

Hobart City Council

Disclosure of Information (S338A) Investigation

Director of Local Government

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17/107072

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I. Executive Summary

- I.1 The disclosure of confidential information not only represents a breach of trust and respect, but it also can have legal ramifications depending on the content of the information. It may also have a personal impact on individuals where information is of a personally sensitive nature.
- I.2 Councils are encouraged to operate and make decisions with the highest levels of transparency and accountability, which includes putting as much information as possible into the public domain that helps explain why decisions are made. There will be legitimate reasons, however, where not all information can be put into the public domain.
- I.3 On 6 February 2017, the Hobart City Council commissioned a report by Tania Parkes Consulting titled 'Hobart City Council – Communications Review', which was formalised in June 2017. The review was a holistic review of the Council's communication practices and contained sensitive information about staffing matters.
- I.4 On 22 July 2017, *The Mercury* published an article entitled '*Communications review reveals lack of trust in council*'. A number of quotations in the article were identical to comments made in the report by Tania Parkes Consulting, whilst others were significantly similar.
- I.5 On 1 August 2017, the Director of Local Government received a formal complaint of an alleged breach of section 338A of the *Local Government Act 1993*, which makes it an offence for a councillor (or alderman) or employee of a council to disclose confidential information.
- I.6 An investigation commenced on 8 August 2017 and included the conducting of interviews and the provision of statutory declarations by Hobart City Council Aldermen, staff and Tania Parkes Consulting.
- I.7 The investigation finds that the most likely manner in which *The Mercury* received confidential information was through excerpts or parts of the report being provided to *The Mercury* over the phone, rather than *The Mercury* being sent a copy of the Report or written excerpts from it.
- I.8 The number of Council staff who had access to the report was unusually and perhaps unnecessarily high, given its confidential nature. However, as a result of statutory declarations signed by all staff who were known to have had access to the report, together with an apparent lack of benefit or motive, it is open to conclude that a staff leak is an unlikely source of the released information.
- I.9 Similarly, the investigation finds that it is unlikely that the leak came from Tania Parkes Consulting, given an apparent lack of motive and the reputational risk to a business of this nature of such an action.
- I.10 All Aldermen were interviewed with the exception of Aldermen Sexton and Zucco.
- I.11 The Aldermen who were interviewed answered specific questions put to them and all stated they had not provided the report, or information from the report, to any person. These Aldermen confirmed their statements in statutory declarations.
- I.12 Aldermen Sexton advised that he could not attend a formal interview but did answer questions during a telephone call with investigators, and advised that he had not read the report and had not discussed the contents with anyone. Aldermen Sexton provided a

statutory declaration supporting these statements in the form of responses to specific questions put to him.

- I.13 Alderman Zucco did not participate in a formal interview. Alderman Zucco did provide a statutory declaration but did not provide answers to all the specific questions put to all other Aldermen. Alderman Zucco advised that, in his view, the 14 questions posed (apart from question 9, in part) were either irrelevant or better able to be answered by the General Manager.
- I.14 In his statutory declaration, Alderman Zucco stated "I did not provide the Mercury Newspaper a copy of the Tania Parks report titled 'Hobart City Council Communications review dated June 2017' "
- I.15 Aldermen have access to a 'Reading Room' where hard copy documents are placed, with the room only accessible via security card. The report was available in that room. The Council does not have a record of any Aldermen accessing the Report via the Reading Room from the time of the report's placement in the room and the date of *The Mercury* article.
- I.16 Aldermen also have access to confidential documents through an online Aldermanic hub, which is device restricted, password protected and documents are non-printable and non-downloadable.
- I.17 The following table lists which Aldermen accessed the document on particular dates and the times that they were recorded as having the document open.

Alderman	Date	Time Document Open
Cocker	23 June 2017	3 seconds
Reynolds	23 June 2017	4 minutes 58 seconds
Ruzicka	25 June 2017	2 minutes 57 seconds
Christie	26 June 2017	1 minute 48 seconds
Ruzicka	26 June 2017	11 seconds
Harvey	26 June 2017	42 minutes 0 seconds
Bumet	26 June 2017	1 day 22 hours 12 minutes 26 seconds
Ruzicka	27 June 2017	24 seconds
Cocker	27 June 2017	3 minutes 48 seconds
Ruzicka	27 June 2017	59 minutes 29 seconds
Cocker	27 June 2017	24 minutes 33 seconds

Cocker	27 June 2017	9 minutes 33 seconds
Ruzicka	27 June 2017	42 minutes 46 seconds
Ruzicka	27 June 2017	3 minutes 2 seconds
Denison	28 June 2017	16 minutes 0 seconds
Christie	30 June 2017	3 seconds
Zucco	3 July 2017	1 hour 0 minutes 26 seconds
Ruzicka	3 July 2017	1 minute 13 seconds
Zucco	4 July 2017	9 hours 30 minutes 37 seconds
Zucco	20 July 2017	3 hours 43 minutes 39 seconds
<i>The Mercury</i> article published	22 July 2017	

1.18 On the basis of the information received, the most likely scenario is that the report was accessed by an Alderman through the Aldermanic Hub (although other sources cannot be discounted) and that information was provided by that person to *The Mercury* as a series of quotes or excerpts from the report in a telephone discussion.

1.19 There are a number of instances where Council documents are recorded as being 'open' for extended periods of time – in particular the instance where Alderman Burnet was recorded as having the document open for almost two days. It is likely that the system, at least at the time, did not have a function that automatically logged documents back in after a period of inactivity if users did not do so manually. It does not appear plausible that documents were being actively read for some of the longer periods recorded.

1.20 On the basis of the information gathered, there is insufficient evidence at this time to identify a possible respondent.

1.21 While the source of the leak is likely to have been through access to the Aldermanic Hub, the Hub itself appears to provide a robust arrangement for securing documents. As such, no recommendations are suggested to materially change those arrangements. Recommendations that Council should consider to enhance its security arrangements for confidential information are:

1.21.1 that the Council either ends the practice of providing documentation through the Council's 'reading room' or additional controls are put in place as the process is one that compromises, rather than complements, the security processes implemented through the Aldermanic Hub.

