

Proactive Release of Code of Conduct Report

17 April 2024

Background

In accordance with a resolution of Council on 25 July 2023, an independent investigation was undertaken into alleged Code of Conduct breaches by City of Newcastle's (CN) Chief Executive Officer (CEO).

This followed a request from the Minister for Local Government and a Code of Conduct complaint submitted by Mr Bob Cook.

In accordance with CN's Procedure for Administration of the Code of Conduct (Procedure), based on the Model Procedure set out by the Office of Local Government, the matter was referred to an external Conduct Reviewer, independent of CN, for assessment and investigation.

Findings

The investigation by the Conduct Reviewer found no evidence that the CEO incentivised the author of letters submitted to the Newcastle Herald, nor did he reveal to the author confidential information.

The investigation found no evidence that the CEO directly contributed to the letters.

The investigation concluded both allegations were not substantiated.

Proactive Release

In accordance with Council's resolution of 12 December 2023, CN sought advice on the proactive release of the outcome letter and investigation report prepared by the independent, external Conduct Reviewer.

CN is governed by the Government Information (Public Access) Act 2009 (GIPA Act) when considering the release of documents which contain the information of third parties.

Timelines

- 25 July 2023 - Council resolution to initiate independent investigation
- 26 July 2023 - Letter received from Minister for Local Government requesting Council investigate matter
- 30 July 2023 - Code of Conduct complaint received from Mr Bob Cook about same subject matter as Council resolution and Minister's letter
- 25 July to 15 August 2023 - Steps taken engage and appoint a Conduct Reviewer
- 15 August 2023 - Matter referred to Conduct Reviewer, Pinnacle Integrity
- 12 September 2023 - Conduct Reviewer completed Preliminary Assessment and determined the allegations to be investigated
- September to December 2023 - independent investigation conducted
- 7 December 2023 - Conduct Reviewer issued Investigation Report to CN
- 12 December 2023 - Council Meeting received a report noting outcome of code of conduct matter
- 12 December 2023 - Council resolved to consider proactive release of outcome letter and investigation report
- December 2023 to January 2024 - Consultation with third parties for purposes of proactive release of outcome letter

- December 2023 - Receipt and consideration of submissions and specialist external advice
- 22 December 2023 - Redacted copy of Outcome Letter proactively released
- 8 January 2024 - Full copy of Outcome Letter proactively released, following consultation with third parties.
- January 2024 to March 2024 - Consultation with third parties and consideration of submissions on proactive release of the full investigation report, with reasonable extensions of time granted, where requested.
- March 2024 - Third parties, who objected to pro-active release, were notified of proposed release and invited to make further submissions
- April 2024 - Receipt and consideration of further submissions and specialist external advice
- 9 April 2024 - Executive Director Corporate Services decision to proactively release the investigation report
- 16 April 2024 - This cover letter finalised
- 17 April 2024 - Full copy of the investigation report proactively released, following consultation with third parties

Outcome Letter

Consistent with the requirements of the GIPA Act, CN consulted with third parties whose information was captured in the outcome letter prepared by the independent, external Conduct Reviewer.

The outcome letter is a summary of the independent Code of Conduct review and its findings. The outcome letter was made available to Councillors at the Council meeting held on 12 December 2023.

A copy of the [outcome letter](#) was proactively released on 8 January 2024, following consultation with third parties.

Investigation Report

The investigation report is the full report prepared by the independent, external Conduct Reviewer.

As noted in the Council resolution of December 2023, 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.

The Procedure also requires that information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under the Procedure.

Consistent with the requirements of the GIPA Act, CN consulted with third parties whose information was captured in the investigation report.

CN ensured all reasonable steps were undertaken as part of the third-party consultation process. This was a time-consuming process which provided third parties with adequate time, including reasonable extensions of time where requested, to consider the potential proactive release of the full investigation report.

Consultation with third parties for the purposes of the potential proactive release, was finalised in April 2024. The key objections have been considered by CN, including with specialist external advice.

Prior to making a decision to proactively release the investigation report, CN undertook steps to notify third parties that CN has taken into account their objections, and provided them with a copy of the investigation report with the proposed redactions, and provided them with an additional opportunity to raise any further matters they would like CN to take into account.

On 9 April 2024, CN's Executive Director Corporate Services, made the decision to proactively release the investigation report. Minor redactions have been included, for example to protect the personal information of third parties, consistent with the requirements of the GIPA Act.

A copy of the full investigation report was proactively released on 17 April 2024.

Additional Information

CN is unable to engage in ongoing commentary on the detail in the investigation report, noting it has followed a rigorous process in line with the Procedure, and has now been released in full.

The full Procedure for Administration of the Code of Conduct is available on the [CN website](#).

The [Resolution to Ordinary Council Meeting 12 December 2023](#) regarding the outcome of this matter is also available.

David Clarke
Executive Director Corporate Services and Chief Financial Officer
City of Newcastle
17 April 2024

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Statement from Pinnacle Integrity

"Pinnacle Integrity is an approved Conduct Reviewer for Councils across NSW.

The Procedures legislated for Conduct Reviews in NSW are underpinned by this prescribed process and natural justice. Specifically, that means that every person subject of a complaint is rightly afforded the presumption of innocence. They are not required to prove their innocence. To remove that right, or incite others to challenge that right, is manifestly inappropriate and is contrary to principles of law in Australia.

The Reviewer's role is to establish the truth having regard to available evidence. It is a scrupulously objective, independent, and fair process. Conduct Reviewers do not; hold coercive legislative powers, interrogate witnesses, seize records, nor enforce participation in the process. Witnesses voluntarily participate in the process.

The Review is neither prosecutorial nor it is an inquisition seeking to apportion guilt to validate a predetermined or preferred outcome.

In this instance, there is a published prevailing view that our role ought to have been to prosecute a person subject of complaint to ratify a preferred finding. That is not, and will never be, our role. Our role is to assess available evidence, rather than rely on inference, assumptions, or inuendo.

It is accepted that some parties will be disappointed or dissatisfied with the outcome of complaint inquiries. That is inevitable and unavoidable, but does not dictate or influence investigative outcomes.

Whilst the procedural framework that underpins reviews might not satisfy those seeking a desired outcome, Conduct Reviewers remain bound by those Procedures. If there is a strongly held or political view that this process needs to change, then that is a matter for the Government of the day." - Pinnacle Integrity

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CODE OF CONDUCT REVIEW

Final

Independent Investigation Report Prepared by Pinnacle Integrity for City of Newcastle Council

7 December 2023

Mr Jeremy Bath, CEO

CONFIDENTIAL

This document and the information within it are provided in confidence for the exclusive use of the City of Newcastle Council and Pinnacle Integrity. It is not intended to be and should not be used by any other person or entity. No other person or entity is entitled to rely, in any way or for any purpose, on the information contained in this report. Pinnacle Integrity does not accept or assume responsibility to anyone other than City of Newcastle Council for this report, or any reliance placed on this report by any other party. This report and the information contained in it may not be disclosed to any third party or used for any other purpose without the express written permission of City of Newcastle Council.

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1. Background

On 25 July 2023 at an Ordinary Meeting of The City of Newcastle, it was resolved:

That Council:

1. *Notes media reports that the Minister for Local Government have referred a complaint to City of Newcastle to be assessed in accordance with the NSW Model Code of Conduct and CN's Code of Conduct for Staff (Newcastle Herald, 25 July);*
2. *Notes media comments from the City of Newcastle CEO welcoming an investigation (NBN News, 23 July);*
3. *Notes media comments from S.Hornery MP requesting the Minister for Local Government investigate (Herald 24 July 23) then a subsequent different request for Council to undertake an independent investigate (Herald online 25 July 23);*
4. *That the Elected Council supports an independent investigation in accordance with any Ministerial directions, the Local Government Act, Code of Conduct for Staff and Noting the process is clear in the policy and will be undertaken by an independent conduct reviewer (Code of Conduct policy attached);*
6. *Notes that this investigations' most prominent public supporter is S Hornery MP who has waged a campaign against Councillors via the media for nearly a year now, likely in order to influence internal Labor Party disputes, Council preselection's and the decision making of Councillors on government tender processes;*
7. *Notes the importance of due process and procedural fairness, and the requirements of the City of Newcastle's Code of Conduct, including at Clause 9.9-9.12:*
 - 9.9 *All allegations of breaches of this code must be dealt with under and in accordance with the Procedures*
 - 9.10 *You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.*
 - 9.11 *You must not make allegations about, or disclose information about, suspected breaches of this code at Council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.*
 - 9.12 *You must not disclose information about a complaint you have made alleging a breach of this code.*

On 26 July 2023, the Minister for Local Government, Hon. Ron Hoenig MP, wrote to the Lord Mayor Cr. Nelmes, City of Newcastle, requesting Council investigate in response to correspondence from Ms Sonia Hornery MP, Member for Wallsend relating to allegations raised in the Newcastle Herald.

