



**PORT STEPHENS**  
C O U N C I L

**SUPPLEMENTARY INFORMATION**

**ORDINARY COUNCIL MEETING**  
**24 OCTOBER 2023**

# INDEX

SUBJECT

PAGE NO

## COUNCIL REPORTS

6. POLICY: PUBLIC INTEREST DISCLOSURE.....3

- Nb. **Bold** Items listed above have not been previously received or viewed by Councillors.

## SUPPLEMENTARY INFORMATION

ITEM NO. 6

FILE NO: 23/276847  
EDRMS NO: PSC2010-00009

### POLICY: PUBLIC INTEREST DISCLOSURE

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER  
DIRECTORATE: GENERAL MANAGER'S OFFICE

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### RECOMMENDATION IS THAT COUNCIL:

- 1) Endorses the new Public Interest Disclosures policy shown at **(ATTACHMENT 1)**.
  - 2) Places the Public Interest Disclosures policy, on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.
  - 3) Revokes the Internal Reporting policy dated 26 July 2022, Minute No. 196 **(ATTACHMENT 2)** should no submissions be received.
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### BACKGROUND

The purpose of this report is to make **(ATTACHMENT 1)** of Item 6 - Public Interest Disclosures policy available to Council.

A copy of the Internal Reporting policy to be revoked has been provided at **(ATTACHMENT 2)** for clarity.

### ISSUES

It was an oversight that **(ATTACHMENT 1)** was not included in the agenda.

### ATTACHMENTS

- 1) Public Interest Disclosures policy. [↓](#)
- 2) Internal Reporting policy. [↓](#)

## Policy



**FILE NO:** PSC2010-00009  
**TITLE:** PUBLIC INTEREST DISCLOSURES  
**OWNER:** GOVERNANCE SECTION MANAGER

### 1. PURPOSE:

- 1.1 The purpose of this policy is to ensure Port Stephens Council (Council) complies with section 42 of the Public Interest Disclosures Act 2022 (PID Act).
- 1.2 Council takes reports of serious wrongdoing seriously. Council is committed to building a 'speak up' culture where public officials are encouraged to report any conduct that they reasonably believe involves wrongdoing.

### 2. CONTEXT/BACKGROUND:

- 2.1 The previous Internal Reporting policy framework under the Public Interest Disclosures Act 1994 is now required to be replaced with this policy with the introduction of the PID Act.
- 2.2 The integrity of Council relies upon our staff, volunteers, contractors and subcontractors speaking up when they become aware of wrongdoing.
- 2.3 This policy sets out:
  - how Council will support and protect you if you come forward with a report of serious wrongdoing
  - how we will deal with the report and our other responsibilities under the PID Act
  - who to contact if you want to make a report
  - how to make a report
  - the protections which are available to you under the PID Act.
- 2.4 This policy also documents our commitment to building a speak up culture. Part of that speak up culture is having in place a framework that facilitates public interest reporting of wrongdoing by:
  - protecting those who speak up from detrimental action
  - imposing duties on agencies who receive reports of wrongdoing to take appropriate action to investigate or otherwise deal with them.

## Policy

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## Policy

2.5 In NSW, that framework is the PID Act.

2.6 This policy should be read in conjunction with a number other relevant policies such as the Code of Conduct, Fraud and Corruption Control policy, Gifts and Benefits policy, Pecuniary Interest Returns policy and the Statement of Business Ethics. These policies, together with this policy are available from Council's website at <https://www.portstephens.nsw.gov.au/council/policies-and-guidelines/policies>. Council employees will also be able to access the policies internally from Myport (the intranet).

### 3. SCOPE:

3.1 The policy applies to, and for the benefit of, all public officials within or engaged by Council. This definition may also extend to those external to Council. You are a public official if you are:

- a person employed in or by an agency or otherwise in the service of an agency
- a person having public official functions or acting in a public official capacity whose conduct or activities an integrity agency is authorised by another Act or law to investigate
- an individual in the service of the Crown
- a statutory officer
- a person providing services or exercising functions on behalf of an agency, including a contractor, subcontractor or volunteer
- an employee, partner or officer of an entity that provides services, under contract, subcontract or other arrangement, on behalf of an agency or exercises functions of an agency, and are involved in providing those services or exercising those functions
- a judicial officer
- a Member of Parliament (**MP**), including a Minister
- a person employed under the Members of Parliament Staff Act 2013.

3.2 The General Manager, other nominated disclosure officers and managers within Council have specific responsibilities under the PID Act. This policy also provides information on how people in these roles will fulfil their responsibilities. Other public officials who work in and for the public sector, but do not work for Council may use this policy if they want information on who they can report wrongdoing to within Council.

3.3 Complaints that does not fall under the scope of the Act, may be considered under other complaint policies found on Council's website, such as the Complaints Handling Policy and the Code of Conduct.

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### 3.4 How to make a report of serious wrongdoing

#### Reports, complaints and grievances

- 3.4.1 When a public official reports suspected or possible wrongdoing in the public sector, their report will be a Public Interest Disclosure (PID) if it has certain features which are set out in the PID Act.
- 3.4.2 Some internal complaints or internal grievances may also be PIDs, as long as they have the features of a PID. If an internal complaint or grievance is a report of serious wrongdoing, we will consider whether it is a PID. If it is a PID, we will deal with it as set out in this policy, but we will also make sure we follow the Code of Conduct.
- 3.4.3 It is important that we quickly recognise that we have received a PID. This is because once a PID is received, the person who has made the report is entitled to certain protections and we have certain decisions that we have to make on how we will deal with the PID and how we will protect and support the person who has made the report.

#### When will a report be a PID?

3.4.5 There are three types of PIDs in the PID Act. These are:

- a) **Voluntary PID:** This is a PID where a report has been made by the public official because they decided, of their own accord, to come forward and disclose what they know.
- b) **Mandatory PID:** This is a PID where the public official has made a report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.
- c) **Witness PID:** This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

3.4.6 This policy mostly relates to making a voluntary PID and how we will deal with voluntary PIDs. People who make a mandatory PID or a witness PID are still entitled to protection. More information about protections is available in clause 3.5 of this policy.

3.4.7 You can find more information about mandatory and witness PIDs in the Ombudsman's guidelines 'Dealing with mandatory PIDs' and 'Dealing with witness PIDs'.

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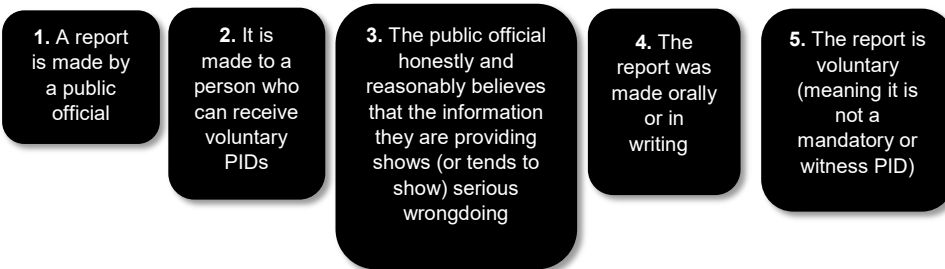


## Policy

3.4.8 Voluntary PIDs are the kind of PIDs most people have in mind when they think about public interest reporting and 'whistleblowing'.

3.4.9 They involve a public official making a report because they have information that they believe shows (or tends to show) serious wrongdoing, where they are not under a legal obligation to make that report and where it is not an ordinary part of their role to report such wrongdoing.

3.4.10 A report is a voluntary PID if it has the following five features, which are set out in sections 24 to 27 of the PID Act:



3.4.11 If the report has all five features, it is a voluntary PID.

3.4.12 You will not be expected to prove that what you reported actually happened or is serious wrongdoing. You do have to honestly believe, on reasonable grounds, that the information you are reporting shows or tends to show serious wrongdoing.

3.4.13 Even though you do not have to prove the serious wrongdoing happened or provide evidence, a mere allegation with no supporting information is unlikely to meet this test.

3.4.14 If we make an error and do not identify that you have made a voluntary PID, you will still be entitled to the protections under the PID Act.

3.4.15 If you make a report and believe we have made an error by not identifying that you have made a voluntary PID, you should raise this with a nominated disclosure officer or your contact officer for the report. If you are still not satisfied with this outcome, you can seek an internal review or we make seek to conciliate the matter. You may also contact the NSW Ombudsman. Further information on rights to internal review and conciliation is found in clause 3.10 of this policy.

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### Who can make a voluntary PID?

3.4.16 Any public official can make a voluntary PID — see clause 3.1 of this policy  
You are a public official if:

- you are employed by Council
- you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of Council, or
- you work for an entity (such as a non-government organisation) who is contracted by Council to provide services or exercise functions on behalf of Council — if you are involved in undertaking that contracted work.

3.4.17 A public official can make a PID about serious wrongdoing relating to any agency, not just the agency they are working for. This means that we may receive PIDs from public officials outside Council. It also means that you can make a PID to any agency, including an integrity agency like the Independent Commission Against Corruption (**ICAC**) and the NSW Ombudsman. Annexure B of this policy has a list of integrity agencies.

