

# Snowy Hydro Limited

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## Public Interest Disclosure Procedure

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Section 59(3) of the *Public Interest Disclosure Act 2013* (Cth) (**PID Act**) provides that the principal officer of an agency must, by instrument in writing, establish procedures for facilitating and dealing with public interest disclosures relating to the agency. The procedures must:

- (a) deal with the assessment of risks that reprisals may be taken in relation to those disclosures;
- (b) provide for confidentiality of investigative processes;
- (c) comply with any standards in force under subsection 74(1) of the PID Act.

I, Dennis Barnes, of Snowy Hydro Limited:

- (a) establish this Procedure; and
- (b) appoint each of the individuals in Appendix 1 of the Procedure to be authorised officers for the purposes of the PID Act.

Approved: 5 September 2024

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### 1. Introduction

This document sets out the procedures for facilitating and dealing with public interest disclosures for the purposes of section 59(3) of the *Public Interest Disclosure Act 2013* (Cth) (**PID Act**) for Snowy Hydro Limited.

The purpose of the PID Act is to:

- promote the integrity and accountability of the Commonwealth public sector;
- encourage and facilitate the making of disclosures of integrity related wrongdoing by public officials and former public officials;
- ensure that public officials and former public officials who make protected disclosures are supported and are protected from adverse consequences relating to the disclosure; and
- ensure that disclosures are properly investigated and dealt with.

Snowy Hydro is committed to the highest standards of ethical and accountable conduct and encourages the reporting of integrity related wrongdoing under the PID Act.

This Procedure pertains to disclosures that are made internally to Snowy Hydro. The PID Act provides that, in some limited circumstances, a disclosure may be made to external bodies including to legal practitioners or directly to the National Anti-Corruption Commission. The requirements that apply to external and emergency disclosures can be complex, and disclosers should carefully consider the requirements in the PID Act before making those types of disclosures.

Snowy Hydro has separate procedures for reporting grievances relating solely to personal work-related conduct, such as the Snowy Hydro Limited Code of Conduct. See also section 2.4 below.

Snowy Hydro also has a separate, but related, Whistleblower Procedure for facilitating and dealing with disclosures under the *Corporations Act 2001* (Cth) and *Taxation Administration Act 1953* (Cth) and a National Anti-Corruption Commission Procedure for mandatory reporting to the National Anti-Corruption Commission.

### 2. What is a public interest disclosure?

Not all disclosures of information to Snowy Hydro will be a 'public interest disclosure' (**PID**) for the purposes of the PID Act.

A disclosure of information will only be a PID to which this Procedure relates if it meets the following three requirements under the PID Act:

- (a) the disclosure is made by a current or former 'public official' (see section 2.1);
- (b) the disclosure is made to an authorised recipient (see section 2.2); and
- (c) the information contained in the disclosure tends to show, or the discloser believes on reasonable grounds that the information tends to show, 'disclosable conduct' as defined by the PID Act (see section 2.3).

If each of the above requirements have been met, the disclosure will be considered to be a PID and the discloser will have the benefit of certain protections and immunities that are detailed in section 4 below.

#### 2.1. Public official

The first requirement for a PID is that the discloser must be a current or former 'public official' to make a PID. This includes current and former:

- Snowy Hydro employees;

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- individuals and organisations that provide goods or services under a contract directly with Snowy Hydro, including their officers and employees who provide services for the purposes of that contract; and
- individuals and organisations that provide goods or services under a contract to a contractor to Snowy Hydro (i.e. a subcontractor), including their officers and employees who provide services for the purposes of that contract.

In addition to the above, an authorised officer can 'deem' an individual to be a public official if they reasonably believe that the individual has information about wrongdoing and proposes to make a disclosure. This 'deeming' can be done either at the request of an individual or at the authorised officer's own initiative. If this occurs, the authorised officer must provide the individual with a written notice of the determination.

### 2.2. Authorised recipient

The second requirement for a PID is that the disclosure must be made to an authorised recipient. Disclosures can be made to:

- Snowy Hydro's "authorised officers" listed in Appendix 1; or
- the discloser's immediate supervisor or manager.

Information on how to make disclosure to one of these authorised recipients, as well as the limited circumstances where a disclosure outside of Snowy Hydro may be made, is in section 3 below.

### 2.3. Disclosable conduct

The third requirement for a PID is that the information contained in the disclosure tends to show 'disclosable conduct'. There are two limbs to what 'disclosable conduct' means.

