

# POLICY



<b>Name of policy:</b>	<b>Public Interest Disclosure</b>		
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<b>Related legislation:</b>	<b><i>Public Interest Disclosures Act 2022 (NSW)</i></b>		
<b>Associated policies/documents:</b>	<b>MidCoast Council Code of Conduct</b>		
<b>Responsible division:</b>	<b>Corporate Services (Governance)</b>		

Topic	Procedures that must be included in an agency's PID policy
<b>Acknowledging receipt of voluntary PIDs, providing information to makers of voluntary PIDs and dealing with voluntary PIDs</b> (s 43(1)(a)–(b))	Specify procedures for: <ul style="list-style-type: none"> <li>• acknowledging receipt of voluntary PIDs</li> <li>• providing information to the makers of voluntary PIDs</li> <li>• dealing with disclosures that are or may be voluntary PIDs.</li> </ul>
<b>Risk management</b> (s 43(1)(c))	Detail the agency's procedures for assessing and minimising the risk of detrimental action, other than reasonable management action, being taken against a person as a result of a voluntary PID being made.
<b>Detrimental action</b> (s 43(1)(d))	Detail the agency's procedures for dealing with allegations that a detrimental action offence has been committed by or against a public official associated with the agency.
<b>Maintaining confidentiality and protections</b> (s 43(1)(e) and (3))	Detail the agency's procedures for maintaining confidentiality in relation to voluntary PIDs and protecting the identity of the makers of voluntary PIDs.  Include information about protections available under the PID Act to makers of voluntary, mandatory and witness PIDs.
<b>Corrective action</b> (s 43(1)(f))	Specify the agency's procedures for taking appropriate corrective action in response to findings of serious wrongdoing or other misconduct that arise from voluntary PIDs relating to the agency.
<b>Record-keeping</b> (s 43(1)(g))	Outline the agency's record-keeping procedures including how information is stored and confirm that security/access levels will be applied to all communications regarding disclosures made in accordance with the PID Act.
<b>Reporting obligations</b> (s 43(1)(g))	Specify the agency's procedures for reporting in relation to voluntary PIDs to the NSW Ombudsman and how the agency will prepare its annual return.
<b>Establishing internal oversight and complying with the PID Act</b> (s 43(1)(h)–(i))	Provide details about how the agency will ensure it complies with the PID Act, including who or what business unit has internal oversight over compliance with the PID Act.
<b>Roles and responsibilities</b> (s 43(2))	Specify the responsibilities under the PID Act given to: <ul style="list-style-type: none"> <li>• the head of the agency</li> <li>• disclosure officers for the agency</li> </ul>

	Specify the responsibility imposed by section 51(1) on managers of public officials associated with the agency.
<b>List of disclosure officers (s 43(4))</b>	Prominently include a list identifying the agency's disclosure officers by class, position, role or name, as well as information enabling them to be contacted.

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## **Purpose**

All agencies in NSW are required to have a Public Interest Disclosure (**PID**) Policy under section 42 of the *Public Interest Disclosures Act 2022* (**PID Act**).

At MidCoast Council we take reports of serious wrongdoing seriously. We are committed to building a 'speak up' culture where public officials are encouraged to report any conduct that they reasonably believe involves wrongdoing.

The integrity of our agency relies upon our staff, volunteers, contractors and subcontractors speaking up when they become aware of wrongdoing.

This policy sets out:

- how MidCoast 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.

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.

In NSW, that framework is the PID Act.

This policy should be read in conjunction with the Code of Conduct, the Bullying, Harassment and Discrimination Prevention Policy, Fraud and Corruption Control.

## **Accessibility of this policy**

This policy is available on MidCoast Council's publicly available website as well as on the MidCoast Council intranet.

A copy of the policy is also provided to all staff at the commencement of their employment in conjunction with induction and training. A hard copy of the policy can be requested from any member of the Governance Department.

