

WHISTLEBLOWER POLICY

January 2020

Key Contacts*

Whistleblower Investigation Officer

Judith Pini, Senior Legal Counsel
+61 2 9080 8022
judith.pini@mirvac.com
L28, 200 George Street
Sydney NSW 2000

Whistleblower Hotline
(Managed independently by YourCall)

Internet: www.yourcall.com.au/report
Free call (within Australia): 1300 790 228
Quote Organisation ID: MIRVAC

Whistleblower Protection Officer

David Ogier, Group General Manager, Risk
+61 407 395 350
david.ogier@mirvac.com

Directors
of the Board or members of the ELT

Michelle Favelle, Group Company Secretary
+61 2 9080 8376
michelle.favelle@mirvac.com

*Communication should be made after review of this policy.

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Policy Maintained by: General Manager Risk & Audit

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1 PURPOSE

This policy outlines:

- processes for reporting Disclosures¹ in relation to Mirvac Group (Mircac)
- Mirvac's processes for investigating disclosures
- protections offered to persons making a disclosure (Whistleblower), and persons mentioned in disclosures, and
- processes for maintaining and updating this policy.

Note: There are certain differences between the whistleblower protections that exist under the *Corporations Act 2001* (Cth) and the whistleblower protections that exist under the *Taxation Administration Act 1953* (Cth). Please read this policy carefully before making a disclosure to ensure that you understand what is required in order for you to be afforded adequate protection.

1.1 WHO CAN MAKE A DISCLOSURE?

The following persons (both in a current or previous capacity) may make a Disclosure under this policy:

- a) officers (including directors) of Mirvac
- b) employees of Mirvac
- c) suppliers to Mirvac, and employees of these suppliers
- d) individuals who are associates² of Mirvac
- e) a relative³ of any of the above people, or a dependent or one of the above people or their spouse, and/or
- f) any persons prescribed from time to time as being able to make a disclosure by regulations under the *Corporations Act 2001* (Cth) or the *Taxation Administration Act 1953*.

1.2 WHAT DOES A DISCLOSURE HAVE TO BE ABOUT?

To make a Disclosure under this policy, the discloser must have reasonable grounds to suspect the information disclosed:

- a) concerns misconduct, or an improper state of affairs in relation to Mirvac examples of which may include:
 - corruption, fraud or other illegal activity such as theft, dealing in or use of illicit drugs, violence or threatened violence and criminal damage against property
 - serious mismanagement or waste of Mirvac resources or other actions resulting in financial loss to Mirvac

¹ Defined in 1.2 below.

² In relation to tax disclosures, references to an "associate" means an associate within the meaning of section 318 of the *Income Tax Assessment Act 1936*

³ In relation to tax disclosures, only a spouse or child of one of the above people (or a dependent of one of the above people or their spouse) can make a disclosure.

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- o gross mismanagement of conflicts of interest
- o a serious and/or intentional breach of legislation or of Mirvac policies or procedures
- o any other conduct which may cause a loss to Mirvac, be detrimental to its interests or damage its reputation
- o breaches of work, health and safety legislation.
- o engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or who is believed to have made, or be planning to make, a disclosure
- b) indicates conduct that constitutes a breach of the *Corporations Act* or the *Australian Securities and Investments Commission Act 2001 (Cth)*,
- c) indicates conduct that constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more.
- d) indicates conduct that represents a danger to the public or the financial system, or
- e) indicates conduct that is prescribed under regulations made under the *Corporations Act*, from time to time.

It is important to note that in the case of a Disclosure that relates to tax affairs, it will only be a Protected Disclosure (see 1.8) if the discloser has reasonable grounds to suspect that the information:

- f) indicates misconduct, or an improper state of affairs or circumstances, in relation to the tax affairs of Mirvac or an associate of Mirvac;
- g) may assist the recipient to perform functions or duties in relation to the tax affairs of Mirvac or an associate of Mirvac; or
- h) may assist the Tax Commissioner to perform his or her functions or duties under a taxation law in relation to Mirvac or an associate of Mirvac (in this case, the disclosure must be made to the Tax Commissioner).