On 30 July 2023, Mr Robert Cook wrote to the Lord Mayor complaining of two alleged incidents of misconduct committed by Mr Bath. He said that, on 22 July 2023, a letter had been sent to the Newcastle Herald (but not published) under the name of 'Scott Neylon'. He said that the letter questioned Mr Cook's plans for the Newcastle Maritime Museum and contained information known

only to himself and Mr Bath. He said that either Mr Bath had written the letter himself or he had provided information to Mr Neylon for Mr Neylon to write the letter.

Mr Cook further stated that a second letter in the name of Scott Neylon was printed in the Newcastle Herald on 8 August 2019, relating to the Newcastle Maritime Museum. He said that the letter referred to proposals which had been the subject of discussion and correspondence between Mr Bath and himself in relation to the Museum. The allegation in relation to this letter was made outside the timeframe stipulated by clause 4.4 of the Procedures and is therefore not the subject of investigation.

On 15 August 2023, the City of Newcastle Council ('Council') Complaints Coordinator referred the matter raised in the Council resolution and letter from the Minister for Preliminary Assessment.

It is noted that the Code of Conduct process was initiated in accordance with Clause 4.15 of the City of Newcastle *Procedure for the Administration of the Code of Conduct* (February 2022) ('the Procedures').

The referral was clarified with the Lord Mayor on 24 August 2023, and the issue which had been referred by the Lord Mayor was identified as whether Mr Jeremy Bath, as CEO of Council, had provided confidential information to Mr Scott Neylon which was subsequently included in letters Mr Neylon wrote to the Newcastle Herald. Other matters, related to third party conduct, sat outside the jurisdiction of the Procedures. Those matters have been referred separately and do not form part of this investigation, nor the report.

The Newcastle Herald had, between 22 and 31 July 2023, published articles which claimed that Mr Scott Neylon;

- had been writing to the paper for a decade,
- was a supporter of the City of Newcastle Council,
- had been a supporter of Mr Bath throughout Mr Bath's career,
- was a close friend of Mr Bath,
- was registered on the electoral roll as living at Mr Bath's address (despite living in Japan for the past 30 years),
- criticised Ms Sonia Hornery MP for Wallsend in relation to her published concerns regarding Council's management of local pools, and,
- criticised Mr Robert Cook in relation to the Newcastle Maritime Museum.

The articles inferred (but did not specifically claim) that Mr Bath may have actually been the author of some of the letters under the name of Mr Neylon. Mr Neylon, as a private citizen, is not subject to the City of Newcastle Code of Conduct or any other of Council's policies.

The articles refer to periods of time before and after Mr Bath became the CEO of Council. In relation to after he became CEO, the articles allege that Mr Neylon wrote a letter in 2019 supporting Council in a dispute Council was having with Mr Robert Cook of the Newcastle Maritime Museum. The articles further allege that Mr Neylon then, over a number of years, wrote letters supporting Council on a range of issues which included directly supporting Mr Bath and the Lord Mayor. The articles allege that Mr Neylon also wrote letters criticising other persons, including Ms Sonia Hornery MP, Member for Wallsend, and that some of the letters contained information which included details of disputes between certain persons and Council.

The Newcastle Herald reported that Mr Bath, in response to questions posed by the paper, denied asking or suggesting to Mr Neylon that he send a letter to anyone. The Newcastle Herald articles allege that a number of the letters they had received originated from within Australia, as they had an Australian IP address. Mr Bath told the paper that Mr Neylon, 'splits his time between Australia and overseas.' The paper said that Mr Neylon, in relation to questions they posed to him, denied that Mr Bath had ever asked him to write a letter and that he was the author of the letters submitted to the newspaper under his name.

On 15 August 2023, the City of Newcastle Council ('Council') Complaints Coordinator referred the complaint raised by Mr Cook in accordance with Clause 6.1 the Procedures as it related to the other matters.

The Conduct Reviewer was satisfied that the matters detailed in paragraph 4 (part 1 where it referred to Council's Code of Conduct for staff) of the Council resolution and the complaint of Mr Cook (in relation to a letter written to the Newcastle Herald on 22 July 2023) constituted complaints in accordance with Council's Code of Conduct for Staff (February 2022) and they form the basis of the allegations for this investigation.

2. Terms of Reference and Methodology

The purpose of the investigation was to establish the veracity of concerns detailed in the Council resolution / letter from the Minister and the complaint raised by Mr Cook, and provide a report with findings. Further, to establish whether any substantiated conduct amounted to a breach of policy. For the purposes of investigation, analysis and reporting, the Lord Mayor's and Mr Cook's concerns were categorised under two allegations, as set out in the 'Allegations and Findings' section of this report.

Interviews were conducted between 24 August 2023 and 25 October 2023. All interviews were conducted on notice and each person was given an opportunity to speak freely and provide full particulars of issues and matters they considered relevant to the matter and/or their position.

The synopsis of participant interviews forms the basis of the observations made by Pinnacle Integrity in respect of the allegations. The interviews remain the property of Pinnacle Integrity.

Mr Bath was spoken to on two occasions at the request of the City of Newcastle Council, shortly before and shortly after he took extended leave. Although not formal interviews, he provided information which now forms the basis of his evidence as outlined in this report.

Code of Conduct Procedural Requirements

In accordance with Clause 7.36 of the Procedures;

- a) A description of the allegations against the respondent have been sufficiently detailed in this report.
- b) The matters involve Code of Conduct complaints in that the alleged conduct, if substantiated, would constitute a breach of Council's Code of Conduct for Staff (clause 6.18). Specifically;
 - Part 3 – General Conduct Obligations (clauses 3.1(a), 3.1(b), 3.1(c), and 3.2)
 - Part 8 – Access to information and Council resources (clause 8.10(c))
- c) Having regard to the criteria specified in clause 6.23. In considering whether the matter is sufficiently serious, if substantiated, to warrant disciplinary action against the CEO under his contract of employment, the Conduct Reviewer was satisfied that:
 - Public harm was caused to individuals mentioned in the letters submitted and/or published under the name of Mr Neylon.

- If any allegation is substantiated, significant harm would be occasioned to the reputation of Council.
 - If substantiated, the alleged conduct is more likely to have been deliberate rather than reckless.
- d) The matter was one that could not or should not be resolved by alternative means on the basis that;
- The complaints involve allegations of the misuse of council information. The information allegedly released is associated with apparent rancorous dispute between Council and certain persons and it is unlikely that resolving those issues by alternative means would be successful.
- e) Having regard to Clause 7.36 (d) the matters are not available for alternative means of resolution.
- f) The steps taken to investigate the matter have been sufficiently articulated in this report.
- g) The facts of the matter are sufficiently articulated in this report.
- h) The investigator's findings in relation to the facts of the matter and the reasons for those findings have been sufficiently articulated in this report
- i) The investigator's determination and the reasons for that determination have been sufficiently articulated in this report.
- j) No recommendations have been made regarding the investigation nor its findings.

Investigation Process

In the interests of procedural fairness, the investigation process included the following:

- Review of relevant Policies, Guidelines and legislation. Those being:
 - City of Newcastle Code of Conduct (2022) (attachment 6).
 - City of Newcastle Procedure – Administration of the Code of Conduct (2022) (attachment 7).
- Review of the following relevant documentation:
 - Complaint by Mr Robert Cook 30 July 2023 (attachment 1).
 - Letter from the Minister for Local Government to Council 26 July 2023 (attachment 2).