## **Who does this policy apply to?**

This policy applies to, and for the benefit of, all public officials in NSW. You are a public official if you are:

- a person employed in or by an agency or otherwise in the service of an agency (Council).

- 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

The General Manager, other nominated disclosure officers and managers within MidCoast 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 MidCoast Council may use this policy if they want information on who they can report wrongdoing to within MidCoast Council.

### **Who does this policy not apply to?**

This policy does not apply to:

- people who have received services from an agency and want to make a complaint about those services
- people, such as consultants and contractors, who provide services to an agency. For example, employees of a company that sold computer software to an agency.
- Consultants

This means that if you are not a public official, this policy does not apply to your complaint (there are some circumstances where a complaint can be deemed to be a voluntary PID, see section 1(i) of this policy for more information).

However, you can still make a complaint to MidCoast Council through the 'Complaint Form' on the MidCoast Council public website.

### **Compliance with the PID Act**

This Policy will be reviewed every three years, in conjunction with the timing requirement for updated training. The Manager of Governance is responsible for reviewing this policy and for monitoring effectiveness and compliance to ensure the policy is meeting its purpose.

If you have any feedback about the contents of this policy, believe that there may be an error or inaccuracy contained in the policy, you can direct these to the Manager of Governance.

### **What is contained in this policy?**

This policy will provide you with information on the following:

- ways you can make a voluntary PID to MidCoast Council under the PID Act

- the names and contact details for the nominated disclosure officers at MidCoast Council at Annexure A
- the roles and responsibilities of people who hold particular roles under the PID Act and who are employees of MidCoast Council.
- what information you will receive once you have made a voluntary PID
- protections available to people who make a report of serious wrongdoing under the PID Act and what we will do to protect you
- MidCoast Council's procedures for dealing with disclosures
- MidCoast Council's procedures for managing the risk of detrimental action and reporting detrimental action
- MidCoast Council's record-keeping and reporting requirements
- how MidCoast Council will ensure it complies with the PID Act and this policy.

If you require further information about this policy, how public interest disclosures will be handled and the PID Act you can:

- confidentially contact a nominated disclosure officer within MidCoast Council, listed at Annexure A to this policy
- contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: [pidadvice@ombo.nsw.gov.au](mailto:pidadvice@ombo.nsw.gov.au), or
- access the NSW Ombudsman's PID guidelines which are available on its website.

If you require legal advice with respect to the PID Act or your obligations under the PID Act, you may need to seek independent legal advice.



## **1. How to make a report of serious wrongdoing**

### **(a) Reports, complaints and grievances**

When a public official makes a report of suspected or possible wrongdoing in the public sector, their report will be a PID if it has certain features which are set out in the PID Act.

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 our Code of Conduct, Fraud and Corruption Control Framework, Internal Audit Framework, Bullying and Harassment Policy.

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.

### **(b) When will a report be a PID?**

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

1. *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.
2. *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.
3. *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.

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 section 2 of this policy.

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

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

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.

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:



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

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.

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.

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.

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 section 7 of this policy.

### **(c) Who can make a voluntary PID?**

Any public official can make a voluntary PID. You are a public official if:

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

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 our agency. 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.

#### **(d) What is serious wrongdoing?**

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

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

If you would like to read more detail and examples about categories of wrongdoing you can access 'What is serious wrongdoing?' [Home - NSW Ombudsman](#)

#### **(e) Who can I make a voluntary PID to?**

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 MidCoast Council***

You can make a report inside MidCoast Council to:

- The General Manager
- a disclosure officer— a list of disclosure officers for MidCoast 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 and can be your coordinator or team leader. 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.
- for a public official who is a person *providing services or exercising functions on behalf of an agency* (including a contractor, subcontractor or volunteer) or an employee, partner or officer of an entity that provides services on behalf of an agency or exercises functions of an agency — their manager is taken to be the public official in that agency

who oversees those services or functions, or who manages the relevant contract or volunteering arrangement

- for *shift workers* – the shift supervisor, team leader or Coordinator.