For the above purposes, "tax affairs" means affairs relating to any tax imposed by or collected under a law administered by the Commissioner (e.g. income tax, GST, PAYG withholding, etc.).

If a discloser makes a disclosure to a legal practitioner in order to obtain advice in relation to whistleblowing protections in the *Corporations Act* the matters disclosed will be protected even if the legal practitioner advises that the matters disclosed is not a Protected Disclosure (see 1.8).

1.3 WHO CAN DISCLOSURES BE MADE TO AND HOW?

Mirvac encourages employees, in the first instance, to make Disclosures to their supervisor or manager, or to their 'one-up' supervisor or manager.

Nonetheless, a discloser may make a Disclosure to any of the following persons (Eligible Recipients):

- a) an Officer of Mirvac (any of the Directors of the Board of Mirvac Limited or a member of the Mirvac Executive Leadership Team
- b) Mirvac's Head of Internal Audit (the Whistleblower Investigation Officer) or members of an audit team conducting an audit, of Mirvac
- c) Mirvac's Human Resources Managers
- d) the Whistleblower Protection Officer (a nominated Senior Legal Counsel within Mirvac)

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- e) the Mirvac Whistleblower Hotline (managed independently by YourCall, available 24 hours),
or
- f) in relation to Disclosures made by employees of Mirvac - a person who supervises or manages the employee.

A discloser can remain anonymous while making the disclosure, over the course of the investigation and after the investigation. A discloser can refuse to answer questions that they feel could reveal their identity at anytime, including during follow up discussions. The best way for a discloser to maintain anonymity is to use the Mirvac Whistleblower Hotline which allows for anonymous disclosures and ongoing anonymous two way communication between Mirvac Whistleblower Investigation Committee and the discloser. Refer section 1.6 Confidentiality for further mechanisms/ measures to maintain anonymity.

In relation to a Tax Affairs Disclosure , only (a) to (d) above apply. In addition, a Tax Affairs Disclosure can also be made to:

- g) a registered tax agent or BAS agent (within the meaning of the Tax Agent Services Act 2009) who provides tax agent or BAS services to Mirvac;
- h) any other employee of Mirvac who has functions or duties that relate to the tax affairs of Mirvac; and
- i) any person or body prescribed, for these purposes, in relation to Mirvac.

If the discloser wishes to obtain further information before making a disclosure, the discloser should contact either the Whistleblower Investigation Officer or the Whistleblower Protection Officer.

If the discloser wishes Mirvac to investigate a Disclosure under this policy, he or she should (except where the Disclosure relates to the Whistleblower Investigation Officer) make the Disclosure to the Whistleblower Investigation Officer or ask one of the people mentioned above to refer the Disclosure to the Whistleblower Investigation Officer.

If the discloser wishes Mirvac to investigate a Disclosure that relates to the Whistleblower Investigation Officer, the discloser should make the Disclosure to the Whistleblower Protection Officer, or the Discloser should ask for one of the people mentioned above to refer the disclosure to the Whistleblower Protection Officer. In this case, the Whistleblower Protection Officer will take on the role of the Whistleblower Investigation Officer in relation to the Disclosure.

In the exceptional circumstances that a Disclosure relates to the Whistleblower Investigation Officer and the Whistleblower Protection Officer, the discloser should report the issue to an Officer of Mirvac, or ask that one of the persons mentioned above refer the Disclosure to an Officer of Mirvac, to consider what, if any, action is required.

1.4 DECISION ON WHETHER TO INVESTIGATE A DISCLOSURE

Upon receipt of a Disclosure, the Whistleblower Investigation Officer will notify the Whistleblower Investigation Committee (WIC). The WIC ensures Disclosures meet the requirements of this policy.