### What is serious wrongdoing?

3.4.18 Reports must be of one or more of the following categories of serious wrongdoing to be a voluntary PID (in addition to having the other features set out here). Serious wrongdoing is defined in the PID Act as:

- **corrupt conduct** — such as a public official accepting a bribe
- **serious maladministration** — such as an agency systemically failing to comply with proper recruitment processes when hiring staff
- **a government information contravention** — such as destroying, concealing or altering records to prevent them from being released under a Government Information Public Access application
- **a local government pecuniary interest contravention** — such as a senior council staff member recommending a family member for a council contract and not declaring the relationship
- **a privacy contravention** — such as unlawfully accessing a person's personal information on an agency's database
- **a serious and substantial waste of public money** — such as an agency not following a competitive tendering process when contracting with entities to undertake government work.

3.4.19 When you make your report, you do not need to state to Council what category of serious wrongdoing you are reporting or that you are reporting serious wrongdoing.

### Who can I make a voluntary PID to?

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3.4.20 For a report to be a voluntary PID, it must be made to certain public officials.

### **Making a report to a public official who works for Council.**

3.4.21 You can make a report inside Council to:

- the General Manager
- a disclosure officer for Council — a list of disclosure officers for Council and their contact details can be found at Annexure A of this policy
- your manager this is the person who directly, or indirectly, supervises you. It can also be the person who you directly, or indirectly, report to. You may have more than one manager. Your manager will make sure that the report is communicated to a disclosure officer on your behalf or may accompany you while you make the report to a disclosure officer.

### **Making a report to a recipient outside of Council**

3.4.22 You can also make your report to a public official in another agency (meaning an agency you do not work for) or an integrity agency. These include:

- the **head of another agency** — this means the head of any public service agency
- an **integrity agency** — a list of integrity agencies is located at Annexure B of this policy
- a **disclosure officer for another agency** — ways to contact disclosure officers for other agencies is located in an agency's PID policy which can be found on their public website
- a **Minister or a member of a Minister's staff** but the report must be made in writing.

3.4.23 If you choose to make a disclosure outside of Council, it is possible that your disclosure will be referred back to Council so that appropriate action can be taken.

### **Making a report to a Member of Parliament or journalist**

3.4.24 Disclosures to MPs or journalists are different to other reports. You can only disclose a report of wrongdoing as a voluntary PID to an MP or journalist in the following circumstances:

- You must have first made substantially the same disclosure (described here as a 'previous disclosure') to someone who can receive disclosures.
- The previous disclosure must be substantially true.
- You did not make the previous disclosure anonymously.

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- You did not give a written waiver of your right to receive information relating to your previous disclosure.
- You did not receive the following from Council:
  - notification that Council will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency, or
  - the following information at the end of the investigation period:
    - notice of Council's decision to investigate the serious wrongdoing
    - a description of the results of an investigation into the serious wrongdoing
    - details of proposed or recommended corrective action as a result of the previous disclosure or investigation.

### 3.4.25 Investigation period means:

- after six months from the previous disclosure being made, or
- after 12 months if you applied for an internal review of the Council's decision within six months of making the disclosure.

### 3.4.26 If all the above requirements are met, your disclosure to an MP or journalist may be a voluntary PID.

### What form should a voluntary PID take?

### 3.4.27 You can make a voluntary PID:

- **in writing** — this could be an email or letter to a person who can receive voluntary PIDs.
- **orally** — have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually.
- **anonymously** — write an email or letter or call a person who can receive PIDs to make a report without providing your name or anything that might identify you as the maker of the report. A report will only be considered anonymous if there is no reasonable or practical way of communicating with the person making the report. Even if you choose to remain anonymous, you will still be protected under the PID Act. It may be difficult, however, for Council to investigate the matter(s) you have disclosed if we cannot contact you for further information.
- PIDs can be emailed to [PID@portstephens.nsw.gov.au](mailto:PID@portstephens.nsw.gov.au)

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### What should I include in my report?

3.4.28 You should provide as much information as possible so we can deal with the report effectively. The type of information you should include is:

- date, time and location of key events
- names of person(s) involved in the suspected wrongdoing, their role, title and how they are involved
- your relationship with the person(s) involved, such as whether you work closely with them
- your explanation of the matter you are reporting
- how you became aware of the matter you are reporting
- possible witnesses
- other information you have that supports your report.

### What if I am not sure if my report is a PID?

3.4.29 You should report all wrongdoing you become aware of regardless of whether you think it is serious wrongdoing. It is important for Council to understand what is or may be occurring.

3.4.30 We are then responsible for making sure your report is handled appropriately under the PID Act, or if it is not a PID, in line with our other procedures. Even if your report is not a PID, it may fall within another one of Council's policies for dealing with reports, allegations or complaints.

### Deeming that a report is a voluntary PID

3.4.31 The General Manager and/or the Governance Section Manager can, in certain circumstances, determine that a report is a voluntary PID even if the report does not otherwise have all the features of a voluntary PID. This is known as the 'deeming power'.

3.4.32 By deeming that a report is a voluntary PID, it ensures that reporters are provided with protections under the PID Act.

3.4.33 If you make a report that has not met all the requirements of a voluntary PID, you can refer your matter to the General Manager and/or Governance Section Manager to request that they consider deeming your report to be a voluntary PID.

3.4.34 A decision to deem a report to be a voluntary PID is at the discretion of the General Manager and/or Governance Section Manager. For more information

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about the deeming power, see the Ombudsman's guideline 'Deeming that a disclosure is a voluntary PID'.

### Who can I talk to if I have questions or concerns?

- 3.4.35 All enquiries can be directed to the Governance Section Manager, Legal Services Manager or the Governance Coordinator at Council.
- 3.4.36 Should you visit to raised concerns confidentially, it may be appropriate to contact the Governance Section Manager, Legal Services Manager or the Governance Coordinator to arrange a meeting at a suitable location and time.

### **3.5 Protections**

#### How is the maker of a voluntary PID protected?

- 3.5.1 When you make a voluntary PID you receive special protections under the PID Act.
- 3.5.2 Council is committed to taking all reasonable steps to protect you from detriment as a result of having made a PID. We are also committed to maintaining your confidentiality as much as possible while the PID is being dealt with.
- 3.5.3 We will not tolerate any type of detrimental action being taken against you because you have made a report, might make a report or are believed to have made a report.
- 3.5.4 The maker of a voluntary PID is protected in the following ways:
- i) Protection from detrimental action
    - A person cannot take detrimental action against another person because they have made a voluntary PID or are considering making a PID. Detrimental action includes bullying, harassment, intimidation or dismissal.
    - Once we become aware that a voluntary PID by a person employed or otherwise associated with Council that concerns serious wrongdoing relating to Council has been made, Council will undertake a risk assessment and take steps to mitigate the risk of detrimental action occurring against the person who made the voluntary PID.
    - It is a criminal offence for someone to take detrimental action against a person because they have made or may make a voluntary PID. It is punishable by a maximum penalty of 200 penalty units or imprisonment for five years or both.

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- A person may seek compensation where unlawful detrimental action has been taken against them.
- A person can apply for a court order (injunction) where detrimental action is threatened or has occurred (for example, an order to prevent dismissal or to require reinstatement).

Note that a person who makes a PID can still be subject to reasonable management action (such as ordinary performance reviews and performance management). Provided such action is not taken because of the PID, it is not detrimental action under the PID Act.

### ii) Immunity from civil and criminal liability

Some public officials are often subject to a duty of confidentiality that prevents them disclosing certain information that they obtain or become aware of at work. Sometimes, in order to make a PID, public officials will need to breach or disregard such confidentiality duties. If that happens, a public official cannot be disciplined, sued or criminally charged for breaching confidentiality.

### iii) Confidentiality

Public officials and agencies must not disclose information tending to identify a person as the maker of a voluntary PID unless doing so is permitted by the PID Act.

### iv) Protection from liability for own past conduct

The Attorney General can give the maker an undertaking that a disclosure of their own past conduct will not be used against them if a person discloses their own wrongdoing or misconduct while making a report. This undertaking can only be given on application by an integrity agency to the Attorney General.

### Protections for people who make mandatory and witness PIDs

3.5.5 Apart from PIDs that are made voluntarily by public officials, there are other types of reports that are recognised as PIDs under the PID Act:

- **A mandatory PID:** This is a PID where the public official has made the report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.
- **A witness PID:** This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

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3.5.6 Protections for makers of mandatory and witness PIDs are detailed in the table below.

Protection	Mandatory PID	Witness PID
Detrimental action — It is an offence to take detrimental action against a person based on the suspicion, belief or awareness that a person has made, may have made or may make a PID.	✓	✓
Right to compensation — A person can initiate proceedings and seek compensation for injury, damage or loss suffered as a result of detrimental action being taken against them.	✓	✓
Ability to seek injunction — An injunction can be sought to prevent the commission or possible commission of a detrimental action offence against a person. For example, an order to prevent dismissal or to require reinstatement.	✓	✓
Immunity from civil and criminal liability — a person will not incur civil or criminal liability if the person breaches a duty of confidentiality while making a disclosure. This means that legal action cannot be taken against a person for: <ul style="list-style-type: none"> <li>• breaching a duty of secrecy or confidentiality, or</li> <li>• breaching another restriction on disclosure.</li> </ul>	✓	✓

### 3.6 Reporting detrimental action

3.6.1 If you experience adverse treatment or detrimental action, such as bullying or harassment, you should report this immediately. You can report any experience of adverse treatment or detrimental action directly to Council, or to an integrity agency.

