

## DEALING WITH COMPLAINTS ABOUT THE PUBLIC OFFICIAL

<b>APPROVED BY:</b>	Board of Directors	<b>DATE:</b>	23 November 2018
<b>APPROVING AUTHORITY</b>	Board of Directors		
<b>DELEGATION INSTRUMENT</b>	Board Resolution – 23 November 2018		
<b>CUSTODIAN:</b>	General Manager Corporate Services		
<b>COMMENTS:</b>	<ul style="list-style-type: none"><li>Reviewed by the Board of Directors – 23 November 2018</li></ul>		

## 1. OBJECTIVE

The objective of this policy is to set out how Ports North will deal with a complaint (also information or matter)<sup>1</sup> that involves or may involve corrupt conduct of its Chief Executive Officer (CEO), as defined in the Crime and Corruption Act 2001 (CC Act).

For the purpose of this Policy, the CEO is the public official of Ports North.

## 2. POLICY RATIONALE

The policy has been developed to comply with the obligations under section 48A of the Crime and Corruption Act 2001, as if Ports North were a unit of public administration, and to assist Ports North to:

- (i) Promote public confidence in the way suspected corrupt conduct of the CEO for Ports North is dealt with (s34(c) CC Act).
- (ii) Promote accountability, integrity and transparency in the way Ports North deals with a complaint that is suspected to involve, or may involve, corrupt conduct of the CEO.

## 3. DEFINITIONS

<b>Crime and Corruption Commission (CCC):</b>	the Commission continued in existence under the <i>Crime and Corruption Act 2001</i>
<b>CC Act:</b>	<i>Crime and Corruption Act 2001</i>
<b>Complaint:</b>	includes information or matter. See definition provided by s48A(4) of the <i>Crime and Corruption Act 2001</i>
<b>Contact details:</b>	Telephone: 07 4030 0570 Email: <a href="mailto:rbeer@macdonnells.com.au">rbeer@macdonnells.com.au</a> Postal Address: PO Box 5046, Cairns Queensland 4870
<b>Corruption:</b>	see Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
<b>Corrupt conduct:</b>	see s15 of the <i>Crime and Corruption Act 2001</i>
<b>Deal with:</b>	see Schedule 2 (Dictionary) of the <i>Crime and Corruption Act 2001</i>
<b>Nominated person:</b>	see item 5 of this policy
<b>Public Official/CEO:</b>	see Schedule 2 (Dictionary) and also s48A of the <i>Crime and Corruption Act 2001</i>
<b>Shareholding Ministers:</b>	the Minister/s to whom the Board of Directors of Ports North are accountable from time to time, currently: <ul style="list-style-type: none"> <li>• Deputy Premier, Treasurer and Minister for Aboriginal and Torres Strait Islander Partnerships; and</li> <li>• Minister for Transport and Main Roads</li> </ul>
<b>Unit of public administration (UPA):</b>	see s20 of the <i>Crime and Corruption Act 2001</i>

<sup>1</sup> See s48A of the CC Act and definitions above.

#### 4. POLICY APPLICATION

This policy applies:

- (i) if there are grounds to suspect that a complaint may involve corrupt conduct of the CEO of Ports North;
- (ii) to all persons who hold an appointment in, or are employees of, Ports North.

For the purpose of this policy, a complaint includes information or matter.<sup>2</sup>

#### 5. NOMINATED PERSON

Having regard to s48A(2) and (3) of the CC Act, this policy nominates the Chairman of the Board of Directors of Far North Queensland Ports Corporation Limited trading as Ports North (“the nominated person”) as the nominated person to notify<sup>3</sup> the Crime and Corruption Commission (CCC) of the complaint and to deal with the complaint under the CC Act.<sup>4</sup>

The CC Act applies as if a reference about notifying or dealing with the complaint to the CEO is a reference to the nominated person.<sup>5</sup>

#### 6. COMPLAINTS ABOUT THE PUBLIC OFFICIAL

If a complaint may involve an allegation of corrupt conduct of the CEO of Ports North, the complaint may be reported to:

- (i) the nominated person; or
- (ii) a person to whom there is an obligation to report under an Act<sup>6</sup> (this does not include an obligation imposed by ss37, 38 and 39(1) of the CC Act).

If there is uncertainty about whether or not a complaint should be reported, it is best to report it to the nominated person.