The WIC is comprised of the Whistleblower Officer, the Whistleblower Protection Officer, the Head of Risk, and the Head of Human Resources.

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If a Disclosure relates to a member of WIC, that member will not perform their functions on WIC in relation to the Disclosure.

The WIC must:

- a) determine whether the Disclosure satisfies the requirements of this policy including determine whether the Disclosure is a Protected Disclosure (see 1.8),
- b) determine whether the Disclosure warrants investigation, based on the information received,
- c) assess whether there is potential for any retaliatory conduct being taken against the discloser,
- d) take measures it considers necessary to protect the discloser from retaliatory conduct, and
- e) if a Disclosure is to be investigated, ensure the discloser, where possible, understands the investigation process.
- f) set indicative timelines for the investigation including updates to the discloser during the investigation.

1.5 THE INVESTIGATION PROCESS

The investigation process followed will depend on the nature and circumstances of the Disclosure.

Nonetheless, all investigations will follow a process similar to the one described below:

- a) The WIC will oversee the investigation.
- b) If the WIC determines that an investigation is warranted, the WIC will, as far as possible, allocate the investigation to an Investigator who has the necessary skills and knowledge to undertake such an investigation and who is sufficiently independent of the area, department and individuals named in the disclosure.
- c) If the WIC determines that an investigation is not warranted, the Whistleblower Officer will submit a report the Chairman of the Audit, Risk and Compliance Committee explaining WIC rationale for not investigating the disclosure.
- d) The Investigator may be internal to Mirvac or an external service provider or involve another investigation method.
- e) The Investigator will undertake an objective investigation and will obtain specialist, independent advice where necessary. All Mirvac persons are required to assist the Investigator to the maximum extent possible within the law.
- f) If the Disclosure concerns the actions of another Mirvac person, that person will be informed of the Disclosure if the WIC considers it appropriate to do so and at a time the WIC deems appropriate.
- g) The principles of natural justice will be applied to the investigation.
- h) The Investigator will keep records of all interviews conducted and all records received which affect the outcome of the investigation.
- i) Once the investigation is complete, the Whistleblower Officer will submit a report to the Chairman of the Audit, Risk and Compliance Committee (with a copy to the CEO & Managing Director) and to the members of the WIC (unless one or more of these persons is named in the Disclosure) on the results of the WIC determinations including, where appropriate, any recommended actions. Individuals involved in the investigation, including the Discloser and members of the WIC, are not involved in the determination of any disciplinary action which might be considered.

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- j) Where the identity of the discloser is known, the Whistleblower Officer will ensure the Discloser is kept informed of the outcomes of the investigation in a timely manner subject to the considerations of privacy of those against whom the disclosure is made.
- k) All investigations will be carried out as quickly and efficiently as reasonably practicable and in accordance with this policy and any other applicable Mirvac Policy.

1.6 CONFIDENTIALITY

Confidentiality is of vital importance to Mirvac. Mirvac will take reasonable steps to protect the identity of all disclosers and, within the constraints of the requirement to investigate, maintain confidentiality over the subject matter of the Disclosure.

Depending on the nature and circumstances of the Disclosure, however, the information in the Disclosure may be disclosed to:

- a) WIC
- b) Officers of Mirvac and other Mirvac employees on an “as needs basis”
- c) Persons against whom allegations are made in the Disclosure
- d) External advisers, and/or
- e) Relevant authorities.

While steps are taken to protect the identity of the discloser, it needs to be recognised it may not be possible to maintain total confidentiality if the subject matter of the Disclosure is to be properly investigated and appropriately resolved.