- 1.21.2 that the Council undertake an assessment to determine the possibility of further restricting the numbers of council staff accessing confidential information.
- 1.21.3 that the Council review the possibility of including a function within the Aldermanic Hub to automatically close down documents and log out users after a period of inactivity, and considers the possibility of enabling regular changes to password access for the Hub.

2. Introduction

- 2.1 The disclosure of confidential information not only represents a breach of trust and respect, but it also can have legal ramifications depending on the content of the information. It may also have a personal impact on individuals where information is of a personally sensitive nature. The credibility of a Council is also called into question when confidential information is disclosed, and such occurrences can create a risk akin to 'sovereign risk' whereby persons dealing with Council lose trust and confidence that their interactions will be dealt with objectively and fairly, and in accordance with due process.
- 2.2 It is for these reasons that the disclosure of confidential information is a serious offence under the *Local Government Act 1993* (the Act). The penalty for a proven offence is up to 50 penalty units (currently \$7850) and a court can also dismiss a councillor (or alderman) or bar a person from standing for election for a period up to 7 years.
- 2.3 Councils are encouraged to operate and make decisions with the highest levels of transparency and accountability, which includes putting as much information as possible into the public domain that helps explain why decisions are made. There will be legitimate reasons however, where not all information can be put into the public domain. In these cases, such information must clearly meet certain criteria for that information to be considered confidential.
- 2.4 Section 28C of the Act provides that a councillor (or alderman) requesting information or a document from a general manager may be required to give an undertaking to keep the information or document confidential, if the general manager considers the material to be confidential. Furthermore, under the *Local Government (Meeting Procedures) Regulations 2015*, section 15 sets out the types of matters that may allow a Council to close part of a meeting. Those matters include:
- personnel matters, including complaints against an employee of the council and industrial relations matters;
 - information that, if disclosed, is likely to confer a commercial advantage or impose a commercial disadvantage on a person with whom the council is conducting, or proposes to conduct, business;
 - commercial information of a confidential nature that, if disclosed, is likely to –
 - prejudice the commercial position of the person who supplied it; or
 - confer a commercial advantage on a competitor of the council; or
 - reveal a trade secret;
 - contracts, and tenders, for the supply of goods and services and their terms, conditions, approval and renewal;
 - the security of –
 - the council, councillors (or aldermen) and council staff; or
 - the property of the council;
 - proposals for the council to acquire land or an interest in land or for the disposal of land;

- information of a personal and confidential nature or information provided to the council on the condition it is kept confidential;
- applications by councillors (or aldermen) for a leave of absence;
- matters relating to actual or possible litigation taken, or to be taken, by or involving the council or an employee of the council;
- the personal hardship of any person who is resident in, or is a ratepayer in, the relevant municipal area.

2.5 Where confidential information is disclosed illegally, the motive is not always clear. However, it does appear to sometimes be the result of tension between views as to the legitimacy of the confidentiality. On other occasions, the disclosure is clearly an act designed to cause disruption and reputational damage.

2.6 Where there is a difference of view regarding whether information should legitimately be considered confidential, the appropriate manner to debate this is when a council decides whether or not the circumstances exist to close a part of a council meeting. If a council decides to close part of the meeting to discuss a confidential matter, the council should also consider what information it can discuss in an open part of the council meeting to ensure the maximum amount of transparency.

2.7 Regardless of an individual's own view, once a decision is made that certain information or a document is confidential, in this instance by the General Manager, all councillors (or aldermen), and council staff who have access to the information or document, are legally bound to treat the material as such.

3. Background

- 3.1 On 6 February 2017, the Hobart City Council commissioned a report by Tania Parkes Consulting titled '*Hobart City Council – Communications Review*', which was formalised in June 2017. The review was a holistic review of the Council's communication practices and contained sensitive information about staffing matters.
- 3.2 On 4 July 2017, the report was uploaded to the Council's electronic Aldermanic Hub within the confidential section and a hard copy was also placed in the Council's Aldermanic Reading Room.
- 3.3 On 21 July 2017, Mr Simeon Thomas-Wilson, a journalist with *The Mercury* newspaper, contacted Lord Mayor Sue Hickey by telephone to advise he had received information in relation to the Tania Parkes Consulting report and requested a comment from the Lord Mayor. During the telephone call, Mr Thomas-Wilson read out extracts from the report focussing on a comment in the report relating to a 'lack of trust' in the Council.
- 3.4 On 22 July 2017, *The Mercury* published an article titled '*Communications review reveals lack of trust in council*';

The article included the following information:

- '*There is a lack of trust in the HCC and its decision-making*'.
- '*Its operations are viewed as not being transparent enough*'.
- '*This lack of trust had contributed to the success of the parody HCC Facebook page and other negative coverage of council*'.
- '*There is a perception that the City of Hobart decision-making and operations could be more candid, transparent and impartial and that the sustained negative media and parody are symptoms of a lack of trust*'.
- '*There needs to be an improvement*'.
- '*The number of council websites and social media channels was excessive and confusing and should be reduced*'.
- '*A new communications unit and a strategic plan was recommended*'.
- '*Much of the council's reporting was applied to defending the reputation of the council, sometimes about small, rather than large projects*'.
- '*Staff morale needed to be improved*'.

A number of these quotations are identical to comments made in the report by Tania Parkes Consulting, whilst others are significantly similar. The inference raised is that they have been directly referenced from the Communications Review document.

- 3.5 On 25 July 2017, the Lord Mayor sent a memorandum to all Alderman in relation to a proposed Aldermanic meeting about the Tania Parkes Consulting report and referencing the importance of keeping information confidential.

- 3.6 On 27 July 2017 *The Mercury* published a further article titled '*Hobart City Council tries to plug all the leaking as memo about leaking gets leaked*'. This article also included quotes from the report by Tania Parkes Consulting.
- 3.7 On 1 August 2017, the Director of Local Government received a formal complaint of an alleged breach of section 338A of the *Local Government Act 1993* (the Act) by persons unknown of:
- a confidential report to the Council by Tania Parkes Consulting titled '*Hobart City Council – Communication Review*' dated June 2017;
 - a memorandum from the Lord Mayor to all Aldermen titled, '*Proposed Aldermanic Meeting – Communications*' dated 25 July 2017.

