



ACT
Government

Environment, Planning and
Sustainable Development

Review Secretariat
Public Interest Disclosure Act Review
Chief Minister, Treasury and Economic Development Directorate
email: PIDActReview@act.gov.au

Dear Secretariat

Public Interest Disclosure Act 2012 Review

Thank you for your email of 11 June 2019 inviting submissions on the *Public Interest Disclosure Act 2012* (the Act) review. On behalf of the Environment, Planning and Sustainable Development Directorate (EPSDD) I wish to make the following comments.

1. PID Procedures

Section 33 of the Act and the current PID Guidelines require entities to make procedures for the entity for dealing with PIDs. However, the Guidelines provide that entities may adopt the procedures contained in the Guidelines. If the entity adopts the procedures in the Guidelines there is still a requirement to seek the Public Sector Standards Commissioner's (PSSC) approval for the entity to adopt the Public Interest Disclosure Guidelines as the agency's procedures.

EPSDD suggests that the Act should provide that the PSSC's Guidelines are adopted by entities as their procedures by default. The Act should also provide that if an entity wishes to depart from the procedures in the Guidelines then approval from the PSSC is required. You may wish to consider making procedures developed by entities (rather than those adopting the Guidelines) notifiable instruments under the Act to promote transparency and accountability.

2. Clarity Around a Definition of Maladministration

Under the Act, the definition of maladministration includes an action about a matter of administration that was contrary to a law in force in the ACT.

Agencies would benefit from further clarification around the application of this provision, as instances may arise where a decision-maker makes a decision on reasonable grounds under a law, but subsequently finds that their decision is inconsistent with a law in force in the ACT.

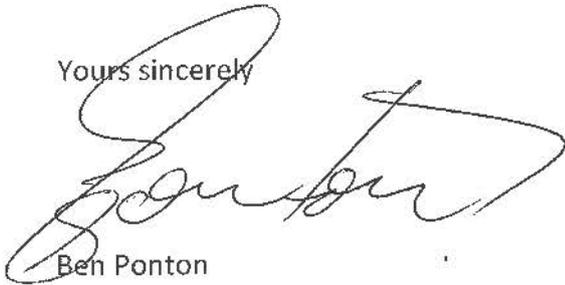
This could be particularly relevant on planning decisions where an interpretation of development code is found to be incorrect through an appeal in the Administrative Civil Appeals Tribunal or to the Supreme Court.

3. PID Guidelines 2019

The Environment, Planning and Sustainable development Directorate welcomes the updated PID Guidelines 2019, noting that they provide further clarification for disclosures and disclosure officers on the types of matters that may be disclosures and covered by the Act, and complaints which may be better managed through other processes.

Thank you for seeking my views.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ben Ponton', written in a cursive style.

Ben Ponton
Director-General
24 July 2019