Examples of measures and/or mechanisms for maintaining anonymity and confidentiality of a discloser’s identity include:

- f) using the hotline message board to conduct anonymous two way communication with the discloser where disclosure is made through the Mirvac Whistleblowing Hotline;
- g) requiring and maintaining ongoing confidentiality where disclosures are communicated to internal or external third parties in accordance with the Investigation Process (see 1.5);
- h) redacting all personal information or reference to the discloser;
- i) referring to the discloser in a gender-neutral context;
- j) where possible and relevant, contacting the discloser to clarify aspects of the disclosure that could inadvertently identify them;
- k) ensuring disclosures will be handled and investigated only by qualified staff
- l) where the disclosure is not anonymous ensuring only members of the WIC will be made aware of a discloser’s identity unless the discloser otherwise consents.
- m) securely storing all paper and electronic documents and other materials relating to disclosures.

1.7 STANDARD OF PROOF

The WIC and any Investigator engaged will make any necessary determination or finding required in the Investigation Process on the balance of probabilities.

1.8 PROTECTION FOR DISCLOSERS

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There are protections for disclosers in the *Corporations Act 2001* or the *Taxation Administration Act 1953*, and Mirvac is committed to protecting disclosers who make Disclosures in accordance with this policy. A discloser can still qualify for protection even if their discloser turns out to be incorrect.

A disclosure will be protected under the *Corporations Act 2001* or the *Taxation Administration Act 1953* (a **Protected Disclosure**) if:

- a) it is made by one of the persons listed in 1.1 above,
- b) in the case of a Disclosure that does not relate to tax affairs the discloser has reasonable grounds to suspect the information he or she is disclosing concerns any of the matters set out in paragraphs (a) to (e) of section 1.2 above,
- c) in the case of a Tax Affairs Disclosure that relates to tax affairs the discloser has reasonable grounds to suspect the information he or she is disclosing concerns any of the matters set out in paragraphs (f) to (h) of section 1.2 above,
- d) in the case of a Disclosure that does not relate to tax affairs the Disclosure is made to one of the persons listed in section 1.3 above or to ASIC, APRA, or a Commonwealth authority prescribed for the purposes of s 1317AA(1)(iii) of the *Corporations Act*
- e) in the case of a Tax Affairs Disclosure the Disclosure is made to relevant persons listed in paragraphs (a) to (d) and (f) to (h) of section 1.3 above or, in the circumstances under paragraph (h) of section 1.2 above, the Commissioner of Taxation.

Anonymous Disclosures will still be Protected Disclosures.

Disclosures relating to personal work-related grievances generally do not qualify for protection under the *Corporations Act 2001* and will not, subject to below, qualify as Protected Disclosures. Personal work-related grievances are those that can relate to the discloser's current or former employment. Examples of personal work-related grievances include:

- a) an interpersonal conflict between a discloser and another employee
- b) a decision that does not involve a breach of workplace laws
- c) a decision about the engagement, transfer or promotion of the discloser
- d) a decision about the terms and conditions of engagement of the discloser
- e) a decision to suspend or terminate the engagement with the discloser

These matters can be raised through Mirvac's Grievance Resolution Procedure.

Examples of disclosures about personal work-related grievances that would qualify as Protected Disclosures include:

- a) if disclosure includes information about misconduct, or information about misconduct includes or is accompanied by a personal work related grievance
- b) the discloser suffers from or is threatened with detriment for making a disclosure.

Separate protection criteria applies for emergency disclosures, disclosures to legal practitioners and public interest disclosures. Emergency disclosures⁴ or public interest disclosures are disclosures made to journalists or member of Parliament. It is important for the discloser to understand the criteria for making a public interest or emergency disclosure. A discloser should contact an independent legal advisor before making a public interest or an emergency disclosure. For further information on making emergency disclosures, disclosures to legal practitioners or public interest disclosures, please contact ASIC.

