

## WHISTLEBLOWER POLICY

### 1. Overview

Byron Energy Limited (**the Company**) strives to ensure we are operating the business with integrity. This document outlines what individuals should do if they wish to make a disclosure in relation to corporate misconduct, and what protection is available to them.

The policy is developed and implemented having regard to the protections afforded to eligible whistleblowers under Part 9.4AAA of the *Corporations Act 2001* (Cth) (**the Act**).

This Policy forms part of the Company's risk management framework which includes the Directors' Code of Conduct, Risk Management Policy, Anti-Bribery and Corruption Policy and other related documents.

This Policy aligns with the Company's commitment to take our corporate responsibilities very seriously and endeavour to meet or exceed all operational government regulations.

### 2. Effect of this policy

This policy aims to provide guidance to officers and employees of the Company, in respect of the protections afforded under legislation for whistleblowers. To the extent that officers and employees of the Company have obligations under this policy, they are required to comply with the policy.

The terms of this policy are not intended to impose contractual obligations on the Company or on any related body corporate. Further, the terms of this policy are not incorporated into any individual employee's contract of employment, nor any contractor's contract for services. This policy may be amended, replaced or rescinded by the Company from time to time, and in its absolute discretion.

### 3. What are the whistleblower protections all about?

Where a person who is an Eligible Whistleblower, makes an Eligible Disclosure, to an Eligible Recipient, then the person making the disclosure has certain rights and protections under legislation.

### 4. Who is an "Eligible Whistleblower"?

An Eligible Whistleblower is a person who is, or was:

- an officer;
- an employee;
- a supplier of goods or services (or employee of such a supplier);
- an associate (which includes a director or secretary of the Company or a related body corporate); or

- a relative, dependent or dependent of a spouse, of any individual listed above, to or of the Company.

The Act provides protections for Eligible Whistleblowers in certain circumstances, and the Company is committed to recognising and upholding those protections.

## 5. What is an “Eligible Disclosure”?

The disclosures protected by the Act (“Eligible Disclosures”) include disclosures where a person has reasonable grounds to suspect that the information disclosed concerns:

- (a) *misconduct or an “improper state of affairs or circumstances” regarding the Company or any of its related bodies corporate;*
- (b) *the Company or any related body corporate (or any officer or employee of those entities) having engaged in conduct that:*
  - (i) is an offence against, or contravention of, the Act, the *Australian Securities and Investments Commission Act 2001* (Cth) (ASIC Act), or a range of specified banking, insurance, life insurance and superannuation statutes;
  - (ii) is conduct that relates to an offence against any law of the Commonwealth which is punishable by imprisonment for 12 months or more; or
  - (iii) represents a danger to the public or the financial system.

**Some examples of Eligible Disclosures include** (but are not limited) to:

- fraud, money laundering, or misappropriation of funds;
- offering or accepting a bribe;
- threats to engage in detrimental conduct against a person who has made a disclosure, or is believed or suspected to have made, or planning to make, a disclosure that qualifies for protection.

A disclosure made on reasonable grounds may still qualify for protection even if the disclosure turns out to be incorrect.

A disclosure may also be an Eligible Disclosure if the disclosure is made to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the protections for whistleblowers contained in Part 9.4AAA of the Act.

There is no requirement for a discloser to identify him or herself for a disclosure to qualify for protection.

A whistleblower may have a right to make a public interest disclosure and an emergency disclosure (which relates to disclosures to a member of parliament and to journalists), pursuant to s.1317AAD of the Act. There is specific criteria applying to such disclosures, and a person should obtain specific independent legal advice about their rights before seeking to make such a disclosure.

A person may also have a right to make a disclosure in relation to misconduct concerning the tax affairs of the Company or its related bodies corporate, as set out in the *Taxation Administration Act 1953* (Cth).

## 6. What is NOT an “Eligible Disclosure”?

Importantly, a “personal workplace grievance”, being a grievance about any matter in relation to the discloser’s employment, or former employment, having (or tending to have) implications for the discloser personally, will *not* qualify for protection, unless it concerns a contravention or alleged contravention of the Act, relating to a detriment caused or a threat made to a discloser. Examples of a personal workplace grievance include disclosures about:

- interpersonal conflict between a discloser and another employee;
- decisions relating to promotions, transfers, demotions, terms and conditions of employment; and
- decisions about taking disciplinary action against a discloser (including decisions about suspension and termination of employment).