If the nominated person reasonably suspects the complaint may involve corrupt conduct of the CEO, they are to:

- (i) notify the CCC of the complaint<sup>7</sup>, and
- (ii) deal with the complaint, subject to the CCC’s monitoring role, when —
  - a. directions issued under s40 apply to the complaint, if any; or
  - b. pursuant to s46, the CCC refers the complaint to the nominated person to deal with<sup>8</sup>.

---

<sup>2</sup> See s48(4) CC of the CC Act.

<sup>3</sup> Under s38 of the CC Act.

<sup>4</sup> Under Chapter 2, Part 3, Division 4, Subdivisions 1 & 2 of the CC Act.

<sup>5</sup> See s48A(3) CC Act.

<sup>6</sup> See s39(2) of the CC Act.

<sup>7</sup> Under s38, subject to s40 of the CC Act.

<sup>8</sup> Under ss41 and 42 and/or ss43 and 44 of the CC Act.

If the CEO reasonably suspects that a complaint may involve corrupt conduct on their part, the CEO must:

- (i) report the complaint to the nominated person as soon as practicable and may also notify the CCC; and
- (ii) take no further action to deal with the complaint unless requested to do so by the nominated person.

If directions issued under s40 apply to the complaint:

- (i) the nominated person is to deal with the complaint; and
- (ii) the CEO is to take no further action to deal with the complaint unless requested to do so by the nominated person.

## **7. RESOURCING THE NOMINATED PERSON**

If pursuant to ss40 or 46, the CEO or nominated person has responsibility to deal with the complaint<sup>9</sup>:

- (i) Ports North will ensure that sufficient resources are available to the CEO or nominated person to enable them to deal with the complaint appropriately<sup>10</sup>; and
- (ii) the CEO or nominated person is to ensure that consultations, if any, for the purpose of securing resources sufficient to deal with the complaint appropriately are confidential and are not disclosed, other than to the CCC, without:
  - a. authorisation under a law of the Commonwealth or the State; or
  - b. the consent of the CEO or nominated person responsible for dealing with the complaint;
- (iii) the CEO or nominated person must, at all times, use their best endeavours to act independently, impartially and fairly having regard to the:
  - a. purposes of the CC Act<sup>11</sup>;
  - b. the importance of promoting public confidence in the way suspected corrupt conduct in Ports North is dealt with<sup>12</sup>; and
  - c. Ports North's statutory, policy and procedural framework.

If the nominated person has responsibility to deal with the complaint, they:

- (i) are delegated the same authority, functions and powers as the CEO to direct and control staff of Ports North as if the nominated person is the CEO of Ports North for the purpose of dealing with the complaint only;

---

<sup>9</sup> Under ss41 and 42 and/or ss43 and 44 of the CC Act.

<sup>10</sup> See the CCC's corruption purposes and functions set out in ss4(1)(b), 33, 34, 35 and Ports North's relevant statutory, policy and procedural framework which help inform decision making about the appropriate way to deal with the complaint.

<sup>11</sup> See ss57 and the

<sup>12</sup> See s34(c) CC Act.

- (ii) are delegated the same authority, functions and powers as the CEO to enter into contracts on behalf of Ports North for the purpose of dealing with the complaint; and
- (iii) do not have any authority, function or power, that cannot — under the law of the Commonwealth or the State — be delegated by either the Shareholding Ministers or the CEO, to the nominated person.

If the CEO has responsibility to deal with the complaint, they must:

- (i) disclose the complaint to the nominated person;
- (ii) deal with the complaint; and
- (iii) before finally dealing with the complaint, report to the nominated person about:
  - a. the action to be taken or not taken;
  - b. the reasons the CEO considers the action to be appropriate in the circumstances; and
  - c. the results of the action taken that are known at the time of the report<sup>13</sup>.

## **8. LIAISING WITH THE CCC**

The CEO is to keep the CCC and the nominated person informed of:

- (i) the contact details for CEO and the nominated person; and
- (ii) any proposed changes to this policy.

## **9. CONSULTATION WITH THE CCC**

The CEO will consult with the CCC when preparing any policy about how Ports North will deal with a complaint that involves or may involve corrupt conduct of the CEO.

## **10. APPROVAL**

This policy is approved by resolution of the Board of Directors and will be reviewed triennially.

---

<sup>13</sup> See ss42 and 44 of the C Act.