First, disclosable conduct is conduct by:

- Snowy Hydro;
- a 'public official' in connection with their position as a public official (i.e. not conduct that is wholly private and has no bearing on their position as a public official); or
- a contractor or subcontractor to Snowy Hydro, or an officer or employee of a contractor or subcontractor to Snowy Hydro, in connection with entering into or giving effect to the contract with Snowy Hydro.

Second, that conduct must:

- contravene a law of the Commonwealth, a State or a Territory;
- occur in a foreign country and contravene a law in force in that country that applies to Snowy Hydro, public official or contracted service provider;
- pervert, or attempts to pervert, the course of justice or involves corruption of any other kind;
- constitute maladministration, including conduct that is based, in whole or in part, on improper motives, is unreasonable, unjust or oppressive, or is negligent;
- be an abuse of public trust;
- be fabrication, falsification, plagiarism or deception in relation to scientific research, or misconduct in relation to scientific work;
- result in the wastage of public money or public property or of the money or property of an authority covered by the PID Act;

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- unreasonably result in a danger to the health and safety of a person, or unreasonably results in or increases the risk of a danger to the health and safety of a person;
- result in a danger to the environment, or results in or increases the risk of a danger to the environment;
- be prescribed by the PID Rules; or
- be engaged in by a public official that involves abuse of the public official's position and could, if proved, give reasonable grounds for disciplinary action resulting in the termination of the official's engagement or appointment.

A mere allegation with no supporting information is not sufficient to 'tend to show' that wrongdoing has occurred or may be occurring: there must be sufficient information to support the allegation. However, a discloser does not need to prove their allegations. They need only to provide sufficient information to identify that disclosable conduct may have occurred or be occurring.

A belief is more than a suspicion or assertion. To believe something, the person reporting the suspected wrongdoing must honestly hold the view that wrongdoing is more likely than not to have occurred. However, it is not sufficient for the discloser to personally hold the belief that wrongdoing has occurred; rather, they must have 'reasonable grounds' for their belief.

### 2.4. Personal work-related conduct

The PID Act is concerned with integrity-related wrongdoing – conduct that is illegal or corrupt, or that results in wastage of public money, unreasonable danger or risk to health and safety, or danger or increased risk of danger to the environment. To maintain this focus, disclosable conduct does not include 'personal work-related conduct'.

Personal work-related conduct is conduct engaged in by one public official in relation to another public official that has personal implications for the second official. The conduct must have occurred in relation to the second public official's engagement or appointment and/or in the course of their employment or exercise of their functions and powers as a public official.

The following are examples of personal work-related conduct:

- conduct relating to an interpersonal conflict between two public officials (such as bullying or harassment);
- conduct relating to the transfer or promotion of a public official;
- conduct relating to the terms and conditions of engagement or appointment of a public official;
- disciplinary action taken in relation to a public official;
- the suspension or termination of a public official's employment or appointment as a public official.

'Personal work-related conduct' will only meet the definition of 'disclosable conduct' if the conduct:

- would constitute taking a reprisal against another person (see section 4.1);
- is of such a significant nature that it would undermine public confidence in Snowy Hydro (or other agencies); or
- has other significant implications for Snowy Hydro (or other agencies).

Snowy Hydro has comprehensive policies in place that enable reporting and resolution of personal work-related conduct. These include the Snowy Hydro Limited Code of Conduct

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and QP22-47 Workplace Behaviour and Equal Opportunity.

### 3. Making a disclosure under the PID Act

#### 3.1. How to make a disclosure to Snowy Hydro

Where possible, public officials are encouraged to make their disclosure to an authorised officer rather than their supervisor or manager as Snowy Hydro's authorised officers have been trained in receiving public interest disclosures and the protections afforded to disclosers under the PID Act.

Disclosures to authorised officers can be made either by:

- direct contact;
- emailing [disclosures@snowyhydro.com.au](mailto:disclosures@snowyhydro.com.au); or
- via StopLine, an independent service provider engaged to accept confidential reports, which has four methods of contact:
  - o Online via the portal <https://snowyhydro.stoplinereport.com/>;
  - o Email to [snowyhydro@stopline.com.au](mailto:snowyhydro@stopline.com.au);
  - o Phone available 24/7 at the free call number 1300 304 550 (within Australia) or +61 3 9811 3275 (from overseas) with reverse charges available; or
  - o Post to Attention: Snowy Hydro, c/o StopLine, PO Box 403, Diamond Creek, VIC, 3089, Australia.