- Minutes of the Ordinary Council Meeting of 25 July 2023 (attachment 3).
 - Newcastle Herald articles 22 to 31 July 2023 (attachment 4).
 - Council correspondence to Mr Cook 29 August 2019 re Newcastle Maritime Museum Collection (attachment 5).
 - Chronology of relevant events (attachment 8).
 - Chronology and details of newspaper articles (attachment 9).
 - Email Mr Cook to investigator 25 September 2023 (attachment 10).
 - Letter Mr Cook to Premier 30 September 2022 (attachment 11).
 - Letter Mr Bath to Mr Cook 5 August 2019 (attachment 12).
 - Emails Mr Cook and Mr Bath 7 December 2022 – 24 March 2023 (attachment 13).
 - Emails Mr Cook and Mr Bath 6 August 2019 (attachment 14).
 - Emails Mr Cook and Mr Bath 19 June 2019 – 25 July 2019 (attachment 15).
 - Emails Mr Cook and Mr Bath 7 – 14 August 2019 (attachment 16).
 - Newcastle Herald article 6 August 2019 re Newcastle Maritime Museum (attachment 17).
 - Letter from Mr Cook to Mr Bath 14 May 2022 (attachment 18).
 - Letter Mr Cook to Mr Bath 25 June 2019 (attachment 19).
 - ABC Facebook Posts 14 November 2019 (attachment 20).
 - Emails Mr Bath and Mr Cook August 2019 (attachment 21).
 - Final letter of agreement re Newcastle Maritime Museum (attachment 22).
 - Newcastle Herald Article 18 May 2018 re Newcastle Maritime Museum (attachment 23).
 - Newcastle Maritime Museum formal answers to questions 3 December 2019 (attachment 24).
 - 'Wrong Again' article by Mr Cook 22 September 2020 (attachment 25).
 - Newcastle Herald article 6 December 2019 re Newcastle Maritime Museum (attachment 26).
 - Newcastle Herald article 2 October 2018 re 'Museum collection moves to a safe site' (attachment 27).
 - Newcastle Herald article 16 November 2021 re Newcastle Maritime Museum (attachment 28).
 - Response to draft report by Mr Jeremy Bath – dated – 6 December 2023
- Interviews with the following relevant parties:
 - i. Complainants:
 - Lord Mayor Nuatali Nelmes – 24 August 2023.

- Mr Robert Cook – 26 September 2023.
- ii. Witness:
 - Mr Scott Neylon – Record of Interview – 6 December 2023
- iii. Respondent:
 - Mr Jeremy Bath, CEO, City of Newcastle Council - 25 October 2023.
 - Written response – dated 26 November 2023
- Feedback and Response
 - In accordance with Clause 7.26, the draft report was served upon the respondent on the 6 December 2023.
 - The notice provided a period of 14 days on which to respond.
 - The respondent, in a email dated 6 December 2023, provided feedback to the report.
 - The respondent provided notice in writing, waiving the remainder of the notice period.
- Final report
 - Feedback from the respondent was considered and incorporated into the final report.
 - The report into the matter was finalised on 7 December 2023 and a copy provided to the Complaints Co-ordinator and respondent in accordance with Clause 7.41.

3. Disclaimer

The contents of this report including any findings, opinion and recommendations have been provided based on available evidence and information reasonably known and provided to investigators at the time of writing. Any opinion is qualified based on the limitation of information available and/or provided to investigators. Any recommendations should be assessed by management as to their appropriateness in the context of the organisation's strategic, operational and commercial impact prior to implementation. This report is not intended to be relied upon as legal advice. Where legal action is contemplated or intended as a consequence of information or opinions contained in this report, Pinnacle Integrity recommends seeking qualified legal advice.

4. Executive Summary

Between 22 and 31 July 2023, the Newcastle Herald published a number of articles in relation to letters they had received from Mr Scott Neylon. The articles alleged that the letters they had received were in support of the City of Newcastle Council, and particularly in support of Mr Jeremy Bath - CEO, and Lord Mayor Nuatali Nelmes. The articles inferred (but did not specifically state) that some of the letters may have been written by Mr Bath himself as they originated from within Australia. The articles alleged that Mr Neylon lived in Japan.

The articles further alleged that Mr Bath and Mr Neylon were close friends, and that Mr Neylon was registered in the electoral roll as living at Mr Bath's address.

On 15 August 2023, the Complaints Co-ordinator referred a matter in accordance with clause 4.15 of the Procedures. That matter relates to a concern as to whether Mr Bath had provided confidential Council information to Mr Neylon which Mr Neylon subsequently included in his letters to the Newcastle Herald.

On 30 July 2023, Mr Robert Cook representing the Newcastle Maritime Museum wrote to the Lord Mayor and complained that, on 22 July 2023, a letter had been sent to the Newcastle Herald (but not published) under the name of Scott Neylon. Mr Cook alleged that the letter questioned Mr Cook's plans for the Museum and contained information known only to himself and Mr Bath. He said that either Mr Bath had written the letter himself or he had provided information to Mr Neylon for Mr Neylon to write the letter.

The Newcastle Herald articles do not themselves constitute allegations of breaches of Council's Code of Conduct. Whilst Council determined to 'investigate the articles', this is not an investigative process related to an alleged breach of the Code of Conduct. The articles do not form the basis of any allegation considered as part of this investigation.

In respect of the allegation that Mr Bath provided confidential information to Mr Neylon in order he could include that information in letters to the Newcastle Herald, whilst it is considered that Mr Bath has had discussions with Mr Neylon, a close personal friend, there is no evidence that those discussions included confidential Council information.

Further, the investigation did not find that Mr Bath wrote the letters himself under the name of Scott Neylon. Mr Bath said that he is aware Mr Neylon uses a Virtual Private Network (VPN) on his

computer which includes disguising IP addresses. Mr Bath denied having written any of the letters himself and Mr Neylon told the Newcastle Herald that he was the author of the letters.

The investigation did not find that the unpublished letter written by Mr Neylon to the Newcastle Herald in July 2023 contained confidential information only known to Mr Cook and Mr Bath.

The evidence identified that Mr Neylon was the author of the correspondence to the Newcastle Herald and that he wrote the articles of his own free will. Mr Neylon was transparent as to his identity and, at times, used a VPN account to disguise his Japanese location to appear as if communications originated from Australia.

It has been established that Mr Neylon was motivated to write to the Newcastle Herald on matters relevant to the City of Newcastle, partly through advocating on matters where he held an interest, and also through his ongoing support and defence of Mr Bath. There is no evidence that Mr Bath incentivised Mr Neylon to author the articles nor did he reveal to Mr Neylon confidential information contained in the letters to the Newcastle Herald.

An examination of Mr Bath's work email contacts with Mr Neylon did not reveal any confidential information shared by Mr Bath with Mr Neylon.

5. Allegations and Findings

Allegation 1

That Mr Jeremy Bath, CEO of the City of Newcastle Council, passed on confidential Council information to Mr Scott Neylon which Mr Neylon included in letters he wrote to the Newcastle Herald.

Not substantiated

Allegation 2

That Mr Jeremy Bath, CEO of the City of Newcastle Council, passed on confidential Council information to Mr Scott Neylon which Mr Neylon included in a letter he wrote to the Newcastle Herald on 22 July 2023 in relation to the Newcastle Maritime Museum or, in the alternative, Mr Bath wrote the letter himself.

Not substantiated

Code of Conduct Determination

Having considered all matters under investigation, there is insufficient evidence that Mr Jeremy Bath behaved in a manner that constitutes a breach of the Code of Conduct.

6. Overview of Evidence

6.1. Allegation 1

That Mr Jeremy Bath, CEO of the City of Newcastle Council, passed on confidential Council information to Mr Scott Neylon which Mr Neylon included in letters he wrote to the Newcastle Herald.

Evidence

Lord Mayor Nuatali Nelmes

Lord Mayor Nelmes said that she was aware of the Newcastle Herald articles relating to Mr Bath and Mr Neylon. She said that some of the material to which the letters relate resulted from an alleged animosity held by [REDACTED] MP towards Council, including towards Council's management of Council pools. She said that, in relation to Council pools, [REDACTED] MP had acted in a manner which resulted in Council writing to her outlining Council's concerns regarding her actions. She said that [REDACTED] MP ran a public campaign against Council's handling of the management of the pools. She said Council could not respond because a tender process was underway at the time for the management of those pools. Lord Mayor Nelmes said that the conduct of [REDACTED] MP created a conflict of interest for herself (Ms Nelmes) in dealing with the pools tender.

