

# PUBLIC INTEREST DISCLOSURE POLICY

**POLICY:** Staff have a duty to report immediately any evidence or suspicion of official misconduct within Far North Queensland Ports Corporation Limited (trading as Ports North) to their supervisor or other appropriate senior officer in such a way that confidentiality is preserved and natural justice is not eroded. This duty is reinforced by Ports North's Code of Conduct.

**PURPOSE:** The purpose of this policy document is to -

- ensure all Ports North permanent and temporary employees are aware of their responsibilities with regard to reporting serious misconduct and other important matters detrimental to the public interest in relation to Ports North's operations;
- ensure that all officers are aware of, and have access to, the support processes available to those affected by a public interest disclosure; and
- ensure all Ports North staff are aware of their responsibilities with regard to fair treatment of those employees who make a public interest disclosure and who may be the subject of a public interest disclosure.

The policy also establishes procedures for:

- persons outside Ports North wishing to make a public interest disclosure to the Chief Executive Officer in accordance with the *Public Interest Disclosure Act*; and
- the receipt, assessment and management of a public interest disclosure by Ports North.

**APPLICABILITY:** This policy applies to all Ports North staff whether employed on a permanent or temporary basis.

The policy has no application to matters arising from audits performed under the *Financial Accountability Act 2009* as staff are required to report those to the Chief Executive Officer in terms of that Act and observe confidentiality.

**DEFINITIONS:** **Maladministration** - is administrative action that is unlawful, arbitrary, unjust, oppressive, improperly discriminatory, or taken for an improper purpose.

**Official Misconduct** - by public sector employees can involve conduct that could, if proved, be:

- a criminal offence; or
- a disciplinary breach that provides reasonable grounds for the termination of the employee's employment.

**Public Interest Disclosure** - means a disclosure of information specified in the *Public Interest Disclosure Act* made to an appropriate entity and includes all information and help given by the discloser to an appropriate entity.

**Public Officer** - a person who is an officer of a public sector entity as defined in the *Public Interest Disclosure Act*, whether employed on a permanent or temporary basis.

**Ports North's Governance Committee** - is a committee consisting of the Chief Executive Officer, General Manager Commercial and General Manager Corporate Services, which will provide advice and referral information to all Ports North staff on whistleblowing.

**Whistleblower** - is a person who makes a public interest disclosure in accordance with the *Public Interest Disclosure Act 2010*.

## RESPONSIBILITIES

**Ports North's Governance Committee** has the responsibility to assess all public interest disclosures, ensure that risk of reprisal is properly assessed and managed, and to determine future actions in respect of the public interest disclosure.

Further, this Committee will maintain all confidential files on public interest disclosures in a secure environment and shall maintain records of the number of public interest disclosures received and action taken.

**Ports North Employees**, in making a public interest disclosure, must be sure that they honestly believe on reasonable grounds that they have information that tends to show the conduct or danger.

In making such disclosures they may do so in writing or orally to their direct or indirect Supervisor, Manager, or any Governance Committee Member in the manner set out in the Procedures Section of this policy document.

## PROCEDURES/ GUIDELINES

### Making a Public Interest Disclosure

An employee of Ports North may make a public interest disclosure concerning the following matters which have not arisen from the performance of audits under the *Financial Administration and Audit Act*:

- suspected official misconduct;
- suspected maladministration that adversely affects anybody's interests in a substantial and specific way;
- suspected negligent or improper management of public funds resulting, or likely to result in substantial waste (the disclosure cannot be based on a mere disagreement over policy on amounts, purposes and priorities of expenditure);
- a substantial and specific danger to public health or safety or to a person with a disability;
- a substantial or specific danger to the environment or contravention of environmental law; and
- a reprisal because of a belief that a person has made, or intends to make a public interest disclosure.

An employee may make a public interest disclosure whether or not it is possible to identify a particular person to which the information disclosed relates.

A public interest disclosure can be made orally or in writing. The author may identify themselves or remain anonymous. While not essential, an employee should identify that their report is a public interest disclosure so that the report is clearly given that status.