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

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*.

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

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

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.
- 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 MidCoast Council:
  - notification that MidCoast 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 MidCoast Council 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.

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 agency's decision within six months of making the disclosure.

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

#### **(f) What form should a voluntary PID take?**

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 [us/agency name] to investigate the matter(s) you have disclosed if we cannot contact you for further information.

#### **(g) What should I include in my report?**

You should provide as much information as possible so we can deal with the report effectively. The type of information you should include if you have it 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.

#### **(h) What if I am not sure if my report is a PID?**

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

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 our policies for dealing with reports, allegations or complaints.

#### **(i) Deeming that a report is a voluntary PID**

The General 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'.

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

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 to request that they consider deeming your report to be a voluntary PID.

The General Manager can delegate deeming powers to the Manager of Governance.

A decision to deem a report to be a voluntary PID is at the discretion of the General Manager or Manager of Governance. For more information about the deeming power, see the Ombudsman's guideline 'Deeming that a disclosure is a voluntary PID'.

#### **(j) Who can I talk to if I have questions or concerns?**

The Manager of Governance, Coordinator of Governance or any member of the Governance team can answer general enquiries or questions you have in relation to Public Interest Disclosures.

## **2. Protections**

#### **(a) How is the maker of a voluntary PID protected?**

When you make a voluntary PID you receive special protections under the PID Act.

We are 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.

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.

The maker of a voluntary PID is protected in the following ways:

- *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 MidCoast Council that concerns serious wrongdoing relating to MidCoast Council has been made, MidCoast 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.
  - 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.

- *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.

- *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.

- *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.

## **(b) Protections for people who make mandatory and witness PIDs**

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. There are specific mandatory reports for different roles at MidCoast Council, notable the General Manager who is required by law to report information including under s11 of the *Independent Commission Against Corruption Act 1988*.
- *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.

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

Protection	Mandatory PID	Witness PID
<b>Detrimental action</b> — 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.	✓	✓
<b>Right to compensation</b> — A person can initiate proceedings and seek compensation for injury, damage or loss suffered as a result of detrimental action being taken against them.	✓	✓
<b>Ability to seek injunction</b> — 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.	✓	✓
<b>Immunity from civil and criminal liability</b> — 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. Reporting detrimental action

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 any Governance staff, your investigating officer, your supervisor or a member of MANEX. If you are not comfortable doing this, you may report detrimental action to an integrity agency. A list of integrity agencies is located at Annexure B of this policy.

### 4. General support

If you make a report, you will be supported by an appointed Governance staff member, and can discuss any aspect of your ongoing report and investigation with them. If you experience detrimental action, have any safety or mental health concerns you can raise these with your appointed Governance staff member.

All staff have access to the Employee Assistance Program (EAP) and should make use of this program during the PID process if necessary.

### 5. Roles and responsibilities of employees

Certain people within MidCoast Council have specific responsibilities under the PID Act.

#### 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 that MidCoast Council complies with this policy and the PID Act
- ensuring that MidCoast 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 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 appropriate complaint unit (if relevant)
- ensuring that any oral reports that have been received are recorded in writing.

**(c) Chief Disclosure Coordinator**

The Manager of Governance is, for the purposes of the PID Policy, the Chief Disclosure Coordinator.

Their role is to:

- fostering a workplace culture where reporting is encouraged
- receiving disclosures from public officials
- ensuring there is a system in place for assessing disclosures
- ensuring that MidCoast Council complies with this policy and the PID Act
- ensuring that MidCoast 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.

#### **(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 if they are not a disclosure officer.

#### **(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 MidCoast 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.