Lord Mayor Nelmes said that in May/June 2023, she publicly declared the conflict of interest in relation to the pools tender, without naming [REDACTED] MP. She said a number of other Councillors also declared a conflict of interest due to the actions of [REDACTED] MP. She said that [REDACTED] MP then ran a public campaign to say that the Councillors were not conflicted and that she ([REDACTED] MP) had simply lobbied them in relation to the pools issue.

Lord Mayor Nelmes said the June 2023 Council meeting dealt with a rescission motion regarding the awarding of the pools contract. Mr Bath advised Council that, because of alleged interference in the tender process, a report had been sent from Council to the ICAC. She said that, shortly after this, the stories in relation to Mr Bath and Mr Neylon began appearing in the Newcastle Herald.

Lord Mayor Nelmes said that the articles reported that Mr Bath and Mr Neylon had the same address recorded on the electoral roll. She said that she received a call from a journalist at the Newcastle Herald who wanted a response to '[REDACTED] call for an investigation.' Lord Mayor Nelmes said that she was unaware of any such call. She said the journalist told her that both [REDACTED] MP and the Minister for Local Government had written to the Lord Mayor. Lord Mayor

Nelmes said that she had not received any correspondence at that time. She said that [REDACTED] MP had posted a letter she had written to her on Facebook and included the fact that she had also written to the Minister for Local Government calling for an investigation in relation to ‘the allegations in the Herald.’ She said she later received a letter from the Minister referring the matter to her for consideration under the Code of Conduct.

Lord Mayor Nelmes said the campaign by the Newcastle Herald was aimed at causing political damage to herself, the Deputy Mayor, and the CEO. She said that Council later approved a motion for the matter to be investigated. She said she was concerned as to how the Newcastle Herald received information from the electoral roll. She said that she believed those who were providing information to the Newcastle Herald may have been acting out in retaliation to Council’s referral to the ICAC.

Lord Mayor Nelmes said she was also told by a journalist that the reporters involved in the Newcastle Herald articles did not like her and that the articles were directed at ‘getting to her.’

Lord Mayor Nelmes said that the CEO (Mr Bath) has ‘obviously’ confided information to his friend, Mr Neylon. She said that she did not know if that material included any confidential information. She said that it is hard to limit the scope of conversation between friends. She said that she was not sure of where the nexus of any potential breach of the Code of Conduct occurred.

Discussion with Mr Bath

Mr Bath said that he did not write any of the letters to the Newcastle Herald under the name of Scott Neylon. He said that he and Mr Neylon were close friends and that Mr Neylon stayed with him on occasion when in Australia. He said Mr Neylon and he did discuss certain matters, but this never included confidential Council information. He said he had no prior knowledge of any letters sent by Mr Neylon to the Newcastle Herald.

The Newcastle Herald reported that they had spoken with Mr Neylon and that Mr Neylon said that he was the author of the letters sent to the newspaper under his name.

Mr Bath - Written Response

On the 26 November 2023, Mr Bath provided a written response to the allegation (attachment 30).

In his written response Mr Bath relevantly states;

He said that Mr Neylon was one of his closest friends and that he had known him for a period of approximately 25 years (since 1998). The strength of the relationship was such that Mr Neylon regularly stayed with Mr Bath's family at their house in ██████ Newcastle.

Mr Bath said that Mr Neylon did register many of his Australian addresses, including the electoral address, at the residence of Mr Bath. This was done so that Mr Neylon's mail was sent to the home of Mr Bath (for collection by Mr Neylon when visiting Australia). Mr Bath further stated that Mr Neylon had since removed his name from the electoral roll after the details of Mr Bath's address were published online, leading to incidents where police were called.

Mr Bath raised concerns that the electoral roll information was illegally accessed and published. Mr Bath also raised concerns that ██████ MP made defamatory claims under Parliamentary privilege. Those claims being false.

Mr Bath stated that the ██████ MP held a particular interest in his relationship with Mr Neylon and disagreed with decisions of Council involving himself. He stated that this extended to broad ranging public commentary on broadsheet and social media. He also cited an interview on Sydney radio station 2GB, where ██████ MP appeared on air along with the Newcastle Herald reporter Donna Page. He believes the attacks to be politically motivated due to an acrimonious relationship ██████ MP held with the seven Labor councillors at City of Newcastle.

He said that ██████ MP had made 'extraordinary false claims' in emails to several hundred local ALP members regarding the decisions of the City of Newcastle. He said that criticisms related to local swimming centres and local swimming pools.

Mr Bath said, inter alia, that,

"Scott has always supported my work and celebrated my career progression. Indeed, when I commenced in the role as CEO of City of Newcastle, he contacted my entire friend list on Facebook to share the news of my appointment and to encourage them to share an article in the Newcastle Herald reporting it. While his occasional support for issues I have fought for has never materially benefited me, I have always considered myself fortunate to have a friend who has been so willing to publicly support me.

I categorically refute the allegation that I have ever passed on confidential information to Scott Neylon. The Newcastle Herald has provided a list of 18 letters submitted by Scott for publication, five of which have been published over the past nine years. Each letter contains

information that is in the public domain, and in almost all cases, is a response to an issue the Newcastle Herald has already reported upon.

The repeated suggestion by the Newcastle Herald that Scott's five published letters over the past nine years have been influential on any local issue, is simply ridiculous, and unsupported by fact."

Mr Bath – Feedback to report

Mr Bath stated that Mr Neylon did travel to Australia in [REDACTED]. He said that he knew this with certainty not only because their friendship but because Mr Neylon stayed with Mr Bath's family in [REDACTED] for multiple days.

Mr Bath said that Mr Neylon did have a flight cancelled, but it was in [REDACTED] and 'only because of the Pandemic when flights to Australia weren't allowed'.

Mr Scott Neylon – Record of Interview

On 6 December 2023, Mr Neylon provided written responses to questions asked by the investigator, in a record of interview served upon him on 22 November 2023 (attachment 31)

Mr Neylon relevantly states, inter alia,

He is a resident of Japan. He has resided there from [REDACTED], and then again from [REDACTED] until the present day. Mr Neylon stated that, prior to the Covid 2019 pandemic, he returned to Australia regularly but that the Covid restrictions frustrated his plans. He said that flights had been cancelled in [REDACTED] but that he returned to Australia with his wife in [REDACTED].

Mr Neylon stated that he is a long-time friend of Mr Bath and considered him, 'one of (his) closest personal friends'. He said that he last saw Mr Bath when he and his wife were in Australia in [REDACTED].

Mr Neylon maintained that he had a 'right to write to a newspaper' on matters of personal opinion. He believed that the Newcastle Herald intended to defame his, and Mr Bath's, reputation and had not, on any occasion, made attempts to verify his identity.

Mr Neylon stated he had his address registered to the residence of Mr Bath ([REDACTED]). He changed his electoral roll address following the publishing of the address in the media.

Mr Neylon stated that he was the author of the subject articles to the Newcastle Herald and that he had used his own name and email address.

He stated that the information motivating him to write the articles to the Newcastle Herald, came from the Newcastle Herald itself. Stating;

“Bob COOK is the President and has always taken a very hostile approach to Jeremy and the council. He wanted the council to build a five-star hotel and exhibit the collection inside it. It was crazy stuff, and unsurprisingly, Jeremy declined the ask.

When the Newcastle Herald reported on it in 2019, I wrote a letter to the Herald. The council, but mostly Jeremy, had bent over backwards trying to keep the collection from being sold off, and all Bob COOK had done was to blame him for the closure. When I wrote the letter Jeremy had told me he was torn between trying to save the maritime collection and walking away from it all. I just wanted people to know how crazy the situation was and hopefully bring some common sense to the matter.

Bob COOK has contacted me a few times since Donna PAGE started writing about me. Threatening me, doing what he has done to Jeremy for years. He even sent me a copy of an interview he did with Donna PAGE, where he accused Jeremy of writing my letter to the Newcastle Herald. Not for the first time, Donna PAGE didn't bother to contact me before writing the story. If she had contacted me, I would have forwarded her a copy of the email I sent to the Newcastle Herald from August 2019 (Again, please see attached email (attachment 32) proving I authored the letter”

When questioned about the Newcastle Baths article, Mr Neylon stated,

“I've visited the Newcastle Baths several times. To my knowledge the council has been fixing it for several years. It's got a fantastic surfing break just to the north of it. It's a beautiful spot, the location is like nothing else in Newcastle. There was a lot of noise a few years ago from a group of people who were running a campaign against Jeremy and the council because they didn't want a roof on the changerooms. At one point they even photoshopped a fake letter from Jeremy. As usual the Newcastle Herald gave endless oxygen to these people, and it was all very personal, targeted at Jeremy. It was very nasty stuff and fortunately seems to have stopped now.”