3.6.2 Reports of detrimental action may be reported to the Governance Section Manager, Legal Services Manager or the Governance Coordinator or alternatively through the confidential email address at [pid@portstephens.nsw.gov.au](mailto:pid@portstephens.nsw.gov.au)

3.6.3 A list of integrity agencies is located at Annexure B of this policy.

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### 3.7 General support

- 3.7.1 Council will assign a key contact person to each maker of a PID at the time of lodgement. This person will support you through the process and take steps to protect your interest, specially in relation to the risk of detrimental action.
- 3.7.2 PID makers may also contact the Employee Assistance Program provider NewPsych by telephone 02 4926 5005 or <https://www.newpsych.com.au/eap-counselling>
- 3.7.3 Alternatively, you can contact the NSW Ombudsman should you have any questions about the PID Act and reporting generally. The NSW Ombudsman can be contacted at <https://www.ombo.nsw.gov.au/>

### 3.8 Roles and responsibilities of Council employees

#### 3.8.1 General Manager

- a) The General Manager is responsible for:
- fostering a workplace culture where reporting is encouraged
  - receiving disclosures from public officials
  - ensuring there is a system in place for assessing disclosures
  - ensuring the Council complies with this policy and the PID Act
  - ensuring that the Council has appropriate systems for:
    - overseeing internal compliance with the PID Act
    - supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action
    - implementing corrective action if serious wrongdoing is found to have occurred
    - complying with reporting obligations regarding allegations or findings of detrimental action
    - complying with yearly reporting obligations to the NSW Ombudsman.
- b) Disclosure coordinator

The Disclosures Coordinator has a central role in the Council's internal reporting system. The Disclosures Coordinator can receive and assess reports, and is the primary point of contact in the Council for the reporter.

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The Disclosures Coordinator has a responsibility to:

- assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the General Manager)
- deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures
- coordinate the Council's response to a report
- acknowledge reports and provide updates and feedback to the maker
- assess whether it is possible and appropriate to keep the maker's identity confidential
- assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified
- where required, provide or coordinate support to staff involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report
- ensure the Council complies with the PID Act
- assist the General Manager with yearly reporting obligations to the NSW Ombudsman.

c) Disclosure officers

Disclosure officers are responsible for:

- receiving reports from public officials
- receiving reports when they are passed on to them by managers
- ensuring reports are dealt with appropriately, including by referring the matter to the Disclosure Coordinator
- ensuring that any oral reports that have been received are recorded in writing.

d) Managers

The responsibilities of managers include:

- receiving reports from persons that report to them or that they supervise
- passing on reports they receive to a disclosure officer or the disclosure coordinator.

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e) All employees

All employees must:

- report suspected serious wrongdoing or other misconduct
- use their best endeavours to assist in an investigation of serious wrongdoing if asked to do so by a person dealing with a voluntary PID on behalf of Council
- treat any person dealing with or investigating reports of serious wrongdoing with respect.

All employees must not take detrimental action against any person who has made, may in the future make, or is suspected of having made, a PID.

### 3.9 How Council will deal with voluntary PIDs

How Council will acknowledge that we have received a report and keep the person who made it informed

3.9.1 When a disclosure officer in Council receives a report which is a voluntary PID, or looks like it may be a voluntary PID, they must ensure the PID is provided to the Disclosure Coordinator to ensure the person who made the report will receive the following information:

- i) You will receive an acknowledgment that the report has been received. This acknowledgement will:
  - a) state that the report will be assessed to identify whether it is a PID
  - b) state that the PID Act applies to how Council deals with the report
  - c) provide clear information on how you can access this PID policy
  - d) provide you with details of a contact person and available supports.
- ii) If the report is a voluntary PID, we will inform you as soon as possible how we intend to deal with the report. This may include:
  - a) that we are investigating the serious wrongdoing
  - b) that we will refer the report to a different agency (if appropriate) to deal with the voluntary PID. If we do this, we will provide you with details of this referral
  - c) If we decide to not investigate the report and to not refer it to another agency for it to be investigated, we will tell you the reasons for this decision. We will also notify the NSW Ombudsman of this decision.
- iii) If we decide to investigate the serious wrongdoing, we will provide you with updates on the investigation at least every three months. During this time, if you would like more frequent updates, you should contact the contact person who was nominated when you made the report.

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- a) If we investigate the serious wrongdoing, we will provide you with the following information once the investigation is complete:
  - a description of the results of the investigation — that is, we will tell you whether we found that serious wrongdoing took place.
  - information about any corrective action as a result of the investigation/s — this means we will tell you what action we took in relation to the person who engaged in the serious wrongdoing or if the serious wrongdoing was by Council, what we have put in place to address that serious wrongdoing.
- b) Corrective action could include taking disciplinary action against someone or changing the practices, policies and procedures that we have in place which led to the serious wrongdoing.
- iv) There may be some details about both the findings made as a result of the investigation and the corrective action taken that cannot be revealed to you. We will always balance the right of a person who makes a report to know the outcome of that report, with other legal obligations we have.
- v) If you have made an anonymous report, in many cases we may not be able to provide this information to you.

### How Council will deal with voluntary PIDs

3.9.2 Once a report that may be a voluntary PID is received Council will look at the information contained in the report to see if it has the features of a voluntary PID. This assessment is undertaken to identify whether the report is a voluntary PID or another type of disclosure, and to make sure that the right steps are followed. If it is a voluntary PID, we will ensure that we comply with the requirements in the PID Act.

3.9.3 The report will be referred to the Disclosure Coordinator for assessment and the ongoing management of the report.

3.9.4 The maker of the PID may contact the Disclosure Coordinator at any time to make enquiries.

### Report not a voluntary PID

3.9.5 Even if the report is not a voluntary PID, it will still need to be dealt with in a manner consistent with Council's Code of Conduct or Complaints Handling Policy processes by the Governance Section.

3.9.6 If the report is not a voluntary PID, we will let you know that the PID Act does not apply to the report and how we will deal with the concerns raised in the report.

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3.9.7 If you are not happy with this assessment or otherwise disagree with it, you can raise it with the person who has communicated the outcome with you or a disclosure officer, request an internal review or request that the matter be conciliated. Council can, but do not have to, request the NSW Ombudsman to conciliate the matter.

### Cease dealing with report as voluntary PID

3.9.8 Council may stop dealing with a voluntary PID because it is not actually a voluntary PID (meaning it does not have all the features of a PID).

3.9.9 Where Council ceases to deal with a PID the maker of the PID will be advised in writing and reasons will be provided as to why Council has ceased to deal with the PID.

### Where a report is a voluntary PID

3.9.10 If the report is a voluntary PID:

- i) In most cases we will conduct an investigation to make findings about whether the serious wrongdoing disclosed in the report occurred, who was involved, who was responsible, and whether the people involved, or the Council engaged, in serious wrongdoing. There may be circumstances where we believe an investigation is not warranted — for example, if the conduct has previously been investigated.
- ii) There may also be circumstances where we decide that the report should be referred to another agency, such as an integrity agency. For example, reports concerning possible corrupt conduct may be required to be reported to the ICAC in accordance with section 11 of the Independent Commission Against Corruption Act 1988.
- iii) Before referring a matter, we will discuss the referral with the other agency, and we will provide you with details of the referral and a contact person within the other agency.
- iv) If we decide not to investigate a report and to not refer the matter to another agency, we must let you know the reasons for this and notify the NSW Ombudsman.
- v) There may be occasions where Council will engage an external investigator to conduct the investigation. Where will occurs you will be notified and provided with a support person within Council to support you through the process.

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### How Council will protect the confidentiality of the maker of a voluntary PID

3.9.11 Council understand that people who make voluntary PIDs may want their identity and the fact that they have made a report to be confidential.

3.9.12 Under the PID Act, information tending to identify a person as the maker of a voluntary PID (known as identifying information) is not to be disclosed by a public official or an agency.

3.9.13 There are certain circumstances under the PID Act that allow for the disclosure of identifying information. These include:

- i) where the person consents in writing to the disclosure
- ii) where it is generally known that the person is the maker of the voluntary PID because of their voluntary self-identification as the maker
- iii) when the public official or Council reasonably considers it necessary to disclose the information to protect a person from detriment
- iv) where it is necessary the information be disclosed to a person whose interests are affected by the disclosure
- v) where the information has previously been lawfully published
- vi) when the information is disclosed to a medical practitioner or psychologist for the purposes of providing medical or psychiatric care, treatment or counselling to the individual disclosing the information
- vii) when the information is disclosed for the purposes of proceedings before a court or tribunal
- viii) when the disclosure of the information is necessary to deal with the disclosure effectively
- ix) if it is otherwise in the public interest to disclose the identifying information.

