

PROTECTED DISCLOSURES (WHISTLEBLOWER AND PUBLIC INTEREST) POLICY

DOCUMENT CONTROL TABLE

Document Owner:	Corporate Services	Department:	Corporate Services
Endorsed By:	Executive Leadership Team	Date:	16 November 2021
Approval Date:	Metro Board	Date:	23 November 2021
Next Review Due:	23 November 2024		

1 OVERVIEW

Metro Tasmania Pty Ltd (Metro) is committed to complying with its obligations under the *Public Interest Disclosures Act 2002* (TAS) (PID Act), the *Corporations Act 2001* (CTH) (Act) and the *Tax Administration Act 1953* (CTH) (Tax Act) and has implemented this policy to facilitate the making of disclosures of improper conduct.

The purpose of this policy is to:

- Encourage disclosures of misconduct;
- Improve whistleblowing culture and provide transparency;
- Provide protection to persons making disclosures; and
- Deter misconduct, promote compliance and adherence to Metro's values.

2 APPLICATION OF THE POLICY

The Tasmanian disclosures regime (under the PID Act) and the Commonwealth regime (under the Act and Tax Act) operate separately, but in some circumstances they may overlay due to the types of disclosures being capable of protection under both regimes. Where a disclosure may be protectable under both regimes, Metro considers that the Commonwealth regime will automatically apply to the disclosure. Whether the Tasmanian regime may also apply, will be determined in consultation with person making the disclosure.

Metro will monitor the operation and interaction of the Tasmanian and Commonwealth regimes and amend this policy where required as further guidance becomes available.

2.1 TASMANIAN REGIME

A disclosure under this PID Act will be managed by Metro in accordance with the Public Interest Disclosures Procedure. Refer to Public Interest Disclosures Procedure for details of who is eligible to make a disclosure and the types of disclosures that are protected.

2.2 COMMONWEALTH REGIME

A disclosure made under the Act and Tax Act will be managed in accordance with the Whistleblower Procedure. Refer to Whistleblower Procedure for details of who is eligible to make a disclosure and the types of disclosures that are protected.

2.3 DUAL APPLICATION

Where a disclosure is to be managed under both Tasmanian and Commonwealth regimes, to the extent of any inconsistency between Tasmanian and Commonwealth legislative regimes, Metro will comply with the Commonwealth legislative requirements. However if there is doubt about which legislative regime applies in a particular case, legal advice should be obtained.

Further information on the Tasmanian and Commonwealth regimes is attached at Appendix 1.

2.4 ASSISTANCE

Metro is committed to encouraging Metro's employees and non-employees who are aware of possible wrongdoing to speak up in accordance with Metro's policies, procedures and systems.

Please read this policy carefully before making a disclosure.

This policy should be read in conjunction with Metro's Public Interest Disclosure Procedure, Code of Conduct Procedure, Grievance Handling Procedure and Privacy Policy.

For those people to whom this policy applies, Metro recognises that the overlapping Commonwealth and Tasmanian regimes may be difficult to navigate. Metro will support any concerned potential discloser to navigate the process. If you have any concerns or are unclear about the processes or protections available, you are encouraged to contact the Metro officers as set out below.

The Public Interest Disclosure Officers under the PID Act are as follows:

- Chief Executive Officer
Email: katie.cooper@metrotas.com.au
Postal address: PO Box 61, Moonah, TAS 7009
- General Manager Corporate Services
Email: kim.perkins@metrotas.com.au
Postal address: PO Box 61, Moonah, TAS 7009

The eligible recipients for disclosures under the Commonwealth regime include all Metro Executives and Board members. However as the Chief Executive Officer and General Manager Corporate Services are eligible recipients of disclosures under both the Commonwealth and Tasmania regimes, Metro encourages disclosures being made to these officers to ensure appropriate support is provided across the State and Tasmanian regimes.

3 POLICY COMMUNICATION

The policy will be provided to all employees as part of their induction process. It will also be available for all current Metro employees via the Metro intranet.

4 SCOPE

This Policy applies to all Metro employees, members of the Board and other persons able to make disclosures under the Act and Tax Act (for example, relatives of an employee or providers of goods or services to Metro).

5 RESPONSIBILITIES

5.1 COMPLIANCE, MONITORING AND REVIEW

All Metro Policies MUST be approved by the Board even if no content change has been made.

It is the responsibility of:

- The General Manager Corporate Services (GMCS) or delegate to review this Policy and endorse if minimal to no amendments occur during its review prior to seeking Board approval; or
- The Executive Leadership Team to endorse this Policy if moderate to major amendments occur during its review prior to the GMCS or delegate seeking Board approval.

5.2 REPORTING

Any disclosures will be immediately notified to the Metro Board and Audit and Risk Committee and there will also be a standard six monthly report, irrespective of whether there has been any disclosures made or not. This reporting will not compromise the identity of the person making the disclosure.

The method for documenting and reporting the findings will depend on the nature of the disclosure. The findings from an investigation will be documented and reported to the Board through the Audit and Risk Committee and to the Minister for Infrastructure and Transport.

The person making the disclosure will be notified that the investigation has been finalised and the outcomes of the investigation.

There may be circumstances where it may not be appropriate to provide details of the outcome to the person making the disclosure for confidentiality reasons.

A person making a disclosure under the Commonwealth regime may lodge a complaint with a regulator, such as Australian Securities and Investments Commission or the Australian Tax Office, if they are not satisfied with the outcome of Metro's investigation.

A person making a disclosure under the Tasmanian regime may lodge a complaint with the Integrity Commission or Ombudsman Tasmania if they are not satisfied with the outcome of Metro's investigation.