Mr Neylon further stated that he had written to the Newcastle Herald regarding many Newcastle issues including, the Supercars, Stockton Beach, the Maritime Museum, and the swimming pools. He stated that he wished to bring perspective to the issues. He stated that his interest in Newcastle

did, in part, relate to Mr Bath, but it was also motivated by his love for surfing. Mr Neylon denied that his letters would have any material influence on the career reputation of Mr Bath.

Mr Neylon said that he had used varied platforms to correspond with the Newcastle Herald. These included corresponding directly using his personal email address, completing the Newcastle Herald web feedback form, and then the use of SMS (text) services directly to the Newcastle Herald. All of these mechanisms being promoted and supported by the Newcastle Herald.

Mr Neylon stated that he had originally used his Japan IP address but that, because the Newcastle Herald stopped publishing his letters, he believed that the IP address was being blocked. Mr Neylon said that he then reverted to using a VPN to disguise his address to display as an Australian IP address. Mr Neylon said that he had used the VPN of a Japanese friend using an 'ExpressVPN' account. Mr Neylon said that he used the account to watch Australian content on his television, but that his Japanese friend had since moved away (in 2022) and that he no longer had access that the VPN account. Mr Neylon said that he used his own name and email address. He said that, if his name was ever misspelt, that it may have been due to the use of SMS communications but, if so, it was unintentional.

Mr Neylon stated that he couldn't remember each and every issue that he had discussed with Mr Bath over the past decade. He said that he may have forgotten the content of some of the 18 letters the Newcastle Herald cited that he wrote over the past 9 years. He said that no letter took him longer than around 5 minutes, and that after sending them, he felt better about himself.

In relation to discussions with Mr Bath, Mr Neylon said,

"Jeremy and I speak every week, and sometimes one or both of us will speak about our jobs. It's typically just along the lines of what's going on at work, but when Donna started reporting about my letters, we spoke most days. Jeremy has been a great source of comfort during the whole thing. Due to his high profile job and the willingness of the Newcastle Herald to publish anyone who criticizes him, he's used to getting attacked. But for me I've never had to experience something like this and so I've really struggled with it. Just the injustice of it all. The repeated invasions of my privacy. Donna PAGE even asked if she could come to Japan to meet me."

And further;

"Other than the pools issue with [REDACTED] and perhaps the Maritime Museum, I don't think Jeremy ever mentioned any work issue repeatedly."

Mr Neylon stated that he did not consider that writing 5 letters to the Newcastle Herald constituted evidence of a deliberate campaign, nor that he, *'wrote letters weeks on end'*.

Mr Neylon stated that he could have elected to preserve his anonymity by using a pseudonym, but that he decided to be transparent about his identity and attributed his name to the letter.

Regarding a speech in the NSW Parliament by [REDACTED] MP relating to a historical article regarding former Premier, Hon. Bob Carr, Mr Neylon said, *"It was more than 12 years ago and until the Herald reported it, I had forgotten about it. I don't recall the details, but I suspect I thought it was a bit of fun to have a go at the premier who actually introduced poker machines into pubs. Probably made a thousand pub owners instant millionaires."*

Analysis and Finding

The Newcastle Herald articles do not specifically allege that either Mr Bath wrote the letters they received under the name of Scott Neylon, nor do they specifically allege that Mr Bath provided information to Mr Neylon in order for him to write the letters. The articles do not allege that the letters under the name of Mr Neylon contain confidential Council information. The Newcastle Herald articles do not constitute Code of Conduct allegations.

The Newcastle Herald articles report that the newspaper contacted Mr Neylon and he said that he had written the articles himself. Mr Bath has said, both to the newspaper and to this investigation, that he did not write the letters. He said that he has not provided confidential information to Mr Neylon in order Mr Neylon could write the letters. Mr Bath said that he does not believe the letters under the hand of Mr Neylon contain any information that was not publicly available.

It is accepted that Mr Bath and Mr Cook were engaged in extensive correspondence and dialogue relating to the Maritime Museum. Those matters are not in dispute. The emails (attachments 10-16, 18, 19) demonstrate an escalation of tensions and acrimony between Mr Cook and Mr Bath.

An examination of the email records of Mr Bath did not provide any evidence of him passing on confidential information (information not publicly available) to Mr Neylon.

An examination of the newspaper articles (summarised at attachment 9) does not reveal that the letters submitted under the hand of Mr Neylon contained information which was not publicly available.

Mr Neylon and Mr Bath provided detail about the strength of their personal relationship. They admitted being close friends for a period of 25 years. Both admitted that Mr Neylon stayed at Mr Bath's home and that Mr Neylon had used the address of Mr Bath's family home to register his [REDACTED] details.

Mr Neylon acknowledged that he was protective of Mr Bath and that he was concerned about the campaign against Mr Bath, which would significantly harm Mr Bath's reputation. Mr Neylon gave detail about the fact that he had discussions with Mr Bath about the pool and museum issues, but this was motivated by the content of articles in the Newcastle Herald. Mr Neylon stated that his initial letters to the Newcastle Herald were in direct response to articles published in that same paper.

Mr Neylon gave evidence of his movements in and out of Australia. Mr Neylon provided comprehensive detail about his authorship of the letters to the Newcastle Herald. He was able to cite the circumstances and motivation relating to the content of the letters. Mr Neylon provided evidence of the email address used and a copy of a relevant email to the Newcastle Herald.

Accordingly, there is insufficient evidence that Mr Neylon relied upon confidential information provided by Mr Bath in authoring letters to the Newcastle Herald (attachments 17, 20, 23 – 28).

Allegation 1 is, on the balance of probabilities, **not substantiated**.

Allegation 2

That Mr Jeremy Bath, CEO of the City of Newcastle Council, passed on confidential Council information to Mr Scott Neylon which Mr Neylon included in a letter he wrote to the Newcastle Herald on 22 July 2023 in relation to the Newcastle Maritime Museum, or, in the alternative, Mr Bath wrote the letter/s himself.

Evidence

Evidence of Mr Bob Cook

Mr Cook said that he was aware that Council had decided to seek an investigation in relation to matters raised in the Newcastle Herald concerning Mr Bath. He said that he then submitted a completely separate complaint to Council.

In an email to the investigator dated 25 September 2023 (attachment 10), Mr Cook said that his complaint included a letter written to the Newcastle Herald in July 2019. He said that, from January

2019 until July 2023 he had represented the Newcastle Maritime Museum Incorporated in negotiations with Council over the future use of the Museum's assets following the closure of the Museum.

Mr Cook said that, in September 2022, he wrote to the Premier of NSW (attachment 11) seeking help after he had failed to come to an agreement with Council. He said an 'apparent breakthrough' arose a few days later and he asked the Premier's office to postpone any action.

Mr Cook said that, on 29 November 2022, he was informed that a negotiated formal agreement was to be signed with Mr Bath on 30 November 2022. He said that, on the day of the proposed signing, Mr Bath withdrew his support for the negotiated agreement and sought 'unacceptable changes.' He said that email exchanges continued between Mr Bath and himself until 22 December 2022, when Mr Cook 'realised that Mr Bath had no intention to sign an agreement' (in regard to email exchanges between Mr Bath and Mr Cook see attachments 13 to 16 inclusive and attachment 21).

Mr Cook said that he then ceased contact with Mr Bath without advising him of his ongoing intentions. He said that he believed that was a letter to the Newcastle Herald in July 2023 under the name of Mr Scott Neylon (see attachments 4 and 9), expressed an interest in Mr Cook's plans for the Museum.

On 30 July 2023, Mr Cook wrote to Council (attachment 1) stating he wished to make a complaint concerning Mr Bath. He said that the Newcastle Herald had reported that Mr Scott Neylon, 'a close friend of Mr Bath' had written a letter to the newspaper in July 2023 which was not published. He said the letter questioned Mr Cook's plans for the Newcastle Maritime Museum.