If a public official discloses information to a supervisor and the supervisor has reasonable grounds to believe that the information concerns, or could concern, disclosable conduct, the supervisor must give the information to an authorised officer as soon as reasonably practicable.

#### 3.2. What information should be provided?

The information contained in a disclosure should be clear and factual, and should, as far as possible, avoid speculation, personal attacks and emotive language. It should contain supporting evidence where that is available and should, where possible, identify any witnesses to the disclosable conduct. However, there is no need for a discloser to prove the allegations that are the subject of their disclosure.

Depending on the circumstances, a discloser should consider providing as many of the following matters as possible:

- their name and contact details;
- the nature of the suspected wrongdoing;
- who they think committed the suspected wrongdoing;
- when and where the suspected wrongdoing occurred;
- any relevant events surrounding the issue;
- if they did anything in response to the suspected wrongdoing;
- others who know about the suspected wrongdoing and have allowed it to continue;
- whether they believe their information is a PID under the PID Act (it does not need to be described that way for it to be treated as a PID); and
- if they are concerned about possible reprisal as a result of making a disclosure.

The discloser does not need to state or intend that they are doing so under the PID Act or this Procedure for the requirements of the PID Act to apply.

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Disclosers should not investigate a matter themselves before making a disclosure, as this may hinder a future investigation. Making a disclosure as soon as possible may make it easier for Snowy Hydro to consider and take action as appropriate.

### 3.3. Anonymous disclosures

A disclosure may be made openly, anonymously or under a pseudonym.

There are good reasons why disclosers might consider identifying themselves to an authorised officer, or provide an anonymous means of contact (such as an email address that does not include their name), including because:

- it may be difficult for Snowy Hydro to ensure protection from reprisal if Snowy Hydro does not know the discloser's identity;
- it may be difficult for Snowy Hydro to investigate if the discloser cannot be contacted for further information. An investigator has discretion not to investigate, or further investigate, a disclosure if it would be impractical to do so because the discloser has not provided their name and contact details or is unable to give the investigator further information or assistance if needed; and
- a discloser who does not provide a means of contact cannot be updated on the progress of the matter, including the outcome of the investigation.

### 3.4. Disclosures outside of Snowy Hydro

In some limited circumstances, a disclosure may be made to external bodies to Snowy Hydro. The requirements that apply to external and emergency disclosures can be complex, and disclosers should carefully consider the requirements before making these types of disclosure. A high-level summary of these requirements is provided below.

#### 3.4.1. The Ombudsman

A public official may make a disclosure directly to the Ombudsman about wrongdoing relating to Snowy Hydro if they believe on reasonable grounds that it would be appropriate for the Ombudsman to investigate the matter.

Unless special circumstances exist, the Ombudsman may allocate a disclosure it receives from a public official to another appropriate agency for handling under the PID Act, including Snowy Hydro. The Ombudsman may decide to investigate a disclosure about Snowy Hydro that is made to an authorised officer in the Ombudsman's office or allocated (with consent) to the Ombudsman.

#### 3.4.2. External disclosure

A public official who has already made an internal disclosure under the PID Act may in some circumstances subsequently make a disclosure to any person (except foreign public officials), if:

- the final report of the internal PID investigation has not been prepared within 90 days, or the extended period approved by the Commonwealth Ombudsman (**Ombudsman**); and/or
- an investigation has been completed and the discloser believes on reasonable grounds that the investigation (or the response to the investigation) was inadequate.

Additional restrictions apply to external disclosures:

- the public official must not disclose more information than is reasonably necessary to identify the wrongdoing;
- all of the externally disclosed information must have been the subject of at least part of a prior internal disclosure; and
- making the external disclosure must not be contrary to the public interest.

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### 3.4.3. Emergency disclosure

If a public official believes on reasonable grounds that the information they have involves a substantial and imminent danger to the health or safety of one or more people or to the environment, they may make an emergency disclosure to any person except a foreign public official, provided they meet certain requirements:

- the extent of the information they disclose must be only what is necessary to alert the recipient of the substantial and imminent danger; and
- if they have not previously made an internal disclosure about the matter, or if they have done so and the investigation is not yet completed, there must be exceptional circumstances justifying their decision to make an external disclosure.

