

Public Interest Disclosure Policy

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Responsible Officer	Manager Development and Governance	Date Approved:	15/02/2023
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Author:	Senior Compliance Officer	Commencement:	15/02/2023

1. PURPOSE

To:

- acknowledge Council’s obligations as a Public Sector Entity as defined in the *Public Interest Disclosure Act 2010* (Qld) (“**PID Act**”);
- establish Council’s commitment to the proper management of Public Interest Disclosures;
- Declare a high level framework for Councillors and employees of Mareeba Shire Council (“**Council**”) to make appropriate disclosures.

2. SCOPE

This policy applies across Council and to members of the public.

3. POLICY STATEMENT

Council is committed to fostering an ethical, transparent culture. In pursuit of this, Council values the disclosure of information about suspected wrongdoing in the public sector so that it can be properly assessed and, if necessary, appropriately investigated. Council will provide support to an employee or others who make disclosures about matters in the public interest.

Public Interest Disclosures are broadly defined in the PID Act as being all information disclosed to a proper authority about a public interest matter referred to within the PID Act.

A Public Interest Disclosure can be **made by any person**¹ about—

- a) a substantial and specific danger to the health or safety of a person with a disability; or
- b) the commission of an offence against a provision mentioned in schedule 2 of the PID Act,² if the commission of the offence is or would be a substantial and specific danger to the environment; or
- c) a contravention of a condition imposed under a provision mentioned in schedule 2 of the PID Act,³ if the contravention is or would be a substantial and specific danger to the environment; or
- d) the conduct of another person that could, if proved, be a reprisal.

¹ See *Public Interest Disclosure Act 2010* s 12.

² *Ibid* sch 2 - specifies particular statutory offences or contraventions involving endangering the environment.

³ *Ibid*.

Alternatively, a Public Interest Disclosure can be made **by a public officer**⁴ about—

- a) the conduct of another person that could, if proved, be—
 - (i) official misconduct; or
 - (ii) maladministration that adversely affects a person's interests in a substantial and specific way; or
- b) a substantial misuse of public resources (other than an alleged misuse based on mere disagreement over policy that may properly be adopted about amounts, purposes or priorities of expenditure); or
- c) a substantial and specific danger to public health or safety; or
- d) a substantial and specific danger to the environment.

Public Interest Disclosures made under the PID Act must:

- a) be made to a **proper authority**;⁵ and
- b) be information about the conduct of another person or another matter if—
 - (i) the person honestly believes on reasonable grounds that the information tends to show the conduct or other matter; or
 - (ii) the information tends to show the conduct or other matter, regardless of whether the person honestly believes the information tends to show the conduct or other matter.

Council recognises the important role Councillors, Council employees and members of the public can play in the identification of cases of maladministration, official misconduct and the misuse of public resources or contraventions giving rise to dangers to public health and safety, the environment or to persons with disabilities.

In accordance with the objectives of the PID Act, Council will:

- a) promote the public interest by facilitating Public Interest Disclosures of wrongdoing in the public sector; and
- b) ensure that Public Interest Disclosures are properly made, assessed, and when appropriate, properly investigated and dealt with; and
- c) ensure that appropriate consideration is given to the interests of persons who are the subject of a Public Interest Disclosure; and
- d) afford protection from reprisals to persons making Public Interest Disclosures.

These outcomes (including information regarding how a PID may be made) are achieved via Council's *Public Interest Disclosure Management Plan*.

⁴ See *Public Interest Disclosure Act 2010* s 13.

⁵ *Ibid* s 5 - as defined.

Council recognises the sensitivities which can be associated with Public Interest Disclosures and the need to maintain public confidence in its process for managing Public Interest Disclosures. To this end, Council will:

- a) ensure that Public Interest Disclosures are managed appropriately in accordance with Council's *Public Interest Disclosure Management Plan*;
- b) maintain the confidentiality of Public Interest Disclosures received;⁶
- c) prosecute any person who provides a false or misleading statement or information to Council with the intention of it being processed as a Public Interest Disclosure;⁷
- d) prosecute and/or take disciplinary action against any Councillor or Council employee who takes or attempts to take a reprisal action;⁸
- e) ensure that the proper records of Public Interest Disclosures received are maintained,⁹ and that the confidentiality of all records created during the investigation and reporting of Public Interest Disclosures is preserved.¹⁰

4. REPORTING

- Refer to Council's *Public Interest Disclosure Management Plan* for reporting requirements

5. DEFINITIONS

Council – means the Mareeba Shire Council including all elected representatives, employees, contractors, volunteers, a Standing or Joint Standing Committee, committee members and any entity under direct Council ownership, management, sponsorship or financial control.

Proper authority – includes a public sector entity as defined under the PID Act¹¹ if the information the subject of the disclosure relates to the conduct of the entity or the public sector entity has the power to investigate or remedy. A proper authority may include public sector entities¹² such as the Crime and Misconduct Commission, the Public Service Commission, the Queensland Ombudsman, Anti-Discrimination Commission or the Queensland Industrial Relations Commission; it may also include Council itself or another Government department that maintains relevant investigation and/or enforcement powers relating to the nature of the disclosure.

Public Interest Disclosure – means a disclosure by any person or a public officer as detailed in section 2 of this policy and includes all information and help given by the discloser.

Public officers – means an employee, member of officer of the entity. Public officers of local governments include both Councillors and employees (including persons engaged under a contract of employment).

⁶ See *Public Interest Disclosure Act 2010* s 65 - requirements for preservation of confidentiality.

⁷ Ibid s 66.

⁸ Ibid ss 40-41.

⁹ Ibid s 29.

¹⁰ Ibid s 65.

¹¹ Ibid s 5.

¹² Ibid s 6.

6. RELATED DOCUMENTS AND REFERENCES

Public Interest Disclosure Act 2010 (Qld)
Public Interest Disclosure Management Plan (MSC)

7. REVIEW

It is the responsibility of the Manager Development and Governance to monitor the adequacy of this policy and implement and approve appropriate changes. This policy will be formally reviewed every three (3) years or as required by Council.