Mr Cook said he could demonstrate that Mr Bath was the only person with knowledge of the subject of that letter and that Mr Bath either wrote the letter himself or provided information to Mr Neylon in order he could write the letter. He said that (as reported in the Newcastle Herald articles), Mr Neylon had lived and worked in Japan for over twenty-five years and Mr Cook felt it was unreasonable to assume that Mr Neylon had reason to write the letter.

In an interview conducted with him on 26 September 2023, Mr Cook said the Newcastle Herald reporter (Ms Donna Page) contacted him prior to the first of the Newcastle Herald articles. He said that he had never met the reporter. He said that the reporter told him that she had 'foolproof' evidence against Mr Bath, including IP addresses, and that she was going to put those matters to her 'legal people' and, if she received authority, she would publish an article.'

Mr Cook said he had commented on the Newcastle Herald website that he intended to make a complaint concerning Mr Bath. He said that Ms Page contacted him after reading that comment. He said that Ms Page told him that the date he made his complaint to Council might have relevance in relation to the letter received by the newspaper from Mr Neylon concerning Mr Cook. Mr Cook said that it 'turned out' that it did have relevance – that the letter under the hand of Mr Neylon was received by the newspaper only a few days after Mr Cook had made his complaint to Council.

Mr Cook said he is a community activist. He said he is involved in five community groups and is very 'keen' regarding Newcastle matters. He said he served as a City of Newcastle Councillor from 2008 until 2012. He said he has had dealings with every City of Newcastle Council CEO for the past thirty years.

Mr Cook said he first spoke with Mr Bath when he met him in his office in January 2019, on the subject of the Newcastle Maritime Museum, one of the community groups of which he is a member. Mr Cook said he was a member of the Museum until it closed unexpectedly. He said the President at the time indicated that something had been 'done wrong' in relation to closing the Museum. Mr Cook said he decided he would look into the matter and thereafter quickly had contact with Mr Jeremy Bath.

Mr Cook said that Mr Bath was one of the persons involved in the project of closing the Museum. He said that he commenced to speak to Mr Bath in relation to a good community outcome relating to the closing of the Museum. He said that Mr Bath and himself had a lot of email discussions. Mr Cook said that they had good communications up until June 2019. He said that, by that time, he had become President of Newcastle Maritime Museum Society. He said that Mr Bath asked him to put in writing what the Society expected to get out of the process [of interaction with Council regarding the Museum's assets].

Mr Cook said he then provided Mr Bath with a letter and that Mr Bath then asked to again meet which they did on Monday 5 August 2019, in Mr Bath's office. Mr Cook said that four members of the Society met with Mr Bath and Council's Museum Director. He said his aim was to get a written statement from Council regarding the future use of the Museum's assets. He said that, when the Museum had closed, Council had taken all of the Museum's assets into its care. Mr Cook said that the issue was that members had not authorised for that to occur. He said that Council did 'technically' have an interest in the Museum because, over the previous twenty years, Council had provided funding to the Museum. He said that the State Government had also provided funding.

Mr Cook said that, in the latter years prior to the Museum closing in 2018, there had been numerous management issues regarding the Museum and that Council, having a long-term interest in the Museum, determined to take over the assets. He said that Mr Bath's job at the time was to determine how the assets would be transferred to Council.

Mr Cook said that he believed the manner in which Council had taken over the assets of the Museum was underhanded and possibly illegal. He said that they were therefore in dispute in early 2019 as to the manner in which the assets would be transferred and used into the future. He said the Society was seeking a formal agreement in relation to the assets. Mr Cook said the Society was concerned that the majority of the Maritime Museum assets would become a subset of the Council owned Newcastle Museum (as distinct from the Newcastle Maritime Museum) and that many of the Maritime Museum assets would not be displayed. He said that part of their proposal to Council was for Council to take over the site of the Maritime Museum and continue to display all assets as they had been.

Mr Cook said that, when the Maritime Museum closed, it was arranged that Council's Museum Director take possession of the assets and these were placed into storage by Council.

Mr Cook said that he was shocked when told by Mr Bath at the meeting on 5 August 2019, that all of the Society's proposals, which they had put in writing, had been rejected. He said that he received a letter from Mr Bath to hand over to Council ownership of all the assets of the Museum. He said that Mr Bath told him that Council 'would not be having' two Museum sites.

Mr Cook said that, shortly after he left the meeting, he received a phone call from a local television journalist who informed him that she was on her way to a press conference concerning the meeting he had just had with Council. Mr Cook said he later met with the journalist, and he also received a call from a Newcastle Herald journalist. He said both persons told him he had been 'shafted' at the press conference. He said he later found out that a press release had been sent out by Council during his meeting with Council that morning.

Mr Cook said that the next day, Tuesday 6 August 2019, the Newcastle Herald ran a story regarding the meeting they had with Council and the ultimatum given to him by Council.

[In his letter to Council on 30 July 2023, Mr Cook complained that a letter in the name of Scott Neylon was printed in the Newcastle Herald on 8 August 2019 (which Mr Cook later said was actually published on 9 August 2019), relating to the Newcastle Maritime Museum. He said that the letter referred to proposals which had been the subject of discussion and correspondence between

Mr Bath and himself in relation to the Museum. Mr Cook was of the view that the letter was either written by Mr Bath or that Mr Bath had provided confidential information to Mr Neylon. [This allegation did not meet the criteria outlined at clause 4.4 of the Procedures and therefore does not form part of this investigation].

Mr Cook said that, after 6 August 2019, Mr Bath would not speak to members of the Maritime Museum Society for some time. He said that they continued to seek an agreement with Council regarding the Museum's assets.

Mr Cook said that, in 2020, Mr Bath re-entered negotiations with him in relation to an agreement. He said that he had informed Mr Bath of certain information he had obtained through a 'GIPA' application which was negative in relation to Council. He said that he asserted to Council that the closure of the Maritime Museum had been illegal. He also said that Mr Bath had threatened him with defamation in relation to Mr Cook having accused him of making a 'secret deal' in respect of the Museum's assets. He said negotiations for a formal agreement continued over an extended period of time.

Mr Cook said that, on 16 November 2021, Mr Bath said to him that Council would make that formal agreement with the Society.

Mr Cook said that in November 2022, they were still pushing to get a formal agreement signed (which had been developed). He said he received notification from the Museum Director that Council was ready to sign. He said that the Society signed the agreement and sent it to Council on the belief that Mr Bath would sign the agreement the following day. He said that Mr Bath then advised that he would not sign the agreement. He said that the Society was exasperated that, after four and a half years of negotiation, an agreement had still not been reached. Mr Cook said the Society decided, just prior to Christmas 2022, that they would no longer negotiate with Mr Bath.

Mr Cook said that they intended to go ahead with what was outlined in the unsigned agreement. He said this consisted of a working party of stakeholders relative to the Museum to formulate a way forward. He said the Society then commenced to form a working party but did not inform Mr Bath. Mr Cook said that, on two separate occasions in early 2023, he received an email from Mr Bath 'fishing for information as to what the Society was up to.' He said he sent Mr Bath a letter in March 2023, advising him that the Society had been re-registered and that the Society controls all of its own assets and that Council has no right of possession of any of them.

Mr Cook said that Mr Bath replied stating that he did not agree. He said the Society did not reply to Mr Bath. Mr Cook said that Mr Bath had been anxious since March 2023, as to what the Society was doing. He said that, when he wrote to Mr Bath on another matter on 5 July 2023, he believes he 'reminded Mr Bath of his presence.' He said that four days later Mr Neylon wrote a letter asking what Mr Cook's plans were for the Maritime Museum. Mr Cook said that the letter referred directly to him, not the Society – and not the Society's Plans.

Mr Cook said that, by going public, Mr Bath was seeking to find out what the Society was 'up to.' Mr Cook said that the reporter, Donna Page, told him that it was the last of Mr Neylon's letters received by the Newcastle Herald. [REDACTED]

[REDACTED] He said that the Lord Mayor had made it known that she wanted control over the Newcastle Maritime Museum and that, when Mr Bath was hired, he was given the job to gain control.

Mr Cook said that Mr Bath then negotiated with members of the Society in 2017. He said that Mr Bath did so, after he had legal advice that those with whom he was negotiating did not have the authority to negotiate on behalf of the Society. He said that Mr Bath negotiated 'in secret' with those people and this formed the basis of Mr Cook's claim of a 'secret deal.'