The context of the complaint was that information from the confidential report by Tania Parkes Consulting and from a Lord Mayor's confidential memorandum to Aldermen dated 25 July 2017 was provided to *The Mercury* Newspaper and was subsequently referenced in the articles of 22 July 2017 and 27 July 2017.

- 3.8 On 8 August 2017 the Director of Local Government wrote to Aldermen and the General Manager to advise that he would be undertaking an investigation under section 339E of the Act.

4. Procedural Fairness

- 4.1 The Director has observed the rules of procedural fairness in undertaking this investigation.
- 4.2 A draft copy of the investigation report was provided to all participants in the investigation and they were invited to make submissions.
- 4.3 Five responses were received and minor amendments were made to the report on the basis of those responses. The responses are included at Appendix B (Submissions made by Investigation Participants).

5. Relevant Legislation

- 5.1 The provisions of the *Local Government Act 1993* to which the alleged offence is relevant are as follows:

5.1.1 *Local Government Act 1993* Section 338A

(1) Except as required, or allowed, by this Act, another Act or any other law, a councillor must not disclose information –

(a) seen or heard by the councillor at a meeting or part of a meeting of a council or council committee that is closed to the public that is not authorised by the council or council committee to be disclosed; or

(b) given to the councillor by the mayor, deputy mayor, chairperson of a meeting of the council or council committee or the general manager on the condition that it be kept confidential.

5.1.2 *Local Government Act 1993* Section 338A

(4) Except as required, or allowed, by this Act, another Act or any other law, an employee of a council, single authority or joint authority must not disclose information acquired as such an employee on the condition that it be kept confidential.

6. Preliminary Assessment

- 6.1 Investigators undertook a preliminary assessment of the information received as a part of the complaint and noted that whilst the information contained in the Tania Parkes Consulting report fell under the definition of 'confidential' pursuant to Section 338A subsection (1)(b) of the Act, the information contained within the memorandum from the Lord Mayor to all Alderman did not. Accordingly, the Director of Local Government determined that the memorandum from the Lord Mayor to all Aldermen titled, '*Proposed Aldermanic Meeting – Communications*' dated 25 July 2017 was not a confidential document for the purposes of Section 338A of the Act.
- 6.2 All Alderman were subsequently advised that the circumstances surrounding the release of information contained within that document were not the subject of investigation.
- 6.3 Investigators noted that the information disseminated to staff and aldermen, relevant to the Tania Parkes Consulting report at a workshop presentation on 27 June 2017, was 'confidential' pursuant to Section 338A subsection (1)(b) of the Act as it was provided by the General Manager on the condition that it be kept confidential.
- 6.4 The Director of Local Government, on the basis of the preliminary assessment was satisfied that an offence was likely to have been committed and warranted a formal investigation by officers of the Local Government Division.

7. Investigation Methodology

- 7.1 The investigation sought to:
- Identify all circumstances in which the information contained within the Tania Parkes Consulting report was made available to Aldermen, staff or other persons;
 - Identify persons who had legitimate access to the information contained in the Tania Parkes Consulting report;
 - Determine the method of disclosure to Mr Simeon Thomas-Wilson, author of the article '*Communications review reveals lack of trust in council*' – published on 22 July 2017; and
 - Identify the person responsible for disclosing the information.
- 7.2 The investigation gathered the following documentation:
- A copy of the Tania Parkes Consulting report; and
 - A copy of *The Mercury* article dated 22 July 2017.
- 7.3 The following persons agreed to and were formally interviewed:
- Lord Mayor Sue Hickey

- Deputy Lord Mayor Ron Christie
- Alderman Bill Harvey
- Alderman Tanya Denison
- Alderman Philip Cocker
- Alderman Helen Burnet
- Alderman Jeff Briscoe
- Alderman Eva Ruzicka
- Alderman Damon Thomas

7.4 The following persons provided signed statutory declarations answering defined questions put to them:

- Lord Mayor Sue Hickey
- Deputy Lord Mayor Ron Christie
- Alderman Bill Harvey
- Alderman Tanya Denison
- Alderman Philip Cocker
- Alderman Helen Burnet
- Alderman Jeff Briscoe
- Alderman Eva Ruzicka
- Alderman Damon Thomas
- Alderman Peter Sexton
- Sandra Budd - HCC Administrative Officer
- Iris Goetzki - HCC Manager Marketing
- Michelle Bittins - HCC Administrative Officer
- Anna Holland - HCC Corporate Services Officer
- Chelsea Dawson - HCC Administrative Officer
- Neil Noye - HCC Town Planner
- Heather Salisbury - HCC Deputy General Manager
- Glenn Doyle - HCC Director, Parks and Amenity
- Phillip Holliday - HCC Director, Community Development
- Jayne Lockley - HCC Manager
- Alexandra Martin - HCC Snr Administrative Officer

- Tim Short - HCC Group Manager
- Kimbra Parker - HCC Manager Community and Cultural Programs
- Fiona Cleary - HCC Project and Executive Officer
- Mark Painter - HCC Senior Management
- Kelly Davis - HCC Senior Administrative Officer
- Belinda Herbert - HCC Council Support Officer
- Paula Gudgeon - HCC Executive Officer
- Paul Jackson - HCC Lawyer
- Margaret Johns - HCC Group Manager
- Stuart Pockett - HCC Council Support Officer

7.5 Alderman Marti Zucco provided a signed statutory declaration but did not provide answers to all the specific questions put to all other Aldermen. Alderman Zucco advised that, in his view, the 14 questions posed (apart from question 9, in part) were either irrelevant or better able to be answered by the General Manager.

7.6 In his statutory declaration, Alderman Zucco stated "I did not provide the Mercury Newspaper a copy of the Tania Parks report titled 'Hobart City Council Communications review dated June 2017' "

8. Council Confidential Information Management Processes

8.1.1 The initial stage of the investigation examined the practices in place to protect Council information. The review demonstrated that Hobart City Council has implemented robust procedures for maintaining the security of, and restricting access to, confidential council information. These processes include:

- Providing documents via an online Aldermanic hub that is device restricted and accessible only to Aldermen and limited staff;
- Providing confidential documentation via a confidential section of the hub that is password protected; and
- Documents are non-printable and non-downloadable.