3.9.14 Council will not disclose identifying information unless it is necessary and authorised under the PID Act.

3.9.15 Council will put in place steps to keep the identifying information of the maker and the fact that a report has been made confidential. It may not be possible for Council to maintain complete confidentiality while we progress the investigation, but we will do all that we practically can to not unnecessarily disclose information from which the maker of the report can be identified. We will do this by:

- i) We will limit the number of people who are aware of the maker's identity or information that could identify them
- ii) If we must disclose information that may identify the maker of the PID, we will still not disclose the actual identity of the maker of the PID, unless we have their consent to do so

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- iii) We will ensure that any person who does know the identity of the maker of a PID is reminded that they have a legal obligation to keep their identity confidential
- iv) We will ensure that only authorised persons have access to emails, files or other documentation that contain information about the identity of the maker
- v) We will undertake an assessment to determine if anyone is aware of the maker's identity and if those persons have a motive to cause detrimental action to be taken against the maker or impede the progress of the investigation
- vi) We will provide information to the maker of the PID about the importance of maintaining confidentiality and advising them how best to protect their identity, for example, by telling them not to discuss their report with other staff, family or friends.

3.9.16 If confidentiality cannot be maintained or is unlikely to be maintained, Council will:

- i) advising the person whose identity may become known
- ii) updating the Council's risk assessment
- iii) implementing strategies to minimise the risk of detrimental action
- iv) providing additional supports to the person who has made the PID
- v) reminding persons who become aware of the identifying information of the consequences for failing to maintain confidentiality and that engaging in detrimental action is a criminal offence and may also be a disciplinary matter.

### How Council will assess and minimise the risk of detrimental action

3.9.17 Council will not tolerate any detrimental action being taken by any person against a person who has made a PID, investigators, witnesses or the person the report is about.

3.9.18 Council will assess and take steps to mitigate detrimental action from being taken against the maker of a voluntary PID, the person whose conduct is the subject of a PID, investigators and witnesses.

3.9.19 Council will take steps to assess and minimise the risk of detrimental action by:

- i) explaining that a risk assessment will be undertaken (including reassessing the risk throughout the entirety of the matter)
- ii) providing details of the unit/role that will be responsible for undertaking a risk assessment
- iii) explaining the approvals for risk assessment, that is, role of the person who has final approval
- iv) explaining how the Council will communicate with the maker to identify risks

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- v) listing the protections that will be offered, that is, the Council will discuss protection options with the maker which may including remote working or approved leave for the duration of the investigation
- vi) outlining what supports will be provided.

3.9.20 Detrimental action against a person is an act or omission that causes, comprises, involves or encourages detriment to a person or a threat of detriment to a person (whether express or implied). Detriment to a person includes:

- i) injury, damage or loss
- ii) property damage
- iii) reputational damage
- iv) intimidation, bullying or harassment
- v) unfavourable treatment in relation to another person's job
- vi) discrimination, prejudice or adverse treatment
- vii) disciplinary proceedings or disciplinary action, or
- viii) any other type of disadvantage.

3.9.21 Detrimental action does not include:

- i) lawful action taken by a person or body to investigate serious wrongdoing or other misconduct
- ii) the lawful reporting or publication of a finding of serious wrongdoing or other misconduct
- iii) the lawful making of adverse comment, resulting from investigative action
- iv) the prosecution of a person for a criminal offence
- v) reasonable management action taken by someone in relation to a person who made or may make a PID. For example, a reasonable appraisal of a PID maker's work performance.

### How Council will deal with allegations of a detrimental action offence

3.9.22 If Council become(s) aware of an allegation that a detrimental action offence has occurred or may occur, Council will:

- i) take all steps possible to stop the action and protect the person(s)
- ii) take appropriate disciplinary action against anyone that has taken detrimental action
- iii) refer any evidence of a detrimental action offence to the Commissioner of Police and the ICAC or the Law Enforcement Conduct Commission (whichever is applicable)
- iv) notify the NSW Ombudsman about the allegation of a detrimental action offence being committed
- v) all referrals for alleged detrimental action offences will be undertaken by the General Manager and/or the Disclosure Coordinator

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- vi) the person subject of the detrimental action may contact the Disclosure Coordinator at any time concerns detrimental action/s.

### What Council will do if an investigation finds that serious wrongdoing has occurred

3.9.23 If, after an investigation, it is found that serious wrongdoing or other misconduct has occurred, Council will take the most appropriate action to address that wrongdoing or misconduct. This is also known as corrective action.

3.9.24 Corrective action can include:

- i) a formal apology
- ii) improving internal policies to adequately prevent and respond to similar instances of wrongdoing
- iii) providing additional education and training to staff where required
- iv) taking employment action against persons involved in the wrongdoing (such as termination of employment, relocation, a caution or reprimand)
- v) payment of compensation to people who have been affected by serious wrongdoing or other misconduct.

3.9.25 The procedure for taking corrective action will include:

- i) Only relevant manager/s will receive information about the findings of the investigation to assist with the implementation of any changes in process or policy. This may vary depending on the complexity of the investigation, however the sharing of information will be kept to a minimum.
- ii) The Disclosure Coordinator will liaise with the relevant areas of Council to ensure the corrective actions are implemented.
- iii) The Disclosure Coordinator will be responsible for notifying the maker of the corrective action/s.

### **3.10 Review and dispute resolution**

#### Internal review

3.10.1 People who make voluntary PIDs can seek internal review of the following decisions made by Council:

- i) that Council is not required to deal with the report as a voluntary PID
- ii) to stop dealing with the report because Council decided it was not a voluntary PID
- iii) to not investigate the serious wrongdoing and not refer the report to another agency

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- iv) to cease investigating the serious wrongdoing without either completing the investigation or referring the report to another agency for investigation.
- 3.10.2 Council will ensure internal reviews are conducted in compliance with the PID Act.
- 3.10.3 If you would like to make an application for an internal review, you must apply in writing within 28 days of being informed of Council's decision. The application should state the reasons why you consider Council's decision should not have been made. You may also submit any other relevant material with your application.
- 3.10.4 Applications for an internal review can be confidentially emailed to [pid@portstephens.nsw.gov.au](mailto:pid@portstephens.nsw.gov.au)
- 3.10.5 An internal review will be conducted by a delegate appointed by the General Manager, a person not involved in the initial decision.
- 3.10.6 An internal review will be completed within 28 business days. If this not be possible Council will contact the applicant.

### Voluntary dispute resolution

- 3.10.7 If a dispute arises between Council and a person who has made a report which is, or may be, a voluntary PID, we may request the NSW Ombudsman to conciliate the dispute. Conciliation is a voluntary process and will only be suitable for disputes where Council and the maker of the report are willing to resolve the dispute.

### **3.11 Other obligations**

#### Record-keeping requirements

- 3.11.1 Council must keep full and accurate records with respect to all information received in connection with the PID Act. This ensures that Council complies with its obligations under the State Records Act 1998.
- 3.11.2 Council records are stored in the Electronic Document Records Management System (EDRMS). Each PID will be allocated a separate file and appropriate security levels will be put in place to ensure confidentiality.

#### Reporting of voluntary PIDs and Council annual return to the Ombudsman

- 3.11.3 Each year Council provide an annual return to the NSW Ombudsman which includes:

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- information about voluntary PIDs received by Council during each return period (yearly with the start date being 1 July)
- action taken by Council to deal with voluntary PIDs during the return period
- how Council promoted a culture in the workplace where PIDs are encouraged.
- the Governance Section Manager will be responsible for ensuring the information mentioned above is collected, submitting the annual return and capturing the information within the EDRMS.

### How Council will ensure compliance with the PID Act and this policy

3.11.4 Council will monitor the compliance of the PID Act and this policy through the internal audit program, the Governance Section, and reports to the Audit, Risk and Improvement Committee.

3.11.5 Council will seek to correct any non-compliance as soon as reasonable practicable to ensure non-compliance is not repeated.

#### **4. DEFINITIONS:**

4.1 An outline of the key definitions of terms included in the policy.

Council	means Port Stephens Council
EDRMS	means Electronic Document Records Management System
ICAC	means Independent Commission Against Corruption
PID	means Public Interest Disclosure
PID Act	means Public Interest Disclosure Act

#### **5. STATEMENT:**

5.1 Port Stephens Council is committed to ensuring that disclosures of corruption, maladministration or serious and substantial waste are dealt with in an appropriate way; maintaining confidentiality and providing support for all parties. Council encourages individuals to come forward with any matter that they become aware where wrongdoing may have occurred.

#### **6. RESPONSIBILITIES:**

6.1 The Mayor and General Manager are responsible for implementing and complying with on the policy.

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- 6.2 The Governance Section Manager is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.
- 6.3 Disclosure officers are responsible for complying with and providing advice on the policy.
- 6.4 Supervisors and managers are responsible for implementing, complying with, and providing advice on the policy.
- 6.5 Any error or issue found in the policy should be referred to the Governance Section Manager at Council.

### 7. RELATED DOCUMENTS:

- 7.1 Port Stephens Council Code of Conduct
- 7.2 Local Government Act 1993
- 7.3 Public Interest Disclosures Act 2022
- 7.4 Government Information (Public Access) Act 2009
- 7.5 Independent Commission Against Corruption Act 1988

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**Annexure A** — Names and worksites of disclosure officers for Council. Please refer to the MyPort for contact details.