Discussions with Mr Jeremy Bath

Mr Bath said, both in interviews conducted with the Newcastle Herald, and when spoken to in relation to this investigation, that he was not the author of the letters under the hand of Mr Neylon, nor had he provided confidential information to Mr Neylon in order Mr Neylon could write the letters. Mr Bath said that no person had ever raised an issue with him concerning the content of Mr Neylon's letters.

Mr Bath said that, in relation to the eighteen letters Mr Neylon had allegedly written to the Newcastle Herald, none of the letters contained information which could be considered confidential. He said that, surely if someone had identified confidential information, they would have asked, "*How does Scott Neylon know this?*" He said that question had never been asked and that such an accusation has, as far as he knows, never been voiced to the Newcastle Herald.

Mr Bath said that the letter sent to the Newcastle Herald under the name of Mr Scott Neylon in relation to the Newcastle Maritime Museum was not written by himself. He said that Mr Cook is well known to him, and he is unaware of any confidential information which exists between Mr Cook and

himself. He said the Maritime Museum went into liquidation and they had 7,000 items which Council agreed to store for a period of time.

Mr Bath said he is a close friend of Mr Neylon, who stays with him when Mr Neylon is in Australia. He said he has no control over when, or what Mr Neylon writes. He said he is not responsible for any errors or omissions in the letters of Mr Neylon (including the apparent misspelling of Mr Neylon's name).

Mr Bath said that, since the Newcastle Herald articles, he has spoken with Mr Neylon. He said that Mr Neylon was aware of the articles and that he told Mr Bath that he uses a Virtual Private Network (VPN) which may disguise the location of his Internet Protocol (IP) address.

Mr Bath - Written Response

On 26 November 2023, Mr Bath provided a written response to the allegation (attachment 30).

Mr Bath's response, as it relates to Allegation 1, equally applies here.

Mr Bath further stated that he had no involvement in drafting of Mr Neylon's letter to the Newcastle Herald article published on 6 August 2019 titled '*City gives museum a week to sink or swim*'. He stated, "*the letter makes five points, each a reference to facts already reported in the Newcastle Herald*

on 6 August 2019. These are:

- 1/ that the Maritime Museum closed due to significant debts*
- 2/ that the Maritime Museum owned 7500 items it was incapable of storing*
- 3/ that the Maritime Museum did not have the financial means to reopen or market itself*
- 4/ that the City of Newcastle had been funding the storage of the collection for some time on behalf of the Maritime Museum*
- 5/ that Maritime Museum President Bob Cook was unhappy with a seven-day ultimatum to hand over the collection to City of Newcastle.*

Mr Bath stated that the information was publicly available in the article published in the Newcastle Herald on 6 August 2019.

Mr Scott Neylon – Record of Interview

On 6 December 2023, Mr Neylon provided written responses to questions asked by the investigator, in a record of interview served upon him on 22 November 2023 (attachment 31).

The evidence of Mr Neylon, as detailed in Allegation 1, equally applies here.

Mr Neylon, when interviewed by the Newcastle Herald, said he was the author of all the letters. He said he has written some whilst in Australia and some whilst overseas.

Analysis and Finding

The analysis in respect of allegation 1 equally applies here.

There is no direct evidence that Mr Bath either wrote the letters himself under the name of Scott Neylon, nor that he provided confidential information to Mr Neylon to write the letters. Information has been provided that the letters originated from an Australian IP address. This may have been the case and the assertion that the letters did originate from a domestic IP address is accepted for the purpose of this analysis.

However, the allegation by the Newcastle Herald that some of the letters originated from an Australian IP address does not, in and of itself, conclusively prove that the emails to the newspaper originated from that address. A VPN may have been used to disguise the actual origin of an IP address. Alternatively, a domestic user may have forwarded correspondence on behalf of Mr Neylon.

The Newcastle Herald article refers to a 'timely coincidence.' The articles refer to Mr Cook having sent a letter of complaint to Council on 5 July 2023, in relation to a separate matter. The article then states that on 11 July 2023, they received a letter from Mr Neylon asking with 'Bob's' (Mr Cook's) plans were in relation to the Newcastle Maritime Museum. Mr Cook (and apparently the Newcastle Herald) have drawn a nexus between Mr Cook's complaint to Council and the letter from Mr Neylon. The Newcastle Herald's reference to 'timely coincidence' reasonably infers that there was a direct relationship. However, notwithstanding some nexus in time (some 6 days later), there is no direct evidence that Mr Neylon's letter was sent in response to a complaint having been made by Mr Cook.

Of greater significance, is the alleged breach of confidential Council information that, it is alleged, was only known to Mr Bath and Mr Cook during their correspondence. An examination of the letter written in the name of Mr Neylon in July 2023, regarding the Newcastle Maritime Museum, does not reveal that Mr Bath has provided confidential Council information to Mr Neylon. The dispute between Council and the Maritime Museum regarding the issue of assets was publicised and therefore in the public arena.

The history of the Newcastle Maritime Museum and the Society's interaction with Council regarding the Museum's assets was well publicised as set out in many of the attachments to this investigation report (attachments 17, 23, 24, 26, 27 and 28). Email correspondence between Mr Bath and Mr Cook (attachments 13 - 16 and 21 - as provided by Mr Cook), when analysed and compared to the Newcastle Herald (attachment 9), did not reveal that the letters sent to the Newcastle Herald under the name of Scott Neylon contained information which was confidential and/or limited to Mr Bath and Mr Cook. The issues surrounding the Newcastle Maritime Museum and Council taking control of the Museum's assets were well covered in the open-source media.

The documents indicate that there was a degree of acrimony between Mr Cook and Mr Bath (see for example attachments 5 and 20). That is not disputed. However, the underlying issues fuelling that acrimonious relationship were not the subject of investigation. The investigation only relates to whether there is evidence that Mr Neylon, in the letter he sent to the Newcastle Herald in July 2023, regarding the Maritime Museum, included confidential Council information and/or, was written by Mr Bath himself using the name of Mr Neylon. The inferences drawn by Mr Cook and/or the Newcastle Herald articles regarding Mr Bath's involvement are founded on inuendo and the fact that Mr Neylon may or may not have used a domestic IP address. There is insufficient evidence that the use of a domestic IP address implicates Mr Bath as the author of the correspondence. Whether Mr Neylon used a VPN or whether another third party forwarded Mr Neylon's correspondence are legitimate and reasonable alternative hypotheses explored during this investigation.

Mr Neylon provided evidence that he had used a friend's VPN address to circumvent, what he perceived as, geographic IP address barriers to his letters being published by the Newcastle Herald. Mr Neylon stated that he also used the VPN to facilitate the viewing of Australian television content. He stated that the VPN account was owned by a local friend in Japan, who moved in 2022. Mr Neylon cited the name of the VPN company but was not the account holder. The VPN provider (ExpressVPN) states on their Website, *"Our network of high-speed servers puts you in control. Appear to be in any of 105 countries worldwide and enjoy online freedom anywhere."* It is therefore reasonable, and indeed, plausible that Mr Neylon had the motivation and capacity to disguise his geographic location to appear using an Australian domestic IP address.

Mr Neylon stated, even though he used a VPN, the option was also available to him to use a pseudonym (eg. John Smith). However, he did not see a need to disguise his true identity. This is a matter of significant relevance that goes to whether Mr Bath, himself, may be the author.

The fact remains that, should Mr Bath, had been responsible for authoring and/or causing a third party to author the letter, that using a close friend's address would reasonably have linked him directly to the letter/s. It is an implausible proposition that, in circumstances where he was criticising matters affecting Council, that an individual of considerable demonstrated intellectual capacity would not take steps to disguise his identity and distance himself from the letters. However, this was not the case.

Mr Neylon, albeit perhaps naively, chose to use his own name. Had he have used the pseudonym John Smith, he would have conceivably have sufficiently distanced himself from Mr Bath.

Should Mr Bath have authored the letters, it is considered unlikely and implausible that Mr Bath would have elected to use a pseudonym of a close personal friend, but rather choose a name without any legitimate connection to himself. That is, he could have adopted a 'John Doe' without any risk of connection to himself or any impact on his professional reputation. There is no indication that, if Mr Bath used a 'John Doe', it would have prevented the Newcastle Herald from publishing the content. Mr Bath would have remained anonymous and not attracted media and political scrutiny. To suggest that Mr Bath would have been motivated to entice a close personal friend to write the letters, whilst endeavouring to distance himself from the issue, is therefore considered unlikely.