The *Corporations Act 2001* and the *Taxation Administration Act 1953* provides protections for disclosers who make Protected Disclosures, including that:

- a) it is unlawful for a person to cause a discloser a detriment because he or she believes the discloser made a Protected Disclosure, may have made a Protected Disclosure, proposes to make or could make a Protected Disclosure,
- b) it is generally unlawful for a person to threaten to cause a detriment to a discloser, because the discloser has made or may make a Protected Disclosure,
- c) the discloser is not subject to any civil, criminal or administrative liability for making the disclosure,
- d) no contractual or other remedy (e.g. an action for a breach of duty of care) can be enforced against a discloser for making the disclosure, and
- e) for Protected Disclosures made to ASIC, APRA or prescribed Commonwealth authorities, Emergency Disclosures, or for Tax Affairs Disclosures made to the Commissioner, the information the discloser provided is not admissible in evidence against the discloser in criminal proceedings or in proceedings that attempt to impose a penalty on the person, other than proceedings in respect of allegations the reported information was false.

Further to these statutory protections any direct or indirect threat of, or actual, discrimination, harassment, intimidation, dismissal, demotion or current or future bias against any person by reason that he or she reported a Disclosure under this policy including a Tax Affairs Disclosure and a Protected Disclosure (Retaliatory Conduct) against the discloser will be a breach of Mirvac's Misconduct Policy. If a discloser believes any Retaliatory Conduct has been taken against them or feels additional support is required, he or she should contact the Whistleblower Protection Officer. The Whistleblower Protection Officer is to safeguard the interests of the discloser in accordance with this policy and the relevant legislation. Any claims of Retaliatory Conduct will be investigated by the Whistleblower Protection Officer and dealt with in accordance with Mirvac's disciplinary procedures outlined in Mirvac's Misconduct Policy.

1.9 PROTECTION OF INDIVIDUALS MENTIONED IN DISCLOSURE

Any allegation in a Disclosure (including a Tax Affairs Disclosure and a Protected Disclosure) made against an individual will be considered to be unsubstantiated until a determination has been made. None of the WIC nor any other person to whom any Disclosure is disclosed will disclose any details of a Disclosure other than

⁴ In contrast to the *Corporations Act 2001* whistleblower regime, the tax whistleblower regime does not protect Emergency Disclosures.

in the course of undertaking the Investigation Process in 1.5 and responding to any necessary corrective action. The discloser and any persons interviewed or consulted in the course of any investigation or determination of a Disclosure must also maintain strict confidentiality over any details or allegations. Speculative gossip by anyone, including the discloser or any persons involved in the investigation or determination, will not be tolerated and disciplinary action may be considered.

1.10 DELIBERATELY FALSE AND RECKLESS DISCLOSURES

As outlined above, Retaliatory Conduct must not be taken against a discloser for making any Disclosure in accordance with this policy. However, making deliberately false disclosures, or recklessly reporting conduct or making allegations without reasonable grounds to support the allegation as required by section 1.2 of this policy will not attract any protections under this Policy. Disciplinary action may be considered for any such reckless reporting.

2 MAINTENANCE AND AVAILABILITY OF POLICY

2.1 AVAILABILITY OF POLICY AND TRAINING

This policy will be made available to officers and employees of Mirvac via the Mirvac Group Website and the Mirvac Group Intranet site.

Two tiers of training will be provided:

1. Face-to-face training for Eligible Recipients will include processes set out in the Whistleblower Policy to respond to disclosures, protecting the Discloser's right to anonymity during the investigation and what constitutes a Protected Disclosure.
2. Training module for all staff will outline how Mirvac's whistleblower protection regime works and how disclosures can be made within Mirvac.

2.2 REVIEW OF PROGRAM EFFECTIVENESS

The effectiveness of the Whistleblower Policy and its related programs, including training, communication and visibility, will be assessed every two years.

2.3 REVIEW OF POLICY

This Policy will be reviewed every two years to ensure it continues to comply with the law and remains relevant and effective to Mirvac's Directors, employees, contractors, consultants, suppliers and agents.

2.4 APPROVAL & ADOPTION

This policy was approved and adopted by the Chief Executive Officer & Managing Director and Executive Leadership Team on 24 January 2020.

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