8.1.2 It is understood from the Council that for a period of time, Aldermen were able to cut and paste or copy sections of the confidential documents but that this was rectified prior to the release of the Communications Report that is the subject of this investigation.

8.1.3 The Council commissioned an independent review of its security procedures in June 2017 by Wise Lord Ferguson (WLF) entitled '*Special Project: Review of Aldermanic Communications Final Report*'.

- 8.1.4 The WLF review found as a minor issue in respect to the provision of documentation through a reading room (a relatively recent process) that 'This additional process has not led to the desired outcome of reducing hard copy paper documentation and has resulted in further time demands'.
- 8.1.5 No findings were made in relation to any compromise on document security related to the Aldermanic Reading Room.
- 8.1.6 A major issue identified was that council employees had access to confidential council information through the council intranet. The council subsequently changed its processes to action a related recommendation and to restrict access to specific employees.

9. Method of Disclosure to *The Mercury*

- 9.1.1 In addressing this question, the Director of Local Government suggested that General Manager Mr Nick Heath contact The Mercury Newspaper to request that the copy of a confidential report received by The Mercury be returned to the Council.
- 9.1.2 Mr Heath subsequently advised that upon doing so, The Mercury provided advice that it was not in possession of a copy of the confidential report but instead had been provided with 'extracts' of the report by phone. The Mercury did not reveal the source of the information to Mr Heath.

9.2 Findings

- A. Information from the Tania Parkes Consulting report was leaked to Mr Simeon Thomas-Wilson.
- B. Information was used as a basis for the article in *The Mercury* newspaper titled '*Communications review reveals lack of trust in council*' dated 22 June 2017.
- C. On the basis of the information received it is unlikely that the information was sourced illegitimately, but rather it is material that is likely to have been accessed legitimately but leaked with the aim of concealing the source of the access.

10. Information Distribution

- 10.1 Investigators identified as a result of their inquiries, a number of potential avenues by which information from the Tania Parkes Consulting report could have been accessed. These are as follows:
 - Use (release) of information provided during a workshop presentation by Tania Parkes on 27 June 2017;
 - Access via the password protected Aldermanic Hub;
 - Access to hard copy of the Report (Aldermanic Reading Room);
 - Release of information by Tania Parkes Consulting;

- External access (unauthorised access) via the Hobart City Council's online system; and
- Access to the Report by Staff.

10.2 Use (release) of information provided during workshop 27 June 2017

- 10.2.1 A summary of the Tania Parkes Consulting report was presented at an Aldermanic workshop of 27 June 2017 to Aldermen and the General Manager by Tania Parkes.
- 10.2.2 Investigators received information that at the workshop all Aldermen attended with the exception of Alderman Peter Sexton and Alderman Marti Zucco.
- 10.2.3 No hard copies of the report were provided to Aldermen during the workshop as the Communications Review report had already been made available on the password protected section of the Aldermanic hub which was accessible via Aldermen's iPads.
- 10.2.4 As set out in the table below, the presentation from Tania Parkes included some of the information published in *The Mercury* article but not all.

	Information in the article	Information in the Report	Replicated in the presentation?
a)	'There is a lack of trust in the HCC and its decision-making'	Yes	Arguably Yes
b)	'It's operations are viewed as not being transparent enough'	Yes	Yes
c)	This lack of trust had contributed to the success of the parody HCC Facebook page and other negative coverage of council.	Yes	Yes
d)	'There is a perception that the City of Hobart decision-making and operations could be more candid, transparent and impartial and that the sustained negative media and parody are symptoms of a lack of trust'.	Yes	Yes
e)	There needs to be an improvement	Yes	Yes
f)	'The number of council websites and social media channels was excessive and confusing and should be reduced'	Yes	Yes
g)	A new communications unit and a strategic plan was recommended	Yes	Yes
h)	Much of the council's reporting was applied to defending the reputation of the council, sometimes about small, rather than large projects'	Yes	No
i)	Staff morale needed to be improved.	Yes	No

10.2.5 Findings

- D. On the basis of the information received the article was unlikely to have been referenced from information provided within the presentation by Tania Parkes

Consulting on 27 June 2017 due to a number of specific quotations that were in the report, but were not delivered within the presentation.

- E. On the basis of the information received the Tania Parkes Consulting report document was the likely source of the information provided to *The Mercury*.

10.3 Release of the Report by Tania Parkes Consulting

- 10.3.1 Ms Parkes has provided a statutory declaration on behalf of herself and her staff member (the only people with access to the report) that they did not provide the report to anyone other than the General Manager.

10.3.2 **Finding**

- F. It is open to conclude that it is unlikely the report was released by staff of Tania Parkes Consulting due to a lack of incentive or motivation to release the sections of the confidential report and the reputational risk to Tania Parkes Consulting.

10.4 External access to the Communications Review Report via the HCC online system

- 10.4.1 The WLF review found that the HCC has taken steps to ensure that information is secure through its online system and is only accessible to staff and Aldermen.
- 10.4.2 The systems implemented by the Council are likely to represent best practice in that there would be few councils in the State to have implemented the level of security in place.
- 10.4.3 There is no evidence of a breach of these security arrangements in respect to the Aldermanic hub.

10.5 Access to the Report by Staff

- 10.5.1 The investigation found that in total 21 Staff had access to the confidential report, despite being described as containing 'sensitive staffing information'. Access to the report was either as a result of:
- involvement in the preparation of documentation;
 - staff with access authorisation to the Aldermanic hub (e.g. for purposes of uploading the material – administrative staff or a role in reviewing the material – senior management); or
 - involvement in the provision of a hardcopy of the confidential material through the reading room – administrative staff.
- 10.5.2 The Division requested and received statutory declarations from all 21 staff members in response to questions from the Division. The statutory declarations included statements from all staff members that they had not provided copies of the report or extracts from the report to any other person.