As previously stated, Mr Neylon was clearly protective of Mr Bath. The closeness of the relationship would be a contributing factor in the desire to defend Mr Bath's reputation. As the campaign increased against the decisions of Council, specifically Mr Bath, so did the desire of Mr Neylon to protect his friend.

It is also of material significance that the issues canvassed in the letters authored by Mr Neylon, were available in the public domain. It is also accepted that Mr Neylon and Mr Bath would have engaged in considerable discussion regarding those matters. Mr Neylon said that conversations occurred on a daily basis. However, that, in and of itself, does not demonstrate that issues of confidentiality were revealed. To the contrary, Mr Neylon states that his letters were initially prompted by information contained in the Newcastle Herald article itself.

Whilst the Newcastle Herald and [REDACTED] MP have given considerable weight to the impact of the relationship between Mr Neylon and Mr Bath, asserting that Mr Bath wrote and/or fed confidential information, the evidence is compelling that Mr Neylon authored the letters from his

home in Japan, with clear transparency as to his identity, and that he authored the letters without undue influence or motivation of Mr Bath.

Accordingly, having regard to the available evidence, there is insufficient evidence that Mr Bath wrote, or provided confidential Council information, that informed Mr Neylon's correspondence. There is no evidence available to support the hypothesis that Mr Bath wrote the letters himself.

Allegation 2 is, on the balance of probabilities, **not substantiated**.

7. Matters Arising

Whilst outside the scope of this investigation, it was identified that information was published, under Parliamentary privilege, relevant to the matters under inquiry.

Specifically, in the NSW Parliamentary Hansard extract dated 21 November 2023, records the following speech by Ms Sonia Hornery MP;

Ms SONIA HORNERY (Wallsend) (20:42): "In July Newcastle Herald journalist Donna Page began reporting on dozens of derogatory letters to the editor sent over years. They were nasty letters about the good people of Wallsend. Page reported that over the past six years Mr Scott Neylon, an Australian expat living in Japan, penned disparaging letters to the editor, often misspelling his own name and giving several different addresses. Any community member or politician questioning the City of Newcastle [CON] was admonished. I was the prime target. The letters, meanwhile, heaped praise upon CON. Mr Bath and Mr Neylon, who has lived and worked in Japan for decades, are close friends. Ms Page discovered that both were enrolled at Mr Bath's address. Mr Neylon has intricate knowledge of the Newcastle political scene. In his letters he stated that he bumped into me down the street, which was a lie. He also said that he was a pensioner and had teenage children—more lies.

Mr Bath's history of astroturfing campaigns started when he worked at Clubs NSW and is well known. While at Clubs NSW, his IP addresses were linked to online comments about former Premier Bob Carr's blog connected to an account called Scott Neylon. Mr Bath denies his involvement in writing the letters. It is undeniable that Mr Jeremy Bath, CON CEO, is the author of the letters and arranged for Mr Neylon to take the fall for him. Mr Bath has shamefully abused his \$550,000 a year job, funded by our Newcastle taxpayers. Following the release of Ms Page's articles, CON Lord Mayor Nuatali Nelmes was under pressure to clean up the mess made by her hand-picked CEO—a mess that brought CON into disrepute.

At council's July meeting councillors were forced to respond to questions about these damaging letters. Councillor Carol Duncan spoke, proposing a motion accusing me of committing a criminal act by leaking private electoral roll information to journalists. Six other councillors willingly endorsed this motion and the false and defamatory remarks made by Councillor Carol Duncan. They were based on no evidence and suggested that I had done something wrong. These allegations made by Councillor Carol Duncan—assisted by

councillors Nelmes, Clausen, Winney-Baartz, Wood, Adamczyk and Richardson—were designed to humiliate me. They were concocted to take the heat off the Scott Neylon debacle and its direct links to CON. Consequently, I sought legal advice and sent a defamation concerns notice to the councillors involved. I have reserved my right to subsequent legal action.

I call for the dismissal of disgraced CEO Mr Jeremy Bath due to his involvement in the writing of the Neylon letters. Further, I call for a public apology and retraction of the baseless lies and defamatory statements and endorsements from councillors Nelmes, Clausen, Duncan, Winney-Baartz, Wood, Adamczyk and Richardson. It has been 18 weeks since the investigation into Mr Bath was launched and there has been no update from CON. Our community has lost faith in the CEO and demands that this sorry CON saga be resolved.”

The speech cites historical matters relevant to this investigation. Specifically, that Mr Neylon wrote letters to the then Premier, Hon Mr Bob Carr, where criticism was made of the Government of the day. Of relevance, Ms Hornery MP states, inter alia, *“It is undeniable that Mr Jeremy Bath, CON CEO, is the author of the letters and arranged for Mr Neylon to take the fall for him.”*

In responding to this matter Mr Bath stated, in his formal response,

“Until reported by the Newcastle Herald in late July, I had no recollection of any post from Scott on a blog site by Bob Carr, which may be on the basis that it was posted more than 12 years ago. I don’t know if Scott posted it or someone else, only that it was not me.”

In his interview response to this matter, Mr Neylon stated;

“It was more than 12 years ago and until the Herald reported it, I had forgotten about it. I don’t recall the details, but I suspect I thought it was a bit of fun to have a go at the premier who actually introduced poker machines into pubs. Probably made a thousand pub owners instant millionaires.”

Mr Neylon infers his involvement in the author of the representations to Hon. Mr Carr. Mr Bath denies involvement. The information, as recorded by Ms Hornery MP, remains hearsay. The probative value of the claim that *“it is undeniable”* that Mr Bath was the author of the historical letter, is questionable.

It is however noted that the conduct of Mr Bath, during his tenure at Clubs NSW, is neither a complaint subject of this investigation nor is it a reportable matter under the Procedures for the Administration of the Model Code of Conduct.

Notwithstanding, there is insufficient evidence, based on the information contained in Ms Hornery MP's speech, to support the claim. Therefore, the claim does not add evidentiary weight or otherwise to the allegations under consideration.

The matter arising is provided for information only.

8. Recommendations

Nil.

9. Attachments

1	Complaint by Mr Robert Cook 30 July 2023.
2	Letter from the Minister for Local Government to Council 26 July 2023.
3	Minutes of the Ordinary Council Meeting of 25 July 2023.
4	Newcastle Herald articles 22 to 31 July 2023.
5	Council correspondence to Mr Cook 29 August 2019 re Newcastle Maritime Museum Collection.
6	City of Newcastle Code of Conduct (2022).
7	City of Newcastle Procedure – Administration of the Code of Conduct (2022).
8	Chronology of relevant events.
9	Chronology and details of newspaper articles.
10	Email Mr Cook to investigator 25 September 2023.
11	Letter Mr Cook to Premier 30 September 2022.
12	Letter Mr Bath to Mr Cook 5 August 2019.
13	Emails Mr Cook and Mr Bath 7 December 2022 – 24 March 2023.
14	Emails Mr Cook and Mr Bath 6 August 2019.
15	Emails Mr Cook and Mr Bath 19 June 2019 – 25 July 2019.
16	Emails Mr Cook and Mr Bath 7 – 14 August 2019.
17	Newcastle Herald article 6 August 2019 re Newcastle Maritime Museum.
18	Letter Mr Cook to Mr Bath 14 May 2022.
19	Letter Mr Cook to Mr Bath 25 June 2019.
20	ABC Facebook Posts 14 November 2019.
21	Emails Mr Bath and Mr Cook August 2019.
22	Final letter of agreement re Newcastle Maritime Museum.
23	Newcastle Herald Article 18 May 2018 re Newcastle Maritime Museum.
24	Newcastle Maritime Museum formal answers to questions 3 December 2019.
25	'Wrong Again' article by Mr Cook 22 September 2020.
26	Newcastle Herald article 6 December 2019 re Newcastle Maritime Museum.
27	Newcastle Herald article 2 October 2018 re 'Museum collection moves to a safe site.'
28	Newcastle Herald article 16 November 2021 re Newcastle Maritime Museum.
29	Letter of Allegations – Mr Bath.
30	Written response to allegations by Mr Bath – dated 26 November 2023.
31	Record of interview Mr Scott Neylon – dated 6 December 2023.
32	Attachments – Record of Interview Mr Neylon – rec'd 6 December 2023.
33	Feedback provided by Mr Bath – dated 6 December 2023