### 3.4.4. Legal practitioner disclosure

A public official may disclose information to an Australian legal practitioner for the purposes of seeking legal advice or professional assistance in relation to the official's actual or proposed disclosure elsewhere (i.e., an internal disclosure, an emergency disclosure or an external disclosure).

### 3.4.5. Disclosures to the National Anti-Corruption Commission (NACC)

A public official may make a public interest disclosure directly to the NACC. The NACC has discretion to investigate a corruption issue raised through a disclosure if it is of the opinion that the issue could involve serious or systemic corrupt conduct.

The *National Anti-Corruption Commission Act 2022 (Cth)* (**NACC Act**) and the PID Act offer different protections to disclosers. The NACC Act protections are available to any person who provides information or evidence related to a corruption issue to the NACC. Importantly, a public official will be able to access protections under both schemes where the information or evidence disclosed to the NACC also constitutes disclosable conduct under the PID Act (see section 9 and the National Anti-Corruption Commission Referral Procedure for further detail).

## 4. Protections and support

The PID Act provides a number of protections for disclosers where the disclosure meets the requirements of being a PID. These are:

- protection of the identity of a public official who has made a PID (see section 4.1);
- immunity from civil, criminal or administrative liability (see section 4.2);
- protection from reprisal and recourse to court for remedies for reprisal action (see section 4.3).

Protections under the PID Act remain in place even after any investigation has been completed and the matter concluded.

Disclosers should note that making a PID does not entitle them to protection from the consequences of their own wrongdoing. Additionally, a person who knowingly makes a false or misleading disclosure will not have any protections under the PID Act.

### 4.1. **Protection of identity**

It is an offence for a public official to disclose or use information that is likely to enable the identification of a person as a person who has made a PID other than in accordance with the PID Act.

Snowy Hydro will make every reasonable effort to protect the identity of a person who has made a PID including by ensuring that only individuals directly involved in dealing with the PID may be advised of the details of the PID.



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### 4.2. Immunity from civil, criminal or administrative liability

Any person who makes a PID, or who provides evidence as a witness in relation to a PID, cannot be subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure or providing evidence as a witness in relation to a disclosure. This means that the discloser or witness would not be committing an offence against the secrecy provisions of the *Criminal Code Act 1995* (Cth) for making a disclosure in accordance with the PID Act or providing evidence as a witness, respectively. The discloser or witness also has absolute privilege in proceedings for defamation in respect of the PID.

Further, no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the discloser or witness on the basis of their involvement in a PID.

### 4.3. Protection from reprisal

Snowy Hydro will take reasonable steps to protect public officials who have made a PID against reprisals. Reprisal occurs if someone causes any 'detriment' to another person in relation to a PID or potential PID.

In this context, 'detriment' includes, but is not limited to, any of the following:

- dismissing an employee;
- injuring an employee in their employment;
- altering an employee's position to their disadvantage;
- discriminating between an employee and other employees;
- harassing or intimidating a person;
- harming or injuring a person, including psychological harm;
- damaging a person's property;
- damaging a person's reputation;
- damaging a person's business or financial position; or
- any other damage to a person.

It is an offence to engage in reprisal conduct of this nature. Prosecution can take place under the PID Act, and can carry a penalty of up to two years imprisonment. A discloser can also make an application to court for an injunction to stop or prevent reprisal action, seek compensation for loss or damage suffered, or otherwise access the general protections provisions of the *Fair Work Act 2009* (Cth).

Administrative action that is reasonable to protect the discloser from detriment is not a reprisal. For example, where a person has made a disclosure in relation to practices in their immediate work area, it may be appropriate to transfer them to another work area to ensure they are not harassed or victimised. Furthermore, making a PID does not prevent supervisors and managers from addressing the discloser's unsatisfactory performance in the workplace. Making a disclosure also does not protect a person from the consequences of their own improper conduct if they are implicated in the wrongdoing they have reported.

#### 4.3.1. Risk assessment

Snowy Hydro will conduct a reprisal risk assessment for each PID as soon as possible after the PID is received. The risk assessment will be reviewed as required through the course of any PID investigation.

In most circumstances, an authorised officer will conduct the risk assessment for a PID and it will involve assessing the specific behaviour and circumstances that may result in reprisals, and then putting in place appropriate strategies to prevent or contain them.

The discloser, potential discloser and/or witnesses will be informed of the protections and

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the proper channels for reporting victimisation or discrimination. As part of the risk assessment, any concerns of the discloser about the risks of reprisal will be discussed with them and addressed, taking into account all of the circumstances.