10.5.3 Findings

- G. On the basis of the information received, the number of staff with access to the confidential material on the hub and/or the reading room was unusually and perhaps unnecessarily high.
- H. It is open to conclude that given the undertakings provided by statutory declaration by all staff and the lack of apparent benefit or motive to release the information that this avenue is an unlikely source of the released information.

10.6 Access to the Report via the confidential Aldermanic hub

10.6.1 The WLF report notes that the Aldermanic Hub has a number of controls applied to the process of document upload. These are as follows:

- Access to the Aldermanic hub is restricted to council-issued iPads;
- A procedure providing guidelines for the upload of confidential information;
- Confidential documents are password restricted and displayed with a personalised watermark;
- Electronic watermarking of documents with user details; and
- Ability to trace access if required.

10.6.2 Investigators collated the information from Aldermen provided in statutory declarations and interviews against the electronic logs of access to the report. At the time of the disclosure to *The Mercury*, the Aldermen who had accessed the report via the Aldermanic hub prior to the disclosure of the report were as follows:

- Ald Reynolds
- Ald Cocker
- Ald Ruzicka
- Ald Burnet
- Ald Harvey
- Ald Denison
- Ald Christie
- Ald Zucco.

10.7 Access to hard copies of the Report via the Aldermanic Reading Room

10.7.1 In July 2016, an Alderman wrote to the Director of Local Government expressing concerns about access to hard copy documentation for council meetings. The Alderman (Alderman Zucco) explained that although the documents were available electronically, that this presented health and safety impacts due to reading documents where they are lengthy. The Council reached an agreement with Alderman Zucco that it would provide hard copy documents electronically in an appointed 'reading room' with electronic swipe access which is logged.

10.7.2 To maintain security of the documents, every page of each document is required to be stamped by corporate support staff prior to being placed in the room.

- 10.7.3 The independent review by WLF found 'This additional process has not led to the desired outcome of reducing hard copy paper documentation and has resulted in further time demands on CST.'
- 10.7.4 The Council did not have any record of any Aldermen accessing the Report via the Reading room from the time of the report's placement in the room to the date of the leak to *The Mercury*. The electronic access log recorded access only by staff members and did not show a record of any Aldermen accessing the reading room.
- 10.7.5 At interview, several Aldermen indicated that they did not know where the reading room was located. In fact of the Aldermen interviewed, only one (Alderman Cocker), indicated that he had ever accessed the reading room. It is noted that WLF recommended the cross-referencing of the physical access logs with the electronic log records.

10.7.6 Findings

On the basis of the information received:

- I. the implementation of the Aldermanic reading room in its current format compromises the document security provided by the comprehensive protections provided by the online Aldermanic hub.
- J. The main exposure is the absence of a log of users and also the lack of surveillance with respect to actions within the room.
- K. The need for a reading room appears low given the apparent low usage by Aldermen.

11. Summary of inquiries undertaken in relation to Aldermanic access

- 11.1 All Aldermen were requested to attend an interview to respond to standardised questions about the disclosure of information.
- 11.2 All Aldermen, with two exceptions, accepted this invitation and participated in audio-recorded interviews. Aldermen subsequently provided signed statutory declarations containing the key points from these interviews.
- 11.3 Alderman Marti Zucco and Alderman Peter Sexton declined to be interviewed. Both Aldermen subsequently provided a signed statutory declaration.
- 11.4 Alderman Sexton provided responses to the standardised questions about the disclosure of information in accordance with the questions asked of the Aldermen interviewed.
- 11.5 Alderman Zucco provided a generalised statement which did not answer all the questions posed by investigators in correspondence. Alderman Zucco was contacted again but did not respond to the Division's request for a response to the standardised questions.

12. Aldermanic Inquiry Action Timeline

Alderman Jeff Briscoe	
Date:	Action
9 August 2017	Director of Local Government wrote to Alderman Briscoe to advise that an investigation was being conducted in relation to the disclosure of information to <i>The Mercury</i> .
29 August 2017	Alderman Briscoe participated in an interview with the Division in which he stated that: <ul style="list-style-type: none"> • he had not accessed the confidential report; and • he had not provided the report, or information from the report, to any person.
23 October 2017	Alderman Briscoe provided a statutory declaration confirming his statements at interview.
Alderman Helen Burnet	
Date:	Action
9 August 2017	Director of Local Government wrote to Alderman Burnet to advise that an investigation was being conducted in relation to the disclosure of information to <i>The Mercury</i> .
1 September 2017	Investigators received access logs for the Aldermanic hub related to the Tania Parkes Consulting report. These logs showed that Alderman Burnet had accessed the report on one occasion (on 26 Jun 2017 for 1 day, 22 hours, 12 mins and 26 seconds) via the hub up until the date of <i>The Mercury</i> article on 22 July 2017.
1 September 2017	Alderman Burnet participated in an interview with the Division in which she stated that: <ul style="list-style-type: none"> • she had accessed the confidential report; and • she had not provided the report, or information from the report, to any person
13 October 2017	Alderman Burnet provided a statutory declaration confirming her statements at interview.
Deputy Lord Mayor, Alderman Ron Christie	
Date:	Action
9 August 2017	Director of Local Government wrote to Alderman Christie to advise that an investigation was being conducted in relation to the disclosure of information to <i>The Mercury</i> .
29 August 2017	The Deputy Lord Mayor participated in an interview with the Division in which he stated that:

	<ul style="list-style-type: none"> • he had accessed the confidential report; and • he had not provided the report, or information from the report, to any person.
1 September 2017	Investigators received access logs for the Aldermanic hub related to the Tania Parkes Consulting report. These logs showed that Alderman Christie had accessed the report two occasions (26 Jun 2017 for 1 minutes and 48 seconds & 30 June 2017 for 3 seconds) via the hub up until the date of <i>The Mercury</i> article on 22 July 2017.
6 October 2017	Alderman Christie provided a statutory declaration confirming his statements at interview.