Position	Work site	Contact
General Manager	<ul style="list-style-type: none"> <li>Administration Building</li> </ul>	02 4988 0246
Governance Section Manager (Disclosure Coordinator)	<ul style="list-style-type: none"> <li>Administration Building</li> </ul>	02 4988 0187 <a href="mailto:pid@portstephens.nsw.gov.au">pid@portstephens.nsw.gov.au</a>
Mayor	<ul style="list-style-type: none"> <li>Administration Building</li> </ul>	02 4988 0245
Director Corporate Strategy and Support	<ul style="list-style-type: none"> <li>Administration Building</li> <li>Soldiers Point Holiday Park</li> <li>Shoal Bay Holiday Park</li> <li>Thou Walla Sunset Retreat</li> <li>Port Stephens Koala Sanctuary</li> </ul>	02 4988 0255
Director Community Futures	<ul style="list-style-type: none"> <li>Administration Building</li> <li>Visitor Information Centre</li> </ul>	02 4988 0255
Director Facilities and Infrastructure	<ul style="list-style-type: none"> <li>Administration Building</li> <li>Raymond Terrace Depot</li> <li>Nelson Bay Depot</li> <li>Medowie Depot</li> <li>Port Stephens Children's Services</li> <li>OOSH Raymond Terrace</li> <li>OOSH Clarence Town</li> <li>OOSH Seaham</li> <li>OOSH Grahamstown</li> <li>OOSH Boomerang Park</li> <li>OOSH Fern Bay</li> <li>OOSH Tomaree</li> <li>OOSH Shoal Bay</li> <li>OOSH Medowie</li> <li>OOSH Wirreanda</li> <li>Family Day Centre</li> </ul>	02 4988 0255
Assets Section Manager	<ul style="list-style-type: none"> <li>Administration Building</li> <li>Raymond Terrace Depot</li> <li>Nelson Bay Depot</li> </ul>	02 4988 0255

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Capital Works Section Manager	<ul style="list-style-type: none"> <li>• Medowie Depot</li> <li>• Administration Building</li> <li>• Raymond Terrace Depot</li> <li>• Nelson Bay Depot</li> <li>• Medowie Depot</li> </ul>	024988 0255
Communications and Customer Experience Section Manager	<ul style="list-style-type: none"> <li>• Administration Building</li> <li>• Visitor Information Centre</li> </ul>	02 4988 0255
Community Services Section Manager	<ul style="list-style-type: none"> <li>• Administration Building</li> <li>• Salamander Waste Transfer Station</li> <li>• Raymond Terrace Library</li> <li>• Tomaree Library and Community Centre</li> <li>• Port Stephens Children's Services</li> <li>• OOSH Raymond Terrace</li> <li>• OOSH Clarence Town</li> <li>• OOSH Seaham</li> <li>• OOSH Grahamstown</li> <li>• OOSH Boomerang Park</li> <li>• OOSH Fern Bay</li> <li>• OOSH Tomaree</li> <li>• OOSH Shoal Bay</li> <li>• OOSH Medowie</li> <li>• OOSH Wirreanda</li> <li>• Family Day Centre</li> </ul>	02 4988 0255
Development and Compliance Section Manager	<ul style="list-style-type: none"> <li>• Administration Building</li> </ul>	02 4988 0255
Financial Services Section Manager	<ul style="list-style-type: none"> <li>• Administration Building</li> </ul>	02 4988 0255
Holiday Parks Section Manager	<ul style="list-style-type: none"> <li>• Halifax Holiday Park</li> <li>• Soldiers Point Holiday Park</li> <li>• Shoal Bay Holiday Park</li> <li>• Thou Walla Sunset Retreat</li> <li>• Port Stephens Koala Sanctuary</li> </ul>	02 4988 0255

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Organisation Support Section Manager	<ul style="list-style-type: none"> <li>Administration Building</li> </ul>	02 4988 0255
Public Domain and Services Section Manager	<ul style="list-style-type: none"> <li>Administration Building</li> <li>Raymond Terrace Depot</li> <li>Nelson Bay Depot</li> <li>Medowie Depot</li> </ul>	02 4988 0255
Strategy and Environment Section Manager	<ul style="list-style-type: none"> <li>Administration Building</li> </ul>	02 4988 0255
Legal Services Manager	<ul style="list-style-type: none"> <li>Administration Building</li> </ul>	02 4988 0255
Governance Coordinator	<ul style="list-style-type: none"> <li>Administration Building</li> </ul>	02 4988 0255
Enterprise Risk Manager	<ul style="list-style-type: none"> <li>Administration Building</li> </ul>	02 4988 0255
HR Manager	<ul style="list-style-type: none"> <li>Administration Building</li> </ul>	02 4988 0255
Mechanical Maintenance & Cleaning Coordinator	<ul style="list-style-type: none"> <li>Raymond Terrace Depot</li> </ul>	02 4988 0255
Mechanical Maintenance & Cleaning Coordinator	<ul style="list-style-type: none"> <li>Nelson Bay Depot</li> </ul>	02 4988 0255
Library Services Manager	<ul style="list-style-type: none"> <li>Raymond Terrace Library</li> <li>Tomaree Library and Community Centre</li> </ul>	02 4988 0255
Waste Management Coordinator	<ul style="list-style-type: none"> <li>Salamander Waste Transfer Station</li> </ul>	02 4988 0255
Children Services Coordinator	<ul style="list-style-type: none"> <li>Port Stephens Children's Services</li> <li>OOSH Raymond Terrace</li> <li>OOSH Clarence Town</li> <li>OOSH Seaham</li> <li>OOSH Grahamstown</li> <li>OOSH Boomerang Park</li> <li>OOSH Fern Bay</li> <li>OOSH Tomaree</li> <li>OOSH Shoal Bay</li> <li>OOSH Medowie</li> <li>OOSH Wirreanda</li> <li>Family Day Centre</li> </ul>	02 4988 0255
Holiday Parks Operations Manager	<ul style="list-style-type: none"> <li>Halifax Holiday Park</li> </ul>	02 4988 0255

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	<ul style="list-style-type: none"><li>• Soldiers Point Holiday Park</li><li>• Shoal Bay Holiday Park</li><li>• Thou Walla Sunset Retreat</li><li>• Port Stephens Koala Sanctuary</li></ul>	
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### Annexure B — List of integrity agencies

Integrity agency	What they investigate	Contact information
<b>The NSW Ombudsman</b>	Most kinds of <b>serious maladministration</b> by most agencies and public officials (but not NSW Police, judicial officers or MPs)	<b>Telephone:</b> 1800 451 524 between 9am to 3pm Monday to Friday <b>Writing:</b> Level 24, 580 George Street, Sydney NSW 2000 <b>Email:</b> <a href="mailto:info@ombo.nsw.gov.au">info@ombo.nsw.gov.au</a>
<b>The Auditor-General</b>	<b>Serious and substantial waste of public money</b> by auditable agencies	<b>Telephone:</b> 02 9275 7100 <b>Writing:</b> GPO Box 12, Sydney NSW 2001 <b>Email:</b> <a href="mailto:governance@audit.nsw.gov.au">governance@audit.nsw.gov.au</a>
<b>Independent Commission Against Corruption</b>	<b>Corrupt conduct</b>	<b>Telephone:</b> 02 8281 5999 or toll free on 1800 463 909 (callers outside Sydney) between 9am and 3pm, Monday to Friday <b>Writing:</b> GPO Box 500, Sydney NSW 2001 or faxing 02 9264 5364 <b>Email:</b> <a href="mailto:icac@icac.nsw.gov.au">icac@icac.nsw.gov.au</a>
<b>The Inspector of the Independent Commission Against Corruption</b>	<b>Serious maladministration</b> by the ICAC or the ICAC officers	<b>Telephone:</b> 02 9228 3023 <b>Writing:</b> PO Box 5341, Sydney NSW 2001 <b>Email:</b> <a href="mailto:oiicac_executive@oiicac.nsw.gov.au">oiicac_executive@oiicac.nsw.gov.au</a>
<b>The Law Enforcement Conduct Commission</b>	<b>Serious maladministration</b> by the NSW Police Force or the NSW Crime Commission	<b>Telephone:</b> 02 9321 6700 or 1800 657 079 <b>Writing:</b> GPO Box 3880, Sydney NSW 2001 <b>Email:</b> <a href="mailto:contactus@lecc.nsw.gov.au">contactus@lecc.nsw.gov.au</a>
<b>The Inspector of the Law Enforcement Conduct Commission</b>	<b>Serious maladministration</b> by the LECC and LECC officers	<b>Telephone:</b> 02 9228 3023 <b>Writing:</b> GPO Box 5341, Sydney NSW 2001 <b>Email:</b> <a href="mailto:oilecc_executive@oilecc.nsw.gov.au">oilecc_executive@oilecc.nsw.gov.au</a>

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<b>Office of the Local Government</b>	<b>Local government pecuniary interest contraventions</b>	<b>Email:</b> <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a>
<b>The Privacy Commissioner</b>	<b>Privacy contraventions</b>	<b>Telephone:</b> 1800 472 679 <b>Writing:</b> GPO Box 7011, Sydney NSW 2001 <b>Email:</b> <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>
<b>The Information Commissioner</b>	<b>Government information contraventions</b>	<b>Telephone:</b> 1800 472 679 <b>Writing:</b> GPO Box 7011, Sydney NSW 2001 <b>Email:</b> <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>

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<b>EDRMS container No.</b>	PSC2010-00009	<b>EDRMS record No.</b>	TBC
<b>Audience</b>	Elected members, Council employees, Council contractors, volunteers		
<b>Process owner</b>	Governance Section Manager		
<b>Author</b>	Governance Section Manager		
<b>Review timeframe</b>	3 years	<b>Next review date</b>	30 October 2026
<b>Adoption date</b>	TBC		

### VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0		Governance Section Manager	New policy in accordance with the Public Disclosure Act 2022 and the NSW Ombudsman's model policy.	