### 4.4. Support for disclosers, witnesses and potential disclosers

Snowy Hydro will support those who make or may make disclosures, and who are otherwise involved in PID matters. This may include taking one or more of the following actions:

- appointing a support person to assist the discloser, potential discloser or witness, who is responsible for checking on their wellbeing regularly;
- informing the discloser of the progress of the investigation;
- where there are any concerns about the health and wellbeing of the discloser, potential discloser or witness, liaising with officers responsible for work health and safety in Snowy Hydro;
- transferring the discloser, potential discloser or witness to a different area within the workplace with their consent.

### 4.5. Support for a person against whom a disclosure has been made

Snowy Hydro will also take steps to support any employee who is the subject of a PID.

This may include taking one or more of the following actions:

- advising the employee of his or her rights and obligations under the PID Act and about Snowy Hydro's investigation procedures, including the employee's rights to procedural fairness;
- ensuring that the identity of the employee is kept confidential as far as reasonably practicable;
- where there are any concerns about the health and wellbeing of the employee, liaising with officers responsible for work health and safety in Snowy Hydro;
- transferring the employee to a different area within the workplace (with the consent of the employee).

### 4.6. Employee Assistance Program

It takes courage to be a discloser, and the process can be stressful for all involved. The confidential Employee Assistance Program (EAP) is available 24/7, free to all employees and their immediate family members, and the use of this service is strongly encouraged. Appointments can be made by calling Workplace Options at the free call number 1800 730 931 (within Australia), by downloading the iConnectYou app, or by visiting <https://global.helpwhereyouare.com/>.

## 5. Considering and allocating the disclosure

### 5.1. Determining whether to allocate the disclosure

When an authorised officer receives a disclosure of information, that officer will consider the information disclosed and, in consultation with the Snowy Hydro legal team, determine whether there are reasonable grounds on which the disclosure could be considered a PID made in accordance with the PID Act, or if it would be more appropriately investigated under another law or power.

If the authorised officer determines that the disclosure meets the requirements of a PID, and after having regard to the relevant considerations, that officer will 'allocate' the disclosure for further handling and investigation in accordance with this Procedure.

If the authorised officer is satisfied on reasonable grounds that it is not a PID or that the

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conduct disclosed would be more appropriately investigated under another law or power, the disclosure will not be allocated.

The authorised officer must:

- use his or her best endeavours to decide the allocation with 14 days after the disclosure is made;
- inform the Ombudsman and, if reasonably practicable, the discloser of the outcome of the allocation decision; and
- if the authorised officer decides not to allocate the disclosure on the basis that the conduct would be most appropriately investigated under another law or power, as soon as is reasonably practicable, take reasonable steps to refer, or facilitate referral, of the conduct under that law or power.

### 5.2. Record keeping

Authorised officers are required to keep the following records:

- if a decision is made to allocate a disclosure, a record of that decision (including who the disclosure is allocated to), the reason for the decision, and if it is allocated to an agency other than Snowy Hydro, the consent of that agency to receive the disclosure;
- if a decision is made to not allocate a disclosure, a record of that decision and the reasons for that decision;
- if a stop action direction is issued under the NACC Act which prevents the allocation of a disclosure, a record of the details of that direction, when it was made, when it no longer applies and whether the Principal Officer considers that it is reasonably practicable or appropriate for the discloser to be given a copy of the notice;
- if the discloser has been notified of the above, the day and time, the means by which and the matters of that notice provided to the discloser, or if the discloser was not notified of the above, the reason why not.

Support materials for authorised officers, including template notification forms, are available through the Snowy Hydro legal team.

## 6. Investigating the disclosure

### 6.1. Role of Principal Officer

Generally, where a PID has been allocated to Snowy Hydro by an authorised officer, Snowy Hydro's Principal Officer (or delegate) must investigate the disclosure and prepare a report within a set timeframe (usually 90 days) and in accordance with the requirements of the PID Act.

Snowy Hydro's Principal Officer may only decide not to investigate a PID if the circumstances in section 48(1) of the PID Act apply. These include, but are not limited to, circumstances where:

- the discloser is not a current or former public official;
- the information does not to any extent concern serious disclosable conduct;
- the disclosure is frivolous or vexatious;
- the information is the same, or substantially the same, as information previously disclosed and dealt with (or being dealt with) under the PID Act or another law or power;
- it is impractical to investigate the disclosure because the discloser has not revealed their name and contact details, the discloser has refused or has failed or is unable to

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give the investigator the information they requested or because of the age of the information; or

- the conduct disclosed is being investigated under another law or power or would be more appropriately investigated under another law or power.