### **6. How we will deal with voluntary PIDs**

#### **(a) How MidCoast Council will acknowledge that we have received a report and keep the person who made it informed**

When a disclosure officer in MidCoast Council receives a report which is a voluntary PID, or looks like it may be a voluntary PID, the person who made the report will receive the following information:

- You will receive a written acknowledgment that the report has been received. This acknowledgment will:
  - state that the report will be assessed to identify whether it is a PID
  - state that the PID Act applies to how MidCoast Council deals with the report
  - provide clear information on how you can access this PID policy
  - provide you with details of a Governance contact person and available supports.
- 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:
  - that we are investigating the serious wrongdoing
  - which staff member is investigating your PID
  - 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

- 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.
- 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.
  - 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 our agency, what we have put in place to address that serious wrongdoing.
  - 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.
- 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.
- If you have made an anonymous report, in many cases we may not be able to provide this information to you.
- You will be provided with contact details of a Governance officer who will be your ongoing contact and support. If you have any questions about your Governance appointed contact please discuss this with the Manager of Governance or Coordinator of Governance.

#### **(b) How MidCoast Council will deal with voluntary PIDs**

Once a report that may be a voluntary PID is received MidCoast 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.

#### ***Report not a voluntary PID***

Even if the report is not a voluntary PID, it will still need to be dealt with in a manner consistent with our Code of Conduct, Fraud and Corruption Control Framework, Internal Audit Framework, Bullying and Harassment Policy or through a relevant alternate process.

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.

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. MidCoast Council can, but do not have to, request the NSW Ombudsman to conciliate the matter.

### ***Cease dealing with report as voluntary PID***

MidCoast 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).

If the decision is made that a disclosure is not a PID, that decision will be provided in writing to the person who made the report.

### ***Where the report is a voluntary PID***

If the report is a voluntary PID:

- 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 agency 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.
- 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*.
- 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.
- 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.

### **(c) How MidCoast Council will protect the confidentiality of the maker of a voluntary PID**

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

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.

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

- where the person consents in writing to the disclosure
- where it is generally known that the person is the maker of the voluntary PID because of their voluntary self-identification as the maker
- when the public official or MidCoast Council reasonably considers it necessary to disclose the information to protect a person from detriment

- where it is necessary the information be disclosed to a person whose interests are affected by the disclosure
- where the information has previously been lawfully published
- 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
- when the information is disclosed for the purposes of proceedings before a court or tribunal
- when the disclosure of the information is necessary to deal with the disclosure effectively
- if it is otherwise in the public interest to disclose the identifying information.

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

We 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 us 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:

- We will limit the number of people who are aware of the maker's identity or information that could identify them.
- 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.
- 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.
- We will ensure that only authorised persons have access to emails, files or other documentation that contain information about the identity of the maker.
- 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.
- 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.

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

- advise the person whose identity may become known
- update the agency's risk assessment and risk management plan
- implement strategies to minimise the risk of detrimental action
- provide additional supports to the person who has made the PID

- remind 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.

#### **(d) How MidCoast Council will assess and minimise the risk of detrimental action**

MidCoast 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.

MidCoast 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.

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

- explaining that a risk assessment will be undertaken, and a risk management plan will be created (including reassessing the risk throughout the entirety of the matter)
- providing details of the unit/role that will be responsible for undertaking a risk assessment
- explaining the approvals for risk assessment and the risk management plan, that is, rank or role of the person who has final approval
- explaining how the agency will communicate with the maker to identify risks
- listing the protections that will be offered, that is, the agency will discuss protection options with the maker which may including remote working or approved leave for the duration of the investigation
- outlining what supports will be provided.

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:

- injury, damage or loss
- property damage
- reputational damage
- intimidation, bullying or harassment
- unfavourable treatment in relation to another person's job
- discrimination, prejudice or adverse treatment
- disciplinary proceedings or disciplinary action, or
- any other type of disadvantage.

Detrimental action does not include:

- lawful action taken by a person or body to investigate serious wrongdoing or other misconduct

- the lawful reporting or publication of a finding of serious wrongdoing or other misconduct
- the lawful making of adverse comment, resulting from investigative action
- the prosecution of a person for a criminal offence
- 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.