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## Policy



**FILE NO:** PSC2010-00009

**TITLE:** INTERNAL REPORTING

**OWNER:** GOVERNANCE SECTION MANAGER

### 1. PURPOSE:

- 1.1 The purpose of the Internal Reporting Policy (the 'policy') is to establish an internal reporting system for staff and Councillors to report wrongdoing without fear of reprisal. The policy sets out who you can report wrongdoing to in Port Stephens Council (Council), what can be reported and how reports of wrongdoing will be dealt with by Port Stephens Council.
- 1.2 This policy is designed to complement normal communication channels between supervisors and staff. Staff are encouraged to raise matters of concern at any time with their supervisors, but also have the option of making a report about a public interest issue in accordance with this policy and the Public Interest Disclosures Act 1994 (PID Act).
- 1.3 This policy is just one in the suite of Port Stephens Council's complaint handling policies.
- 1.4 The internal reporting system established under this policy is not intended to be used for staff grievances, which should be raised through the staff grievance process. If a staff member makes a report under this policy which is substantially a grievance, the matter will be referred to Human Resources to be dealt with in accordance with the staff grievance process.

### 2. CONTEXT/BACKGROUND:

- 2.1 The PID Act requires Council to establish an internal reporting system. This system allows for the reporting of disclosures of corrupt conduct, maladministration or serious and substantial waste of public money. The Act commenced operation on 1 March 1995.
- 2.2 A review of the Protected Disclosures Act 1994, in 2010 amended the title of the Act to the Public Interest Disclosures Act 1994.

### 3. SCOPE:

- 3.1 Who does this policy apply to?
  - 3.1.1 This policy will apply to:

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- a) Mayor and Councillors
- b) permanent employees, whether full-time or part-time, temporary or casual employees
- c) consultants
- d) individual contractors and their employees working for Port Stephens Council
- e) other people who perform council official functions whose conduct and activities could be investigated by an investigating authority, including volunteers.

3.1.2 The policy also applies to public officials of another council or public authority who report wrongdoing relating to Port Stephens Council.

3.2 Roles and responsibilities

A. The role of council staff and Councillors

3.2.1 Staff, and Councillors play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All council staff and Councillors are obliged to:

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

3.2.2 Staff and Councillors must not:

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

3.2.3 Additionally, the behaviour of all Council staff and Councillors involved in the internal reporting process must adhere to Council's Code of Conduct. A breach of the Code could result in disciplinary action.

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### B. The role of Port Stephens Council

- 3.2.4 Council has a responsibility to establish and maintain a working environment that encourages staff and Councillors to report wrongdoing and supports them when they do. This includes keeping the identity of reporters confidential where practical and appropriate, and taking steps to protect reporters from reprisal and manage workplace conflict.
- 3.2.5 Council will assess all reports of wrongdoing it receives from staff and Councillors and deal with them appropriately. Once wrongdoing has been reported, Council takes 'ownership' of the matter. This means it is up to Council to decide whether a report should be investigated, and if so, how it should be investigated and by whom. Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person the subject of a report.
- 3.2.6 Council must report on our obligations under the PID Act and statistical information about public interest disclosures in our annual report and to the NSW Ombudsman every 6 months.
- 3.2.7 To ensure Council complies with the PID Act and deals with all reports of wrongdoing properly, all staff and Councillors with roles outlined below and elsewhere in this policy will receive training on their responsibilities.

### C. Roles of key positions

#### General Manager

- 3.2.8 The General Manager has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring the Council complies with the PID Act. The General Manager can receive reports from staff and Councillors and has a responsibility to:
- assess reports received by or referred to them, to determine whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with
  - deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures
  - ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
  - make decisions following any investigation or appoint an appropriate decision-maker
  - take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified

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- f) refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC)
- g) refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

### Disclosures Coordinator

3.2.9 The Disclosures Coordinator has a central role in the Council's internal reporting system. The Disclosures Coordinator can receive and assess reports, and is the primary point of contact in the Council for the reporter. The Disclosures Coordinator has a responsibility to:

- a) assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the General Manager)
- b) deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures
- c) coordinate the Council's response to a report
- d) acknowledge reports and provide updates and feedback to the reporter
- e) assess whether it is possible and appropriate to keep the reporter's identity confidential
- f) assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified
- g) where required, provide or coordinate support to staff involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report
- h) ensure the Council complies with the PID Act
- i) provide 6 monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

### Disclosures officers

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

3.2.11 Disclosures officers have a responsibility to:

- a) document in writing any reports received verbally, and have the document signed and dated by the reporter
- b) make arrangements to ensure reporters can make reports privately and discreetly when requested, if necessary away from the workplace
- c) discuss with the reporter any concerns they may have about reprisal or workplace conflict

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- d) carry out preliminary assessment and forward reports to the Disclosures Coordinator or General Manager for full assessment.

### Mayor

- 3.2.12 The Mayor can receive reports from staff and Councillors about the General Manager. Where the Mayor receives such reports, the Mayor has a responsibility to:
  - a) assess the reports to determine whether or not they should be treated as a public interest disclosure, and to decide how they will be dealt with
  - b) deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures
  - c) refer reports to an investigating authority, where appropriate
  - d) liaise with the Disclosures Coordinator to ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
  - e) refer actual or suspected corrupt conduct to the ICAC
  - f) refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

### Supervisors and managers

- 3.2.13 Supervisors and managers play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Supervisors and managers are responsible for:
  - a) encouraging staff to report known or suspected wrongdoing within the organisation and support staff when they do
  - b) identify reports made to them in the course of their work which could be public interest disclosures, and assist the staff member to make the report to an officer authorised to receive public interest disclosures under this policy
  - c) implement local management strategies, in consultation with the Disclosures Coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report
  - d) notify the Disclosures Coordinator or General Manager immediately if they believe a staff member is being subjected to reprisal as a result of reporting wrongdoing, or in the case of suspected reprisal by the General Manager, notify the Mayor.
- 3.3 What should be reported?
  - 3.3.1 You should report any suspected wrongdoing within Council, or any activities or incidents you see within Council that you believe are wrong.

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- 3.3.2 Reports about 5 categories of serious misconduct – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the Government Information (Public Access) Act 2009 (GIPA Act), and local government pecuniary interest contravention – which otherwise meet the criteria of a public interest disclosure, will be dealt with under the PID Act and according to this policy. See below for details about these types of conduct. More information about what can be reported under the PID Act can be found in the NSW Ombudsman’s ‘Guideline B2: What should be reported?’
- 3.2.3 All other wrongdoing or suspected wrongdoing should be reported to a supervisor, to be dealt with in line with the Code of Conduct.
- 3.2.4 Even if these reports are not dealt with as public interest disclosures, Council recognises such reports may raise important issues. We will respond to all reports and make every attempt to protect the staff member making the report from reprisal.
- A. Corrupt conduct
- 3.3.5 Corrupt conduct is the dishonest or partial exercise of official functions by a public official.
- 3.3.6 For example, this could include:
- a) the improper use of knowledge, power or position for personal gain or the advantage of others
  - b) acting dishonestly or unfairly, or breaching public trust
  - c) a council official being influenced by a member of public to use their position in a way that is dishonest, biased or breaches public trust.
- B. Maladministration
- 3.3.7 Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.
- 3.3.8 For example, this could include:
- a) making a decision and/or taking action that is unlawful
  - b) refusing to grant an approval for reasons that are not related to the merits of their application.

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C. Serious and substantial waste of public money

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

3.3.10 For example, this could include:

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

D. Breach of the GIPA Act

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

3.3.12 For example, this could include:

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

E. Local government pecuniary interest contravention

3.3.13 A local government pecuniary interest contravention is a failure to comply with requirements under the Local Government Act 1993 relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests returns, disclose pecuniary interests at Council and Council committee meetings and leave the meeting while the matter is being discussed. A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

3.3.14 For example, this could include:

- a) a senior Council staff member recommending a family member for a Council contract and not declaring the relationship
- b) a Councillor participating in consideration of a development application for a property they or their family have an interest in.

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### 3.4 Assessment of reports

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

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

### 3.5 When will a report be treated as a public interest disclosure?

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

- a) the report must be about one of the following 5 categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, or local government pecuniary interest contravention
- b) the person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing
- c) the report has to be made to either the General Manager or, for reports about the General Manager the Mayor, a position nominated in this policy (see section 3.6), an investigating authority or in limited circumstances to a Member of Parliament (MP) or journalist (see section 3.7).

3.5.2 Reports by staff are not public interest disclosures if they:

- a) mostly question the merits of government Policy (see section 3.15)
- b) are made with the sole or substantial motive of avoiding dismissal or other disciplinary action (see section 3.16).