Where the Principal Officer decides not to investigate a disclosure, or decides not to investigate a disclosure further, the Principal Officer must, as soon as reasonably practicable, give written notice to the Ombudsman and, if reasonably practicable, the discloser of that decision, and of the reasons for that decision.

The Principal Officer must also provide information to the discloser about other courses of action that might be available to the discloser under other laws of the Commonwealth.

### 6.2. Conducting the investigation

#### 6.2.1. General principles

The following general principles will apply to the conduct of investigations:

- Maintaining the confidentiality of the identity of the discloser will be paramount and observed.
- The principles of natural justice will be observed, including that a person who is the subject of the investigation will be provided with an opportunity to respond to allegations.
- A decision whether evidence is sufficient to prove a fact will be determined on the balance of probabilities, taking into account relevant evidence.

Aside from compliance with these principles and any additional procedural requirements that may apply in the circumstances (see further below), the Principal Officer is free to conduct the investigation as the Principal Officer sees fit. The way in which the investigation is conducted may vary depending on the alleged conduct which is being investigated.

#### 6.2.2. Obtaining information

During the investigation, the Principal Officer may, for the purposes of the investigation, obtain information from such persons and make such inquiries as the Principal Officer sees fit.

When being interviewed as part of an investigation, an interviewee will be informed of the following:

- the identity and function of each person conducting the interview;
- the process of conducting an investigation;
- the authority of the investigator under the PID Act to conduct an investigation;
- the protections provided to the person under the PID Act; and
- the person's duty:
- if they are a public official – to use their best endeavours to assist the investigator in the conduct of an investigation under the PID Act (subject to the public official's privilege against incriminating themselves or exposing themselves to a penalty);
- not to take or threaten to take reprisal action against the discloser; and
- subject to the PID Act, not to disclose the identity of the person who made the disclosure.

The Principal Officer will ensure:

- an audio or visual recording of the interview is not made without the interviewee's knowledge;

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- when the interview ends, the interviewee is given an opportunity to make a final statement or comment or express a position; and
- any final statement, comment or position by the interviewee is included in the record of the interview.

In conducting the investigation, the Principal Officer may adopt findings set out in reports of investigations or inquiries under another law or power, or other investigations under the PID Act.

### 6.2.3. Confidentiality

The investigation of the disclosure should be conducted in as confidential a manner as is possible. In particular, the identity of both the discloser and the person alleged to have engaged in the disclosable conduct should not be revealed except where this is reasonably necessary for the effective investigation of the disclosure (including because of the need to afford procedural fairness).

Any interviews should be conducted in private. Any interviews with the discloser should be arranged so as to avoid the identification of the discloser by other officials.

In conducting an investigation:

- all paper and electronic documents and files, including audio or video files, will be kept securely and only able to be accessed by authorised officers, investigators and other officers involved in managing the disclosure;
- other materials such as interview tapes or external data storage (USB) drives will be stored securely with access only by officers involved in handling the disclosure;
- communications and documents relating to the investigation will not be sent to an email address to which other staff have access or to a printer or fax machine in an open area.

### 6.2.4. Referral of information to police and others

If, during the course of the investigation, the Principal Officer suspects on reasonable grounds that some of the information disclosed or obtained in the course of the investigation is evidence of the commission of an offence against a law, the Principal Officer may disclose the information to a member of an Australian police force. If the information relates to an offence that is punishable by imprisonment for a period of at least two years, the Principal Officer must disclose the information to a member of an Australian police force, unless the offence forms part of a corruption issue that has been referred to the NACC Commissioner.

The investigation may also include consideration of whether a different or further investigation should be conducted by the agency or another body under another law or power.