However, a disclosure will not be a “personal workplace grievance” (and therefore will be capable of protection under the legislation), where the disclosure:

- has significant implications for the Company (or another regulated entity) that do not relate to the discloser; or
- is otherwise an offence against federal law, or represents a danger to the public or financial system.

However, although a “personal workplace grievance” may not be reportable pursuant to the terms of this policy, the Company encourages employees and officers to discuss personal work-related grievances with our Chief Executive Officer.

## 7. Who is an “Eligible Recipient” of a disclosure that qualifies for protection under the Act?

In order to qualify for protection, protected disclosures must be made to one or more of the following Eligible Recipients:

- an officer (including a director or company secretary) of the Company or a related body corporate;
- a senior manager of the Company or a related body corporate (being a person in the Company or a related body corporate who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the Company or a related body corporate, or who has the capacity to affect significantly the Company’s or a related body corporate’s financial standing);
- the Australian Securities and Investments Commission (ASIC);
- the Australian Prudential Regulation Authority (APRA);
- the external auditor (or a member of that audit team) of the Company or a related body corporate;
- an actuary of the Company or a related body corporate;
- a legal practitioner for the purpose of obtaining legal advice or legal representation in relation

to the operation of the whistleblower protections (such disclosure will still qualify for protection even if the legal practitioner concludes that the disclosure is not an Eligible Disclosure under the Act).

## **8. Who is/are the Company's Whistleblower Protection Officer/s?**

Although you are entitled to report to any of the Eligible Recipients listed above, we encourage you to contact either of the Company's designated Whistleblower Protection Officers -- our Chairman ([veoffice2@gmail.com](mailto:veoffice2@gmail.com)) or Company Secretary ([nick.filipovic@byronenergy.com.au](mailto:nick.filipovic@byronenergy.com.au)) -- for the purposes of:

- making an Eligible Disclosure; or
- seeking contact information of other Eligible Recipients.

## **9. What information should I include in my report?**

When making a disclosure under this policy, the Company requests that a person includes, in writing:

- a description of the suspected conduct;
- a description of the reasonable grounds for the suspicion that the conduct is an Eligible Disclosure; and
- anything else the person wishes to add that would assist the Company to make an assessment of the conduct or to otherwise investigate it.

## **10. Investigation of disclosures**

Upon receipt of an Eligible Disclosure, the Company will first assess the disclosure and make a determination as to whether investigation is appropriate. The Company may investigate such disclosures made pursuant to this policy, and will approach the resolution of an issue on the basis of what is reasonably necessary to ensure appropriate responsible governance and corporate behaviour.

Without limiting the Company's discretion when deciding which disclosures it will investigate, the Company may decide not to investigate an Eligible Disclosure in circumstances where a previous disclosure(s) has been made to the Company relating to the same or similar circumstances, and where the Company has already investigated the matters the subject of that previous disclosure(s).

The Whistleblower Protection Officer, and/or another person deemed appropriate by the Company, may be appointed to assist in the investigation of a disclosure.

In endeavouring to ensure fair treatment of persons identified in a disclosure, the investigation will be conducted independently of any person who is mentioned in, or is the subject of, the disclosure. Where appropriate, such persons may be informed of the allegations and provided with the opportunity to respond.

While the particulars of the investigation process will be determined by the nature and substance of the disclosure, if the disclosure is not anonymous, contact with the whistleblower may be made shortly after receipt of the disclosure, and further information may be sought.

Where the Company considers it appropriate to do so, the Company will provide feedback to the whistleblower regarding the progress and/or outcome of the investigation, including any timeframes

for completion of any investigation (assuming the disclosure has not been made anonymously and contact can be made).

Where a report is submitted anonymously, the Company may conduct an investigation based on the information provided.

## **11. Outcomes of investigations**

Upon completion of an investigation, the Company will take any steps it considers appropriate. This includes but is not limited to:

- taking disciplinary action against those the subject of a disclosure;
- taking disciplinary action against a person who has knowingly made a false disclosure;
- reporting any findings of the investigation related to criminal activity, to the police and/or regulators (e.g. ASIC).