Alderman Philip Cocker	
Date:	Action
9 August 2017	Director of Local Government wrote to Alderman Cocker to advise that an investigation was being conducted in relation to the disclosure of information to <i>The Mercury</i> .
1 September 2017	Alderman Cocker participated in an interview with the Division in which he stated that: <ul style="list-style-type: none"> • he had accessed the confidential report; and • he had not provided the report, or information from the report, to any person.
1 September 2017	Investigators received access logs for the Aldermanic hub related to the Tania Parkes Consulting report. These logs showed that Alderman Cocker had accessed the report on four occasions (23 Jun 2017 for 3 seconds & three times on 27 June 2017 for 3 minutes 48 seconds, 24 minutes 33 seconds and 9 minutes 33 seconds respectively) via the hub up until the date of <i>The Mercury</i> article on 22 July 2017.
24 November 2017	Alderman Cocker provided a statutory declaration confirming his statements at interview.
Alderman Tanya Denison	
Date:	Action
9 August 2017	Director of Local Government wrote to Alderman Denison to advise that an investigation was being conducted in relation to the disclosure of information to <i>The Mercury</i> .
29 August 2017	Alderman Denison participated in an interview with the Division in which she stated that: <ul style="list-style-type: none"> • she had accessed the confidential report; and • she had not provided the report, or information from the report, to any person.

1 September 2017	Investigators received access logs for the Aldermanic hub related to the Tania Parkes Consulting report. These logs showed that Alderman Denison had accessed the report on one occasion (28 Jun 2017 for 16 minutes) via the hub up until the date of <i>The Mercury</i> article on 22 July 2017.
8 November 2017	Alderman Denison provided a statutory declaration confirming her statements at interview.

Alderman Bill Harvey	
Date:	Action
9 August 2017	Director of Local Government wrote to Alderman Harvey to advise that an investigation was being conducted in relation to the disclosure of information to <i>The Mercury</i> .
1 September 2017	Investigators received access logs for the Aldermanic hub related to the Tania Parkes Consulting report. These logs showed that Alderman Harvey had accessed the report on one occasion (26 Jun 2017 for 42 minutes) via the hub up until the date of <i>The Mercury</i> article on 22 July 2017.
5 September 2017	Alderman Harvey participated in an interview with the Division in which he stated that: <ul style="list-style-type: none"> • he had accessed the confidential report; and • he had not provided the report, or information from the report, to any person.
23 November 2017	Alderman Harvey provided a statutory declaration confirming these statements.

Lord Mayor, Alderman Sue Hickey	
Date:	Action
9 August 2017	Director of Local Government wrote to Alderman Hickey to advise that an investigation was being conducted in relation to the disclosure of information to <i>The Mercury</i> .
29 August 2017	The Lord Mayor was provided a copy of the Communications Review Report directly by Tania Parkes. She participated in an interview with the Division in which she stated that: <ul style="list-style-type: none"> • she had accessed the confidential report; and • she had not provided the report, or information from the report, to any person.
1 September 2017	Investigators received access logs for the Aldermanic hub related to the Tania Parkes Consulting report. These logs showed that Alderman Hickey had not

	accessed the report via the hub up until the date of <i>The Mercury</i> article on 22 July 2017. Alderman Hickey did access the hub on the day of the article.
5 October 2017	Alderman Hickey provided a statutory declaration confirming her statements at interview.
Alderman Anna Reynolds	
Date:	Action
9 August 2017	Director of Local Government wrote to Alderman Reynolds to advise that an investigation was being conducted in relation to the disclosure of information to <i>The Mercury</i> .
17 August 2017	Alderman Reynolds participated in an interview with the Division in which she stated that: <ul style="list-style-type: none"> • she had accessed the confidential report; and • she had not provided the report, or information from the report, to any person.
1 September 2017	Investigators received access logs for the Aldermanic hub related to the Tania Parkes Consulting report. These logs showed that Alderman Reynolds had accessed the report on one occasion (23 June 2017 for 4 minutes and 58 seconds) via the hub up until the date of <i>The Mercury</i> article on 22 July 2017.
24 October 2017	Alderman Reynolds provided a statutory declaration confirming her statements at interview.
Alderman Eva Ruzicka	
Date:	Action
9 August 2017	Director of Local Government wrote to Alderman Ruzicka to advise that an investigation was being conducted in relation to the disclosure of information to <i>The Mercury</i> .
18 August 2017	She participated in an interview with the Division in which she stated that: <ul style="list-style-type: none"> • she had accessed the confidential report; and • she had not provided the report, or information from the report, to any person
1 September 2017	Investigators received access logs for the Aldermanic hub related to the Tania Parkes Consulting report. These logs showed that Alderman Ruzicka had accessed the report on seven occasions (on 25 June 2017 for 2 minutes and 57 seconds, on 26 June 2017 for 11 seconds, on four occasions on 27 June 2017 for 24 seconds, 59 minutes 29 seconds, 42 minutes 46 seconds, and 3 minutes 2 seconds respectively and on 3 July 2017 for 1 minute 13 seconds) via the hub up until the date of <i>The Mercury</i> article on 22 July 2017.
10 October 2017	Alderman Ruzicka provided a statutory declaration confirming her statements at interview.

Alderman Dr Peter Sexton	
Date:	Action
9 August 2017	Director of Local Government wrote to Alderman Sexton to advise that an investigation was being conducted in relation to the disclosure of information to <i>The Mercury</i> .
1 September 2017	Alderman Sexton replied to a telephone call from investigators advising that he had <ul style="list-style-type: none"> • not read the confidential report in question; • did not attend the briefing • had not discussed the contents with anyone. <p>He further advised that he could not attend an interview but was prepared to provide a statutory declaration answering any questions.</p>
1 September 2017	Investigators received access logs for the Aldermanic hub related to the Tania Parkes Consulting report. These logs showed that Alderman Sexton had not accessed the report via the hub up until the date of <i>The Mercury</i> article on 22 July 2017.
25 September 2017	Alderman Sexton provided a statutory declaration answering the standardised questions.
Alderman Damon Thomas	
Date:	Action
9 August 2017	Director of Local Government wrote to Alderman Thomas to advise that an investigation was being conducted in relation to the disclosure of information to <i>The Mercury</i> .
1 September 2017	Alderman Thomas participated in an interview with the Division in which he stated that: <ul style="list-style-type: none"> • he had not accessed the confidential report; and • he had not provided the report, or information from the report, to any person.
1 September 2017	Investigators received access logs for the Aldermanic hub related to the Tania Parkes Consulting report. These logs showed that Alderman Thomas had not accessed the report via the hub up until the date of <i>The Mercury</i> article on 22 July 2017.
19 November 2017	Alderman Thomas provided a statutory declaration confirming his statements at interview.