## 6.3. **Preparing the investigation report**

On completing an investigation under the PID Act, a report of the investigation must be prepared. A report of an investigation under the PID Act must set out:

- the matters considered in the course of the investigation, including the disclosable conduct alleged by the discloser and any other possible disclosable conduct subsequently identified;
- the duration of the investigation;
- the steps taken to gather evidence;
- a summary of the evidence and how the evidence informed the findings;

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- the findings, including whether there was any disclosable conduct (and if so, what type) and any regulations, rules, administrative requirements or similar matters to which the disclosable conduct relates;
- the action (if any) that has been, is being or is recommended to be taken;
- to the extent relevant:
  - o claims of any reprisal taken against the discloser, or any other person, that relates to the matters considered in the course of the investigation, together with any related evidence;
  - o how Snowy Hydro responded to those claims or evidence;
  - o whether Snowy Hydro found any evidence of such reprisal against the discloser or another person; and
  - o the action taken or recommended to address such findings of reprisal.

### 6.3.1. Providing the investigation report to the discloser

If it is reasonably practicable, the Principal Officer will provide the discloser with written notice of the completion of the investigation, together with a copy of the report, within a reasonable time after preparing the report.

The Principal Officer may delete from the copy of the report given to the discloser any material:

- that is likely to enable the identification of the discloser or another person;
- would be exempt for the purposes of Part IV of the *Freedom of Information Act 1982* (**FOI Act**), would require a national security or other protective security clearance, contains intelligence information or contravenes a designated publication restriction as defined in the PID Act.

### 6.3.2. Providing the investigation report to the Ombudsman

The Principal Officer will provide the Ombudsman with written notice of the completion of the investigation, together with a copy of the report, within a reasonable time after preparing the report.

## 6.4. **Timeframes for completion of an investigation under the PID Act**

Investigations under the PID Act must be completed (that is, an investigation report must be completed) within 90 days of the date the matter was allocated for investigation. While a straightforward matter may be completed quickly, more complex issues, where significant evidence needs to be gathered, may take much longer.

The Ombudsman may grant one or more extensions of time. If an extension is granted, the Ombudsman will inform the discloser and give reasons for the extension. This does not apply if contacting the discloser is not reasonably practicable. In cases where the Ombudsman doesn't have the discloser's identity or contact details, the agency handling the disclosure will be asked to notify the discloser.

If an extension is granted, the Principal Officer will also let the discloser know about the progress of the investigation.

## 7. **What if the discloser is not satisfied with Snowy Hydro's actions?**

A person who has made an internal disclosure may be unhappy with Snowy Hydro's decision not to investigate a matter. If the disclosure is investigated, they may believe that the investigation or the agency's response to the investigation was inadequate. A reasonable

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belief that an investigation under the PID Act was inadequate or that the agency's response was inadequate is one of the conditions for making an external disclosure.

A discloser who is unhappy with the process or how they have been treated may also complain to the Ombudsman.

### 8. Information sharing

The PID Act authorises Snowy Hydro to share information and documents where it considers the information or documents relevant to another agency's functions. This includes, but is not limited to, sharing a copy of an investigation report. This may occur where Snowy Hydro has been allocated a disclosure or there is conduct which relates to Snowy Hydro, and vice versa with respect to other agencies.

Snowy Hydro does not have any positive obligations to share information should it elect to not do so, and is otherwise entitled to redact any material that it may provide if it considers it appropriate to do so (including to comply with confidentiality obligations).

### 9. Interaction with the NACC Act

The NACC Act imposes obligations on 'PID Officers' (being the Principal Officer, authorised officers and other officials that are performing functions under the PID Act) that this section of the Procedure set out.

For further information about the NACC Act, refer to the National Anti-Corruption Commission Referral Procedure.

#### 9.1. Mandatory referral to the NACC

In considering a disclosure, the PID Officer who is either allocating an internal disclosure or investigating an internal disclosure must consider whether the mandatory referral obligation under the NACC Act to the NACC applies. In exercising these functions, the PID Officer must consider whether:

- the internal disclosure raises a corruption issue under the NACC Act;
- the corruption issue concerns the conduct of a person who is, or was, a staff member of Snowy Hydro while that person is, or was, a staff member of Snowy Hydro; and
- the PID Officer suspects the issue could involve serious or systemic corrupt conduct.

A 'corruption issue' is information, or an allegation, that raises a question of whether a person has engaged in corrupt conduct in the past, is currently engaging in corrupt conduct, or will engage in corrupt conduct in the future. While 'corrupt conduct' can take many forms, the NACC Act defines it as situations where a public official does something that breaches the public trust, abuses their office as a public official, or misuses information they have access to in their capacity as a public official. It also applies to any person (whether or not they are a public official) who does something, or tries to do something, that could adversely affect a public official's honesty or impartiality in their official capacity.