**(e) How MidCoast Council will deal with allegations of a detrimental action offence**

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

- take all steps possible to stop the action and protect the person(s)
- take appropriate disciplinary action against anyone that has taken detrimental action
- 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)
- notify the NSW Ombudsman about the allegation of a detrimental action offence being committed.

If throughout the PID process you are subject to detrimental action you should immediately notify your Governance contact person.

Detrimental Action reports will be referred to the Manager of Governance who will discuss the process and any action with the reporter.

The reporter of detrimental action will be informed throughout the process and will be supported by Governance staff and the EAP.

**(f) What MidCoast Council will do if an investigation finds that serious wrongdoing has occurred**

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

Corrective action can include:

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

The findings of an investigation will be received by the Manager of Governance and the General Manager, unless a PID is made about those people. The process and the findings of an investigation will be set out in the Terms of Reference and Investigation Plan.

The Governance team will be responsible for ensuring corrective action takes place following an investigation.

## **7. Review and dispute resolution**

### **(a) Internal review**

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

- that MidCoast Council is not required to deal with the report as a voluntary PID
- to stop dealing with the report because MidCoast Council decided it was not a voluntary PID
- to not investigate the serious wrongdoing and not refer the report to another agency
- to cease investigating the serious wrongdoing without either completing the investigation or referring the report to another agency for investigation.

MidCoast Council will ensure internal reviews are conducted in compliance with the PID Act.

If you would like to make an application for an internal review, you must apply in writing within 28 days of being informed of MidCoast Council's decision. The application should state the reasons why you consider MidCoast Council decision should not have been made. You may also submit any other relevant material with your application.

### **(b) Voluntary dispute resolution**

If a dispute arises between MidCoast 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 MidCoast Council and the maker of the report are willing to resolve the dispute.

## **8. Other agency obligations**

### **(a) Record-keeping requirements**

MidCoast Council must keep full and accurate records with respect to all information received in connection with the PID Act. This ensures that the organisation complies with its obligations under the *State Records Act 1998*.

Any information associated with a PID will be stored on the MidCoast Council Records Management System and will be subject to limited and secure access. If you have any questions about where PID information is stored and how it is accessed please contact any member of Governance.



### **(b) Reporting of voluntary PIDs and annual return to the Ombudsman**

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

- information about voluntary PIDs received by MidCoast Council during each return period (yearly with the start date being 1 July)
- action taken by MidCoast Council to deal with voluntary PIDs during the return period
- how MidCoast Council promoted a culture in the workplace where PIDs are encouraged.

The annual return will be completed by the Governance group and approved by the Manager of Governance and the General Manager. The Manager of Governance has responsibility for ensuring the collection and reporting of PID data including the annual return.

### **(c) How MidCoast Council will ensure compliance with the PID Act and this policy**

This Policy will be reviewed every three years, in conjunction with the timing requirement for updated training. The Manager of Governance is responsible for reviewing this policy and for monitoring effectiveness and compliance to ensure the policy is meeting its purpose.

If you have any feedback about the contents of this policy, an error that may be contained in the policy, or any inaccuracies, you can direct these to the Manager of Governance.

You are also invited to complete a PID Review survey at Annexure C and submit this to the Manager of Governance.

## **Annexure A — Names and titles of disclosure officers for MidCoast Council**

## 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:oilc_executive@oilc.nsw.gov.au">oilc_executive@oilc.nsw.gov.au</a>
<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>