Alderman Marti Zucco,	
Date:	Action
9 August 2017	Director of Local Government wrote to Alderman Zucco to advise that an investigation was being conducted in relation to the disclosure of information to <i>The Mercury</i> .
18 August 2017	Alderman Zucco emailed the Director and requested all details of the complaint.
21 August 2017	The Director responded to Alderman Zucco's 18 August 2017 correspondence and offered Alderman Zucco the opportunity to participate in an interview in the week commencing 28 August 2017.
22 August 2017	Alderman Zucco emailed the Director and questioned the confidential nature of the Lord Mayor's memorandum as identified in the Directors 9 August 2017 correspondence. He further requested additional information related to the complaint. It was subsequently deemed that the memorandum in question was not subject to section 338A of the Act. Alderman Zucco did not respond to the request to participate in an interview with LGD staff.
24 August 2017	The Director responded to Alderman Zucco and advised that whilst there was evidence of a breach of the <i>Local Government Act 1993</i> , a respondent was yet to be identified. The email again offered Alderman Zucco the opportunity to participate in an interview in the week commencing 28 August 2017.
25 August 2017	Alderman Zucco emailed the Director and outlined his concerns with the investigation methodology and again requested information regarding the scope of the investigation, and asked whether persons other than Aldermen who had access to the report were part of the investigation.
1 September 2017	Investigators received access logs for the Aldermanic hub related to the Tania Parkes Consulting report. These logs showed that Alderman Zucco had accessed the report on three occasions (on 3 July 2017 for 1 hour and 26 seconds, on 4 July 2017 9 hours 30 minutes and 37 seconds and on 20 July 2017 for 3 hours 43 minutes and 39 seconds) via the hub up until the date of <i>The Mercury</i> article on 22 July 2017.
1 September 2017	The Director wrote to Alderman Zucco again providing an opportunity for him to participate in an interview in relation to the matter and also provided some information regarding the scope of the investigation in response to the 25 August 2017 correspondence, specifically that the Lord Mayor's memorandum had been confirmed as not being a confidential document pursuant to the Act. The Director also confirmed that persons other than Aldermen were part of the investigation.
5 September 2017	Alderman Zucco emailed the Director and again expressed his concern with the scope of the investigation and the fact that the memorandum from the Lord Mayor was not a confidential document as originally advised by the Director. Alderman Zucco also questioned whether a false statutory declaration had been made by a complainant.
19 September 2017	The Director wrote to Alderman Zucco requesting that he provide responses to the standardised questions, and advised that there was no evidence that a false statutory declaration had been made

2 October 2017	Alderman Zucco provided a statutory declaration in response to the 14 standardised questions posed in the 19 September 2017 letter. It was noted that the statutory declaration was declared on 8 September 2017 (prior to the Director's letter). Alderman Zucco did not respond to all the 14 standardised questions. He stated that he 'did not provide the Mercury newspaper a copy of the Tania Parks (sic) report titled "Hobart City Council Communications review" dated 9 th August 2017
24 October 2017	The Director again wrote to Alderman Zucco providing an opportunity to provide responses to the remainder of the standardised questions. No response was received.

13. Overall Findings

- L. Based on the information received, the most likely scenario is that the report was accessed by an Alderman through the Aldermanic Hub (although other sources cannot be discounted) and that information was provided by that person to *The Mercury* as a series of quotes or excerpts from the report in a telephone discussion.
- M. Based on the information gathered, there is insufficient evidence at this time to identify a possible respondent.

14. Recommendations

- (1) That the Council either ends the practice of providing documentation through the Council's 'reading room' or additional controls are put in place as the process is one that compromises, rather than complements, the security processes implemented through the Aldermanic Hub.
- (2) That the Council undertake an assessment to determine the possibility of further restricting the numbers of council staff accessing confidential information.
- (3) That the Council review the possibility of including a function within the Aldermanic Hub to automatically close down documents and log out users after a period of inactivity, and considers the possibility of enabling regular changes to password access for the Hub.

15. Appendix A

Questions posed to Aldermen and staff in interview or for addressing in statutory declaration

1. Please indicate your understanding of a report produced by Tania Parkes Consulting for the Hobart City Council titled '*Hobart City Council – Communication Review*' dated June 2017.
2. Have you received or viewed a copy of this document?
3. When did you view the document?
4. On how many occasions did you view the document?
5. In what format did you view the documents – electronic, via the hub, or in hard copy?
6. Were you present at a Council workshop on 27 June 2017 where the report was discussed in detail by the consultant?
7. What is your understanding of the premise of confidentiality as it pertains to council documentation?
8. Is it your understanding that this document was confidential?
9. Have you provided a copy of the document or an extract from the document or details from the document to any other person?
10. Do you know a person by the name of Simeon Thomas-Wilson?
11. What is your relationship with Mr Thomas-Wilson?
12. Are you aware of the reading room provided at Council for the viewing of hard copy confidential Council documents by Alderman?
13. Have you ever used this room?
14. Please provide any other information that you believe is relevant.

16. Appendix B - Submissions made by Investigation Participants

- 16.1 Six representations were made in response to the dissemination of the draft report in accordance with the procedural fairness processes. The comments made and the responses to those comments are included in the table below:

Submitter	Comment	Response
Sue Hickey MP	A disappointing outcome considering there were two reluctant participants	The investigation was conducted in order to identify offender/s with a view to referring those persons to court. The standard of proof is high and reluctance to participate is not evidence of involvement.
Ms Paula Gudgeon	Acknowledged receipt - NO comments	Nil
Mr Tim Short	Acknowledged receipt - NO comments	Nil
Ald Dr Eva Ruzicka	On page 20 Ald Ruzicka is referred to as Reynolds	Alteration made
Ald Dr Eva Ruzicka	Thanked the Director for the thorough investigation	Nil
Ald Dr Eva Ruzicka	Stated that there has not been a matching of physical to electronic log in accessing the reading room. Indicated that there was potentially the issue of staff allowing access	This was reviewed by the investigation and it was apparent that there were limited records in relation to the physical access logs.