A public interest disclosure concerning the conduct of any Ports North officer can always be made to:

- any member of Ports North's Governance Committee
- an officer who directly or indirectly supervises or manages the employee

A public interest disclosure concerning the conduct of the Chief Executive Officer should be made directly to the Chairman of the Board of Directors.

A public interest disclosure concerning the conduct of a member of the Governance Committee, other than the Chief Executive Officer, should be made directly to the Chief Executive Officer.

Section 66 of the *Public Interest Disclosure Act 2010* states that it is an offence to make an intentionally false or misleading statement to an appropriate entity intending that it be acted upon as a public interest disclosure. Employees should only make a public interest disclosure when they honestly believe on reasonable grounds that they have information that tends to show the conduct or danger.

### **Public Interest Disclosure for External Persons**

If a person who is not an employee of Ports North wishes to make a public interest disclosure that person should be advised to make the public interest disclosure to the Chief Executive Officer orally or in writing. They may identify themselves or remain anonymous.

If another public sector entity wishes to refer a public interest disclosure to Ports North they should be advised to forward a written referral to the Chief Executive Officer.

### **Assessment of a Public Interest Disclosure**

Ports North's Governance Committee will agree and summarise the particulars of each disclosure to determine whether the public interest disclosure requires -

- further enquires to be made;
- investigation;
- referral to another public sector entity; or
- finalisation.

Where a disclosure concerns the conduct of the Chief Executive Officer or other member of the Governance Committee, that officer shall be excluded from any involvement in the assessment of the disclosure.

### **Confidentiality Provisions for a Public Interest Disclosure**

Section 65 of the *Public Interest Disclosure Act 2010* makes it an offence for a person to make a record of, or intentionally or recklessly disclose confidential information received in the administration of the Act to anyone, except when authorised to do so by the Act.

### **Records Management**

Ports North's Governance Committee shall maintain all confidential files on public interest disclosures in a secure environment and shall maintain records of the number of public interest disclosures received and the action taken on them.

### **Reporting**

Public Interest Disclosure Standard No 1 (January 2013) includes a requirement for reporting information on Public interest Disclosures received to the

Ombudsman.

### Whistleblower Support and Protection

Any member of Ports North’s Governance Committee will be the first point of contact in discussing any matters relating to whistleblowing. Committee members shall ensure the risk of reprisal is properly assessed and managed. Formal advice will be given to the whistleblower (if known) of the support and protection available from Ports North. Ports North’s Governance Committee will provide advice and referral information to any employee making or intending to make a public interest disclosure.

All Ports North staff should be aware of their responsibility under Ports North’s Code of Conduct to contribute to the smooth functioning of operations by treating fellow staff and audit staff with courtesy and respect. Engaging in reprisal because of a belief that a person made, or intended to make a public interest disclosure is an indictable offence under the *Public Interest Disclosure Act*.

### Support for Officers who may be the Subject of a Public Interest Disclosure

Employees who are the subject of an adverse allegation may seek assistance from their legal representative or industrial union. An employee may also utilise the services of the Employee Assistance Program.

Employees will always be given the opportunity to respond to an adverse allegation made about them before any adverse finding is made.

Employees will be assumed to be innocent of any adverse allegation until evidence is produced to the required standard of proof to show otherwise.

Notwithstanding the aforementioned, an employee maybe suspended from duty should the proper and efficient management of Ports North be prejudiced if the employee were not suspended.

### FURTHER INFORMATION

Refer to Code of Conduct.

Refer to Fraud Control and Corruption Policy.

<b>APPROVED BY:</b>	Board of Directors	<b>DATE:</b>	23 April 2010
<b>APPROVING AUTHORITY</b>	Audit & Risk Committee		
<b>DELEGATION INSTRUMENT</b>	Board Resolution – 28 May 2010		
<b>CUSTODIAN:</b>	General Manager Commercial		
<b>COMMENTS:</b>	<ul style="list-style-type: none"> <li>• Reviewed by Acting Chief Financial Officer– 12 February 2009</li> <li>• Corporate Governance Review – February 2010</li> <li>• Reviewed and updated by the Audit and Risk Committee – 23 August 2013</li> <li>• Reviewed by the Audit and Risk Committee – 19 August 2016</li> </ul>		