If these criteria are met, the PID Officer must refer the corruption issue to the NACC as soon as reasonably practicable after becoming aware of it.

This occurs in parallel with actions undertaken under this Procedure. In effect, this means that the PID investigation must continue unless the NACC Commissioner directs Snowy Hydro to stop action under section 43 of the NACC Act.

#### 9.2. Informing the NACC

In making a mandatory referral to the NACC, the PID Officer must include the following information in the referral to the NACC:



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- all information relevant to the corruption issue in their possession or control when they make the referral;
- the reason why they suspect the issue could involve corrupt conduct that is serious or systemic.

Information relevant to a corruption issue may include (but is not limited to):

- the names of any public officials who the PID Officer suspects has engaged in serious or systemic corrupt conduct;
- the names of any private individual or entities involved;
- a description of the conduct;
- the dates and timeframes of when the alleged corrupt conduct occurred or may occur;
- how and when the PID Officer became aware of the issue;
- any supporting documents or evidence;
- any other relevant information.

If the PID Officer becomes aware of new information after making the referral, they must provide it to the NACC (as soon as reasonably practicable).

### 9.3. Exceptions to information requirements

A PID Officer is not required to provide information about a corruption issue if any of the following apply:

- the PID Officer believes on reasonable grounds that the NACC Commissioner is already aware of the information;
- the NACC Commissioner has advised the information is not required;
- the information is subject to an exempt secrecy provision; or
- the Attorney-General has certified that disclosing the information would be contrary to the public interest because it would harm Australia's international relations.

### 9.4. Informing the discloser

The PID Officer will inform the discloser where mandatory referral has been made to the NACC, as soon as reasonably practicable. This requirement applies irrespective of whether the referral was made at the allocation or investigation stage.

### 9.5. Power of the NACC to require Snowy Hydro to stop action

Referring a corruption issue to the NACC does not prevent a PID Officer from continuing to take action in relation to the disclosure under the PID Act. A PID Officer is still required to handle or deal with the disclosure in accordance with the PID Act, unless the NACC Commissioner directs issues a 'stop action direction' for the Authorised Officer to stop taking action in relation to a corruption issue. This may include a direction to stop investigating a PID.

The Principal Officer must notify the Ombudsman in writing if a stop action direction prevents allocation or investigation of the disclosure. The Principal Officer is also required to notify the person who made the disclosure that they cannot investigate, or further investigate, the disclosure because of a stop action direction under the NACC Act.

## 10. Monitoring and evaluation

The Procedure and supporting processes will be periodically reviewed by management.

Authorised officers will provide periodic reports to the Principal Officer specifying the



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number of PIDs that they have received, the nature of the disclosable conduct for each disclosure, the number of investigations, the outcomes (including action taken in response to investigation report findings and recommendations), details of any support provided to a discloser and allegations of reprisal.

The Principal Officer will report to the Ombudsman on disclosures as required under the PID Act.

### 11. Accessibility of Procedure

This Procedure will be published externally on Snowy Hydro's website, and internally on the staff intranet. Information will be posted on notice boards at sites and included in relevant induction and training sessions.

### 12. Further information and resources

- [Public Interest Disclosure Act 2013 \(Cth\)](#)
- [National Anti-Corruption Commission Act 2022 \(Cth\)](#)
- [Commonwealth Ombudsman](#)
- [National Anti-Corruption Commission](#)
- Whistleblower and Public Interest Disclosure Policy
- Whistleblower Procedure
- National Anti-Corruption Commission Referral Procedure
- Snowy Hydro Limited Code of Conduct
- QP22-47 Workplace Behaviour and Equal Opportunity.

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### Appendix 1 – Authorised Officers

Name	Email	Phone
<b>Anshula Wilkinson</b> General Manager - Project Excellence (Snowy 2.0)	anshula.wilkinson@snowyhydro.com.au	0498 745 154
<b>Stephen Grant</b> Retail Compliance Manager	stephen.grant@redenergy.com.au	03 9838 9320
<b>Jessica Dixon</b> Senior Corporate Lawyer	jessica.dixon@snowyhydro.com.au	0402 342 294
<b>Rob Cavallaro</b> Manager - Health, Safety, Capability and Services	rob.cavallaro@snowyhydro.com.au	0400 277 411
<b>Inge Vermeulen</b> Senior Treasury Manager	inge.vermeulen@snowyhydro.com.au	0413 894 198