### 3.6 Who can receive a report within Port Stephens Council?

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

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- 3.6.2 The following positions are the only people within Council who are authorised to receive a public interest disclosure. Any supervisor who receives a report that they believe may be a public interest disclosure is obliged to assist the staff member to make the report to one of the positions listed below. The broader responsibilities of these positions are outlined under Roles and Responsibilities (section 3.2).
- 3.6.3 If your report involves a Councillor, you should make it to the General Manager. If your report relates to the General Manager, you should make it to the Mayor.
- a) General Manager – phone contact: 4988 0246
  - b) Mayor (for reports about the General Manager only) – phone contact: 4988 0245
  - c) Disclosures Coordinator – Governance Section Manager, phone contact: 4988 0187.

### Disclosures Officers:

- a) Organisation Support Section Manager, phone contact: 4988 0371
  - b) Human Resources Manager, phone contact: 4988 0381
  - c) Legal Services Manager, phone contact: 4988 0377.
- 3.7. Who can receive a report outside of the Council?
- 3.7.1 Staff and Councillors are encouraged to report wrongdoing within Council, but internal reporting is not your only option. You can also make a public interest disclosure to:
- a) An investigating authority;
  - b) A Member of Parliament or a journalist, but only in the limited circumstances outlined below.
- A. Investigating authorities
- 3.7.2 The PID Act lists a number of investigating authorities in NSW that staff and Councillors can report wrongdoing to and the type of wrongdoing each authority can deal with. In certain circumstances it may be preferable to make a report of wrongdoing to an investigating authority, for example a report about either the General Manager or the Mayor.
- 3.7.3 The relevant investigating authorities for the Council are:
- a) the Independent Commission Against Corruption (ICAC) — for reports about corrupt conduct

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- b) the Ombudsman — for reports about maladministration
  - c) the Information Commissioner — for disclosures about a breach of the GIPA Act
  - d) the Office of Local Government— for disclosures about local councils.
- 3.7.4 You should contact the relevant investigating authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this policy.
- 3.7.5 You should be aware that the investigating authority may well discuss any such reports with Council. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. We will also provide appropriate support and assistance to staff or Councillors who report wrongdoing to an investigating authority, if we are made aware that this has occurred.
- B. Members of Parliament or journalists
- 3.7.6 To have the protections of the PID Act, staff reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:
- a) the General Manager
  - b) a person nominated in this policy, including the Mayor for reports about the General Manager
  - c) an investigating authority.
- 3.7.7 Also, the Council or the investigating authority that received your initial report must have either:
- a) decided not to investigate the matter
  - b) decided to investigate the matter, but not completed the investigation within 6 months of the original report
  - c) investigated the matter but not recommended any action as a result
  - d) not told the person who made the report, within 6 months of the report being made, whether the matter will be investigated.
- 3.7.8 Most importantly – to be protected under the PID Act – if you report wrongdoing to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true (see section 3.15).

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### C. Other external reporting

- 3.7.9 If you report wrongdoing to a person or authority that is not listed above, or make a report to an MP or journalist without following the steps outlined above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or the Code of Conduct – by, for example, disclosing confidential information.
- 3.7.10 For more information about reporting wrongdoing outside Council, contact the Disclosures Coordinator or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this policy.
- 3.8. How to make a report.
- 3.8.1 You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation.
- 3.8.2 If a report is made verbally, the person receiving the report will make a comprehensive record of the report and ask the person making the report to sign this record. The reporter should keep a copy of this record.
- 3.9. Can a report be anonymous?
- 3.9.1 There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by Council, it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about what action is to be taken or has been taken to deal with the issues raised in the report, or the outcome of any investigation.
- 3.9.2 It is important to realise that an anonymous disclosure may not prevent you from being identified by the subjects of the report or your colleagues. If we do not know who made the report, it is very difficult for us to prevent any reprisal should others identify you.
- 3.10. Feedback to staff who report wrongdoing.
- 3.10.1 Staff and Councillors who report wrongdoing will be told what is happening in response to their report.

### A. Acknowledgement

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

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- a) the timeframe within which you will receive further updates
  - b) the name and contact details of the people who can tell you what is happening or handle any concerns you may have.
- 3.10.3 After a decision is made about how your report will be dealt with, the Council will send you an acknowledgement letter, providing:
- a) information about the action that will be taken in response to your report
  - b) the likely timeframes for any investigation or other action
  - c) information about the internal and external resources or services available that you can access for support.
- 3.10.4 We will provide this information to you within 10 working days from the date you make your report. We will also advise you if we decide to treat your report as a public interest disclosure and provide you with a copy of this policy at that time, as required by the PID Act.
- 3.10.5 Please note, if you make a report which meets the requirements of the PID Act but the report was made under a statutory or legal obligation or incidental to the performance of your day to day functions, you will not receive an acknowledgement letter or a copy of this policy.
- B. Progress updates
- 3.10.6 While your report is being dealt with, such as by investigation or making other enquiries, you will be given:
- a) information about the progress of the investigation or other enquiries and reasons for any delay
  - b) advice of any decision by the Council not to proceed with the matter
  - c) advice if your identity needs to be disclosed for the purposes of investigating the matter or making enquiries, and an opportunity to talk about this beforehand.
- C. Feedback
- 3.10.7 Once the matter has been finalised you will be given:
- a) enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified
  - b) advice about whether you are likely to be called as a witness in any further matters, such as disciplinary or criminal proceedings.

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- 3.11. Maintaining confidentiality.
  - 3.11.1 Council realises reporters may want their identity and the fact they have made a report to remain confidential. This can help to prevent any action being taken against them for reporting wrongdoing.
  - 3.11.2 Where possible and appropriate we will take steps to keep your identity, and the fact you have reported wrongdoing, confidential. We will discuss with you whether it is possible to keep your identity confidential.
  - 3.11.3 If confidentiality cannot be maintained, we will develop a plan to support and protect you from reprisal in consultation with you.
  - 3.11.4 If you report wrongdoing, it is important that you only discuss your report with those responsible for dealing with it. This will include the Disclosures Coordinator and the General Manager, or in the case of a report about the General Manager, the Disclosures Coordinator and the Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal.
  - 3.11.5 Any staff or Councillors involved in the investigation or handling of a report, including witnesses, are also required to maintain confidentiality and not disclose information about the process or allegations to any person except for those people responsible for handling the report.
- 3.12. Managing the risk of reprisal and workplace conflict
  - 3.12.1 When a staff member or Councillor reports wrongdoing, the Council will undertake a thorough risk assessment to identify the risk to you of detrimental action in reprisal for reporting, as well as indirect but related risks of workplace conflict or difficulties. The risk assessment will also identify strategies to deal with those risks and determine the level of protection and support that is appropriate.
  - 3.12.2 Depending on the circumstances, Council may:
    - a) relocate the reporter or the staff member who is the subject of the allegation within the current workplace
    - b) transfer the reporter or the staff member who is the subject of the allegation to another position for which they are qualified
    - c) grant the reporter or the staff member who is the subject of the allegation leave of absence during the investigation of the disclosure.

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- 3.12.3 These courses of action are not punishment and will only be taken in consultation with the reporter.
- 3.13. Protection against reprisals.
- 3.13.1 Council will not tolerate any reprisal against staff or Councillors who report wrongdoing or are believed to have reported wrongdoing.
- 3.13.2 The PID Act provides protection for staff and Councillors who have made a public interest disclosure by imposing penalties on anyone who takes detrimental action against another person substantially in reprisal for that person making a public interest disclosure. These penalties also apply to cases where a person takes detrimental action against another because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not.
- 3.13.3 Detrimental action means action causing, comprising or involving any of the following:
- a) injury, damage or loss
  - b) intimidation or harassment
  - c) discrimination, disadvantage or adverse treatment in relation to employment
  - d) dismissal from, or prejudice in, employment
  - e) disciplinary proceedings.
- 3.13.4 A person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines, and may be required to pay the victim damages for any loss suffered as a result of the detrimental action. Taking detrimental action in reprisal is also a breach of the Council's Code of Conduct which may result in disciplinary action. In the case of Councillors, such disciplinary action may be taken under the misconduct provisions of the Local Government Act 1993 and may include suspension or disqualification from civic office.
- 3.13.5 It is important for staff and Councillors to understand the nature and limitations of the protection provided by the PID Act. The PID Act protects reporters from detrimental action being taken against them because they have made, or are believed to have made, a public interest disclosure. It does not protect reporters from disciplinary or other management action where Council has reasonable grounds to take such action.

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### A. Responding to allegations of reprisal

- 3.13.6 If you believe that detrimental action has been or is being taken against you or someone else in reprisal for reporting wrongdoing, you should tell your supervisor, the Disclosures Coordinator or the General Manager immediately. In the case of an allegation of reprisal by the General Manager, you can alternatively report this to the Mayor.
- 3.13.7 All supervisors must notify the Disclosures Coordinator or the General Manager if they suspect that reprisal against a staff member is occurring or has occurred, or if any such allegations are made to them. In the case of an allegation of reprisal by the General Manager, the Mayor can alternatively be notified.
- 3.13.8 If Council becomes aware of or suspects that reprisal is being or has been taken against a person who has made a disclosure, Council will:
- assess the allegation of reprisal to decide whether the report should be treated as a public interest disclosure and whether the matter warrants investigation or if other action should be taken to resolve the issue
  - if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced member of staff
  - if it is established that reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the reporter
  - take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure
  - refer any breach of Part 9 of the Council's Code of Conduct (reprisal action) by a Councillor or the General Manager to the Office of Local Government
  - refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force.
- 3.13.9 If you allege reprisal, you will be kept informed of the progress and outcome of any investigation or other action taken in response to your allegation.
- 3.13.10 If you have reported wrongdoing and are experiencing reprisal which you believe is not being dealt with effectively, contact the Office of Local Government, the Ombudsman or the ICAC (depending on the type of wrongdoing you reported). Contact details for these investigating authorities are included at the end of this policy.