Ald Dr Eva Ruzicka	Questioned the need for the room given that it was put in place for Ald Zucco but he never accessed the room	Noted and included within the recommendations.
Ald Dr Eva Ruzicka	Agrees with the conclusion of the document being leaked by phone	Nil
Ald Dr Eva Ruzicka	Noted the possibility of checking phone logs between the Mercury and Council contacts	This was considered, however there are restrictions upon the reviewing of call charge records and reverse call charge records which limit the use for criminal investigations, enforcement of laws that impose monetary penalties, the protection of public revenue and finding missing persons. The Division considered the option of requesting and reviewing the records of aldermen and relevant staff where issued a Council phone. However, as the records would be incomplete across all persons who had access to the relevant information, it was deemed that it would have biased the investigation.
Ald Dr Eva Ruzicka	Supports the recommendation of having system closing down and timed log outs and further noted that the Council password was universal and was unchanged in some years	Nil
Ald Dr Eva Ruzicka	Recommended that the use of an 'industry standard' password provision that regularly changes password access to confidential documents and development of	Noted and included within the recommendations

	an IT policy that sets the standard across local government.	
Mr Nick Heath	Can clarification be provided that the decision maker referred to in paragraph 2.7 when a decision is made that certain information or a document is confidential in the General Manager, or at least it was in this particular instance.	Alteration made
Mr Nick Heath	The reference to Alderman Reynold on page 20 of the draft report is incorrect and should be Alderman Ruzicka	Alteration made
Ald Marti Zucco	<p>Your [the Director's] failure to provide details of the substance of the complaint</p> <p>Despite my repeated requests, the only particular of the complaint provided to me is its context, as stated in your letter of 9 August 2017:</p> <p>The context of the complaint is that information from the confidential report by Tania Parkes Consulting and from the Lord Mayor's confidential memorandum to Aldermen of 25 July 2017 was provided to The Mercury Newspaper and was subsequently referenced in articles of:</p> <ul style="list-style-type: none"> ■ 'Communications review reveals lack of trust in Council' on 22 July 2017; and 	<p>Director of Local Government provided information related to the complaint on a number of occasions and Ald Zucco was advised that there was no specific respondent in respect to the investigation.</p> <p>All relevant context was provided within the 9 August 2017 letter to Ald Zucco.</p>

	<p>■ 'Hobart City Council tries to plug all the leaking as memo about leaking gets leaked' on 27 July 2017.</p> <p>Since you have not given me the substance of any allegations made against me, I could only assume that there were none. (If it were otherwise I would not have been accorded procedural fairness.) My statutory declaration was based on this assumption.</p>	
	<p>My statutory declaration</p> <p>The investigation properly should only have sought evidence that is relevant to the assessment of the probability of a fact in issue. Following your acknowledgment that the memorandum of 25 July 2017 was not confidential, the sole fact disclosed by you as actually requiring determination was "who provided to the Mercury what was referenced in its article on 22 July 2017".</p> <p>None of the standardised 14 questions posed for addressing in the statutory declaration directly asks the only pertinent (due to the paucity of detail given in respect regarding the complaint) question "did you provide to the Mercury the information for the article?" I have answered that question in my Statutory Declaration of 8 September 2017. To characterise this answer in a manner which suggests that I have been evasive totally misrepresents the position.</p> <p>Those 14 questions posed (apart from no. 9 in part) were either irrelevant or better able to be answered by the General Manager from information within his control.</p>	<p>Minor changes were made to the draft report to ensure that the report did not read so as to suggest that Ald Zucco had been evasive.</p>

<p>Ald Marti Zucco</p>	<p>“Cherry-picking” of my email exchange with you</p> <p>The draft report, in not providing a complete list of our email exchange with a comprehensive and correct summary of each, is prejudicial to me. This lack of candour ought to be remedied</p>	<p>Additional content, previously considered irrelevant to the report, was added in to ensure that Ald Zucco’s complete list of correspondence was noted within the matrix of the report in section 12.</p>
<p>Ald Marti Zucco</p>	<p>In closing I will point out the references you have made as per the Hobart City Council Hub in that “the number of Council staff who had access to the report was unusually and perhaps unnecessarily high, given its confidential nature” has to be of concern in which I will elaborate on.</p> <p>You have highlighted the changes made to the Hub but there is a blatant problem with the system in its current operational formant where Alderman Burnett was reported to have been on the Hub with the relevant document opened for 1 day 22 hours 12 minutes 26 seconds this would be a marathon reading session if it was read continuously for that period. You have also made reference to my sessions of some 1, 3 and 9 hour sessions and I can categorically say that I have never spent that amount of time reading any single report on my time on council.</p>	<p>An additional reference was placed in the report in relation to the length of time that the Hub remained open relative to an individual access and also provided a recommendation that there was a necessity to have an automatic log out function for the Hub access.</p>

	<p>This must indicate that there may be another floor in the Hub system whereby a person is able to “open” a confidential document and it remain “open” if the item has not been “closed down” and the computer etc is also left on. That could only be the explanation as per Alderman Bumett’s near two days of the report remaining open. This also should play a part in your findings. My advice on this would be that “any” item opened should automatically shut down after a period of time or ask the user for an extension of time.</p>	
<p>Ald Marti Zucco</p>	<p>My statutory declaration also made other references which are in my opinion relevant and no mention of.</p>	<p>The statutory declaration was reviewed and no other information relevant to this matter was identified.</p> <p>Ald Zucco's full statutory declaration is as follows:</p> <p>'I did not provide the Mercury Newspaper a copy of the Tania Parks report titled 'Hobart City Council Communications review" dated June 2017 as per the correspondence from the local Director Alex Tay dated 9th August 2017. I further State that there are serious concerns as per the content within that correspondence as “other” complaints being made that are not of a confidential nature but referred to as such in the correspondence and also have concerns in the scope of the investigation and the manner it has been conducted as per other relevant correspondence provided.'</p>