<b>Position Title</b>
Airport Operations Manager
Parks Works Supervisor - Western Operations
Parks Works Supervisor - Southern Operations
Pool Supervisor
Team Leader Trades Western and Saleyards
Parks Works Supervisor - Northern Operations
Executive Manager Community Spaces
Manager Open Spaces and Recreation
Manager Trades
Manager Community Assets
Community Liaison Officer
Manager Strategy and Projects
MidCoast Assist Business Manager
Finance, Systems and Admin Manager
Coordinator Social and Community Engagement
NDIS Services Manager
SIL Coordinator
Team Leader Active and Older Program
Team Leader Customised Care Program - PTWA
Clinical Supervisor - PTWA
Manager Libraries and Community Services
Art Gallery Director
Theatre Manager
Library Coordinator
Coordinator Community Development
Customer Services Librarian
Community Outreach Librarian
Customer Service Officer
Manager Customer Experience
Customer Services Officer
Manager Major Assessment and Regulatory Services
Coordinator Customer Liaison Development and Building
Coordinator Customer Contact
Coordinator Fast Track Approvals
Coordinator Major Assessments
Coordinator Building Approvals
Manager Building and Environmental Health Services
Coordinator On-site Wastewater Management
Coordinator Environmental Health and Food Safety
Waste Manager
Landfill Supervisor
Coordinator Waste Operations
Catchment Management Coordinator
Water Quality and Estuary Management Program Coordinator
Senior Land Use Planner
Senior Land Use Planner
Manager Natural Systems

Sustainability and Natural Assets Coordinator
Senior Ecologist
Manager Engagement, Communication and Education
Contact Centre Officer
Team Leader Destination Experience
Destination Experience Officer
Executive Assistant Infrastructure and Engineering
Works Supervisor Operations
Works Supervisor Operations
Senior Process Controller-Sth (incl Reticulation)
Senior Process Controller - Central
Senior Process Controller - South
Coordinator- Manning
Senior Process Controller North
Coordintor WMAT South
GIS Coordinator
Project Delivery Electrical Coordinator
Coordinator Water Quality and Process
Executive Manager Water and Systems
Executive Manager Transport and Engineering
Manager Water Planning and Assets
Coordinator WMAT North & West
Water Asset Planning Coordinator
Manager Transport Assets
Asset Management Coordinator Water Services
Coordinator Water Development and Assessment
Manager Water Project Delivery
Works Supervisor Operations
Works Supervisor Operations
Works Supervisor Operations
Works Supervisor Operations
Works Supervisor Operations
Works Supervisor Operations
Works Supervisor Operations
Manager, Water Operations
Central Coordinator Water Operations
Coordinator Water Network Construction
Manager Water Management and Treatment
Manager Finance
Coordinator Culture and Performance
Manager Information Technology
Procurement and Fleet Coordinator
Coordinator IT Technical and Systems
IT Solutions Coordinator
Coordinator Service Optimisation Program
Risk and Insurance Coordinator
Coordinator GIS and Land Information
Coordinator IT Infrastructure
Coordinator Training and Development
General Manager

Director Liveable Communities
Director Corporate Services
Director Infrastructure and Engineering Services
Manager Governance
Governance Coordinator
Governance Officer
Governance Officer
Governance Officer
Governance Officer
Coordinator Human Resources
Senior Human Resources Business Partner CS
Senior Human Resources Business Partner LC
Human Resources Business Partner - I&ES
Human Resources Business Partner - CS
Human Resources Business Partner - I&ES
Safety Officer
Safety Officer
Training Specialist Safety
Workplace Safety and Welfare Coordinator
Chief Strategy and Performance Manager

<b>Work Location</b>
Airport Taree
Depot - Gloucester
Depot - Tuncurry
Gloucester Pool Complex
Gloucester Saleyards
Taree Depot
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Forster Community Services
Forster Community Services
Forster Community Services
Forster Community Services
Forster Community Services
Forster Community Services
Forster Community Services
Forster Community Services
Forster Community Services
Manning Regional Art Gallery (Taree)
MEC Taree
Yalawanyi Ganya
Yalawanyi Ganya
Library - Forster
Library Taree
Tea Gardens Hawks Nest
Yalawanyi Ganya
Stroud Administration Office
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Gloucester Landfill
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya
Yalawanyi Ganya



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