5.3 RECORDS MANAGEMENT

Metro generally maintains all records relevant to administering this policy in Metro's Electronic Records and Document Management System, *Content Manager* however, given the confidential nature of these disclosures, these records will be managed external to the system by the General Manager Corporate Services.

6 REVIEW PERIOD

This Policy will be reviewed every three years or earlier if required.

7 RELATED AND REFERENCED DOCUMENTS

7.1 METRO

[Code of Conduct Procedure](#)

[Grievance Management Procedure](#)

[Privacy Policy](#)

[Public Interest Disclosure Procedure](#)

[Whistleblower Procedure](#)

7.2 LEGISLATION

Australian Securities and Investments Commission Act 2001 (CTH)

Australian Securities and Investments Commission Regulations 2001 (CTH)

Corporations Act 2001 (CTH)

Corporations Regulations 2001 (CTH)

Fair Work Act 2009 (CTH)

Fair Work Regulations 2009 (CTH)

Public Interest Disclosures Act 2002 (TAS)

Taxation Administration Act 1997 (TAS)

Taxation Administration Act 1953 (CTH)

Taxation Administration Regulations 2017 (CTH)

8 VERSION CONTROL TABLE

No:	Date	Details	Status
1	17/12/19	Document originated and approved by the Board.	Superseded
2	08/10/20	Annual review conducted by Acting CFO. Section 6.1 – CEO details updated. Section 12 added – policy communication. Section 14 – Inherent risk rating added to Section 14. Endorsed by ELT on 19/10/20. Approved by the Board on 28/10/20.	Superseded
3	15/09/21	Inherent risk rating removed from Review Period. Reference to Company Secretary updated to GMCS. Hyperlinks added to Metro referenced documents.	Superseded
4	29/10/21	Policy significantly amended, substantive detail removed and included in a new Whistleblower Procedure. Updated information highlighted grey for easy identification. Endorsed by ELT on 16/11/21 and approved by Board on 23/11/21.	Current

APPENDIX 1

Metro Tasmania (Metro) is committed to complying with its whistleblowing obligations under Tasmanian and Commonwealth law. To assist a whistleblower in determining the disclosure options and protections available, these Guidelines set out some of the differences between Tasmanian (State) and Australian (Commonwealth) whistleblowing regimes.

When considering the best regime and process to proceed under, please also read Metro's Protected Disclosures ([Whistleblowing and Public Interest](#)) Policy, [Public Interest Disclosure Procedure](#), and contact the General Manager Corporate Services, or an independent legal adviser.

	Tasmanian regime	Commonwealth regime
Refer to	<i>Public Interest Disclosure Act 2002 (Tas)</i> (PID Act) and <i>Integrity Commission Act 2009 (Tas)</i> (IC Act) (together, the State Law)	Part 9.4AAA, <i>Corporations Act 2001</i> (Cth) (Corporations Act) and <i>Taxation Administration Act 1953</i> (Cth) (Tax Act) (together the Commonwealth Law)
Who can make a disclosure?	Anyone including on someone's behalf	An officer of Metro; An employee of Metro; An associate of Metro; An individual who supplies services or goods to Metro (including their employees); and a spouse, dependant, child, or relative of any of the above persons
In what form?	In writing	In writing or verbally
Who can the disclosure be made to?	Depending on what the disclosure relates to: <ul style="list-style-type: none"> • Metro; • The Integrity Commission; • The Ombudsman. (Contractors may only make disclosures to the Ombudsman or Integrity Commission).	Disclosures can be made verbally or in writing to a legal practitioner to receive legal advice, and: <ul style="list-style-type: none"> • A CEO, director, secretary, auditor, actuary, Leadership Team member or Senior Manager of Metro; • ASIC, APRA, ATO, or another Commonwealth body prescribed by regulation; • A journalist or parliamentarian provided the disclosure is a public interest disclosure or an emergency disclosure.
What is reportable?	The current or past misconduct of a Metro officer or employee. Misconduct includes a breach of a code of conduct, dishonest or improper performance of functions, misuse of information in connection with their functions or powers, misuse of public resources, or conduct that adversely affects, the honest and proper performance of functions or exercise of powers of another public officer. This can include proposed conduct.	Misconduct, or an improper state of affairs or circumstances about Metro, including conduct that: <ul style="list-style-type: none"> • Is a breach of particular Commonwealth legislation; • Represents a danger to the public or financial system or • Is prescribed by regulation. A public interest disclosure or emergency disclosure can be made when set criteria is satisfied. Matters that are solely personal work-related grievances are not reportable.

	Tasmanian regime	Commonwealth regime
Timeframes	Applies to past conduct, noting a disclosure may be dismissed if the misconduct occurred after 1 October 2010, and the whistleblower had knowledge of the subject matter for more than a year and failed to give a satisfactory explanation for the delay.	Applies to disclosures made on or after July 1 2019 regarding matters that occur or occurred before, on or after 1 July 2019. Victimisation prohibitions and compensation orders apply if a disclosure was made before 1 July 2019 and would be protected by the Act had it been in force at the time the disclosure was made.
Protections	<ul style="list-style-type: none"> • Disclosures can be made anonymously • Reasonable steps to protect anonymity • Protection from reprisals and civil, criminal and administrative liability in certain circumstances. 	<ul style="list-style-type: none"> • Reasonable steps to protect anonymity • Protection from reprisals and civil, criminal and administrative liability with compensation available in certain circumstances • Protect from detrimental conduct, acts or omissions