewer, independent of CN, for assessment and investigation;
- 3 Notes that on 7 December 2023 the Conduct Reviewer issued the investigation report and noted:
 - There is no evidence that Mr Bath incentivised the author of the articles to reveal confidential information contained in the letters to the Newcastle Herald.
 - There is no evidence that Mr Bath directly contributed to the letters.

The outcome of the investigation is as follows:

"Having considered the available evidence, the investigation found insufficient evidence to support the allegations. Accordingly, both allegations were Not Substantiated."

- 4 Notes the Conduct Reviewer referred allegations of how confidential electoral roll details about Council staff and their friends and family came into the possession of journalists to appropriate external agencies to determine next steps;
- 5 Notes the Procedure does not provide for the Conduct Reviewer to take action or make a referral in relation to the Code of Conduct for Members of the Legislative Assembly;
- 6 Notes the matter is considered finalised in accordance with clause 7.43 of the Procedure;
- 7 Notes CN will advise the Minister for Local Government and relevant external agencies of the outcome of the investigation;

- 8 Notes the investigation report remains confidential and the Procedure does not provide for Councillors to receive a copy of the investigation report where the finding is there is no breach of the Code of Conduct.
- 9 Notes CN will proactively consider and seek advice to determine whether the outcome letter and investigation report issued by the Conduct Reviewer in part or full can be released publicly in accordance with the Government Information (Public Access) Act 2009; and
- 10 Treats this confidential report and attachment relating to the matters specified in section 10A(2)(i) of the Local Government Act 1993 as confidential.