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### B. Protection against legal action

- 3.13.11 If you make a public interest disclosure in accordance with the PID Act, you will not be subject to any liability, and no action, claim or demand can be taken against you for having made the public interest disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.
- 3.14. Support for those reporting wrongdoing
- 3.14.1 Council will make sure that staff who have reported wrongdoing, regardless of whether their report is treated as a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management or counselling services.
- 3.14.2 Access to support may also be available for other staff involved in the internal reporting process where appropriate. Reporters and other staff involved in the process can discuss their support options with the Disclosures Coordinator or by contacting Human Resources.
- 3.15. Sanctions for making false or misleading statements
- 3.15.1 It is important all staff and Councillors are aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. Council will not support staff or Councillors who wilfully make false or misleading reports. Such conduct may also be a breach of the Code of Conduct resulting in disciplinary action. In the case of staff and Councillors, disciplinary action may be taken under the misconduct provisions of the Local Government Act 1993 and may include suspension or disqualification from civic office.
- 3.16. The rights of persons the subject of a report
- 3.16.1 Council is committed to ensuring staff or Councillors who are the subject of a report of wrongdoing are treated fairly and reasonably. This includes keeping the identity of any person the subject of a report confidential, where this is practical and appropriate.
- 3.16.2 If you are the subject of the report, you will be advised of the allegations made against you at an appropriate time and before any adverse findings. At this time you will be:
- a) advised of the details of the allegation
  - b) advised of your rights and obligations under the relevant related policies and procedures

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- c) kept informed about the progress of any investigation
  - d) given a reasonable opportunity to respond to any allegation made against you
  - e) told the outcome of any investigation, including any decision made about whether or not further action will be taken against you.
- 3.17.1 Where the reported allegations against the subject officer are clearly wrong, or have been investigated and unsubstantiated, the subject officer will be supported by Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.
- 3.17. Review.
- 3.17.1 This policy will be reviewed by Council every 3 years. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.
- 3.18. More information.
- 3.18.1 More information around public interest disclosures is available on our intranet. Staff can also seek advice and guidance from the Disclosures Coordinator and the NSW Ombudsman's website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).
- 3.19. Resources.
- 3.19.1 The contact details for external investigating authorities that staff can make a public interest disclosure to or seek advice from are listed below.

**For disclosures about corrupt conduct:**

Independent Commission Against Corruption (ICAC)  
Phone: 02 8281 5999  
Toll free: 1800 463 909  
For TTY Users: NRS Speak & Listen  
Tel: 1300 555 727 and quote 02 8281 5999  
Facsimile: 02 9264 5364  
Email: [icac@icac.nsw.gov.au](mailto:icac@icac.nsw.gov.au)  
Web: [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)  
Address: Level 7, 255 Elizabeth Street, Sydney NSW 2000  
Postal: GPO Box 500, Sydney, NSW 2001.

**For disclosures about maladministration:**

NSW Ombudsman  
Phone: 1800 451 524  
For TTY Users: NRS Speak & Listen Tel: 1300 555 727 and quote 1800 451 524  
Facsimile: 02 9283 2911  
Email: [nswombo@ombo.nsw.gov.au](mailto:nswombo@ombo.nsw.gov.au)  
Web: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)  
Address: Level 24, 580 George Street, Sydney NSW 2000

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### For disclosures about breaches of the GIPA Act:

Information Commissioner  
 Toll free: 1800 472 679  
 National Relay Service: 133 677  
 Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)  
 Web: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)  
 Address: Level 15, McKell Building, 2-24 Rawson Place, Haymarket NSW 2000  
 Postal address: GPO Box 7011 Sydney NSW 2001

### For disclosures about local councils:

Office of Local Government  
 Phone: 02 4428 4100  
 Email: [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)  
 Web: [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)  
 Address: 5 O'Keefe Avenue, Nowra, NSW 2541  
 Postal Address: Locked Bag 3015, Nowra, NSW 2541

## 4. DEFINITIONS:

4.1 An outline of the key definitions of terms included in the policy.

Contractor	A person or organisation engaged by Port Stephens Council.
Contractor employee	A person employed by a contractor of Port Stephens Council.
Corruption	Corrupt conduct is the dishonest or partial exercise of official functions by a public official.
Council	Port Stephens Council.
Councillor	Means Mayor and/or Councillor
Council employee	A person employed by Port Stephens Council.
Disclosure Coordinator	The Governance Section Manager.
Disclosure officers	The Organisation Support Section Manager, Human Resources Manager and Legal Services Manager.
GIPA Act	Government Information (Public Access) Act 2009.
ICAC	Independent Commission Against Corruption.
Maladministration	Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.
PID Act	Public Interest Disclosure Act 1994.
Public interest disclosure	Is a disclosure of corruption, maladministration or serious and substantial waste.
Serious and substantial waste	Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in losing or wasting public money.

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### 5. STATEMENT:

- 5.1 Port Stephens Council is committed to ensuring that disclosures of corruption, maladministration or serious and substantial waste are dealt with in an appropriate way; maintaining confidentiality and providing support for all parties. Council encourages individuals to come forward with any matter that they become aware where wrongdoing may have occurred.

### 6. RESPONSIBILITIES:

- 6.1 The Mayor and General Manager are responsible for implementing, complying with, monitoring and providing advice on the policy.
- 6.2 The Governance Manager is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.
- 6.3 Disclosure officers are responsible for complying with and providing advice on the policy.
- 6.4 Supervisors and managers are responsible for implementing, complying with, and providing advice on the policy.

### 7. RELATED DOCUMENTS:

- 7.1 Port Stephens Council Code of Conduct
- 7.2 Local Government Act 1993
- 7.3 Public Interest Disclosures Act 1994
- 7.4 Government Information (Public Access) Act 2009
- 7.5 Independent Commission Against Corruption Act 1988

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<b>EDRMS container No</b>	PSC2010-00009	<b>EDRMS record No</b>	22/248048
<b>Audience</b>	Mayor, Councillors, staff, contractors, volunteers		
<b>Process owner</b>	Governance Section Manager		
<b>Author</b>	Governance Section Manager		
<b>Review timeframe</b>	3 years	<b>Next review date</b>	30 June 2025
<b>Adoption date</b>	14 December 2010		

**VERSION HISTORY:**

Version	Date	Author	Details	Minute No.
1.0	14/12/2010	Executive Officer	Adopted by Council	409
2.0	11/2/2014	Executive Officer	Adopted by Council	017
3.0	10/05/2016	Governance Manager	Updated with the new model policy of the NSW Ombudsman and transferred to the new policy template.	118
3.1	22/5/2018	Governance Manager	Policy review included numbering to paragraphs and update of version control. 1.1 – included the name of the policy. 3.6.3 – updated contact numbers. 3.5.1, 3.5.2, 3.6.2, 3.6.3, 3.7.8 – updates section	137

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Version	Date	Author	Details	Minute No.
			<p>references to new paragraph numbering.</p> <p>3.19.1 – Updates contact details.</p> <p>4.1 – insert the definition of a councillor.</p>	
3.2	23/06/20	Governance Section Manager	<p>Policy review including:</p> <p>Policy Owner insert 'Section'.</p> <p>1.2 and 2.2 Insert 'Public Interest Disclosures Act 1994'.</p> <p>3.1.1, 3.2.1, 3.2.2, 3.2.8 3.2.9, 3.2.11, 3.2.12, 3.2.13, 3.3.6, 3.3.8, 3.3.10, 3.3.12, 3.3.14, 3.5.1, 3.5.2, 3.6.3, 3.7.1, 3.7.3, 3.7.6, 3.7.7 3.10.3, 3.10.6, 3.10.7, 3.12.2, 3.13.3, 3.13.8, 3.16.2 updated bullet points to alpha list.</p> <p>3.2.6 – delete 'six' insert '6'.</p> <p>3.2.9 i) – delete 'six' insert '6'.</p> <p>3.3.2 and 3.3.11 – insert 'Government Information (Public Access) Act 2009'.</p> <p>3.3.13 and 3.13.4 – insert 'Local Government Act 1993'.</p>	116

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Version	Date	Author	Details	Minute No.
			3.5.1 a) – delete 'five', insert '5'. 3.6.3 c) – insert 'Section'. 3.6.3 d) – insert 'Support Section'. 3.7.7 b) and d) – delete 'six', insert '6'. 3.19.1 – insert 'For TTY Users: NRS Speak & Listen Tel:'. Insert 'Address: Level 17, 201 Elizabeth ... NSW 2001'. 4 – Disclosure Coordinator – insert 'Section'. Disclosure officers – insert 'Organisation Support'.	
3.3	26/07/22	Governance Section Manager	The policy has been updated in the new policy template and updated the version control. Minor grammatical errors corrected. 3.2.10 – updated policy title. 3.13.8 e) – updated part 8 to part 9. 3.19.1 – updated agency contact details.	196

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