Subject to any confidentiality requirements set out in paragraph 12B of this Policy, or as otherwise required by law, the outcome of investigations conducted will be reported to the Company's Board. Any other material concerns raised under this Policy will also be reported to the Board.

The Board will keep records of all reports made under this Policy, including information regarding the date the report was received, a description of the issues raised, the discloser (unless they have requested anonymity), and the status and results of any investigation.

## **12. Protection for whistleblowers**

An Eligible Disclosure which qualifies for protection under the Act, qualifies for protection from the time the disclosure is made, regardless of whether the discloser or recipient recognises that the disclosure qualifies for protection.

Where an Eligible Disclosure made under this policy is made which qualifies for protection under the Act, the Company will endeavour to support the Eligible Whistleblower and protect them from detriment in the following ways:

### *A) Protection from detrimental conduct*

If an Eligible Whistleblower makes a disclosure that qualifies for protection, it is prohibited under law, for another person to subject the discloser (or threaten to subject the discloser) to detrimental conduct as a result of making a disclosure (or believes or suspects a person made, may have made, proposes to make, or could make, a qualifying disclosure). Detrimental conduct includes (but is not limited to):

- termination of employment;
- disciplinary action;
- demotion;
- performance management;
- bullying or harassment; and
- discrimination.

Such conduct is strictly prohibited by this policy. If it is determined that an employee or contractor engages in conduct in breach of this direction, appropriate action (including disciplinary action, or termination of a contractor's engagement) will be taken. Such action will be separate from any penalties or damages that may be imposed by a court upon a person for having contravened the legislation.

If an Eligible Whistleblower considers that they have been subjected to detrimental conduct within the meaning of the above paragraphs, the Eligible Whistleblower may lodge a complaint by email to Nick Filipovic, Company Secretary at [nick.filipovic@byronenergy.com.au](mailto:nick.filipovic@byronenergy.com.au). The Company may investigate such complaints and take such action it determines to be appropriate in the circumstances. Eligible Whistleblowers may seek independent legal advice or contact regulatory bodies, such as ASIC or APRA, if they believe they have suffered detriment.

For the avoidance of doubt, protecting a discloser from detriment does not prevent the Company from managing a discloser's unsatisfactory performance, or from taking action to protect a discloser from detriment (for example, when the disclosure relates to wrongdoing in the discloser's immediate work area).

A discloser (or any other employee or person) can seek compensation and other remedies through the courts if: they suffer loss, damage or injury as a result of detrimental conduct suffered in connection with a disclosure; and the entity failed to take reasonable precautions and exercise due diligence to prevent a person from causing the detriment. Disclosers are encouraged to seek independent legal advice in these circumstances.

The Company will protect disclosers from detriment in the following ways:

- assess the potential risk to a discloser upon the receipt of a disclosure;
- take steps to investigate any complaint relating to detriment of the kind outlined above;
- take appropriate disciplinary action where a complaint relating to detriment has been substantiated;
- implement steps (to the extent that they are reasonable and practicable) to avoid or minimise risks of detriment to a discloser (for instance, a change in the work environment).

#### *B) Protection of the identity of the whistleblower*

Disclosures can be made anonymously and still qualify for protection under the Act. A person making a disclosure may choose to remain anonymous at the time of making a disclosure, during the course of any investigation into a disclosure, and at the completion of any investigation.

Except in the circumstances below, where an Eligible Disclosure is made that qualifies for protection under the Act, the Company will not disclose the identity of the discloser, or any information that is likely to lead to the identification of the discloser, unless:

- the discloser consents;
- it is disclosed to ASIC, APRA, or a member of the Australian Federal Police;
- it is disclosed to a lawyer to obtain legal advice or legal representation in relation to the operation of the whistleblowing provisions; and/or
- it results in information being disclosed where it is reasonably necessary to do so for the purposes of the Company investigating a matter to which the qualifying disclosure relates (in

which case the Company will ensure the disclosure does not identify the whistleblower and will take all reasonable steps to reduce the risk the discloser will be identified).

It is illegal, and therefore specifically prohibited by the Company, for any person to disclose a person's identity or information likely to identify a discloser, unless any of the above exceptions apply.

The Company will also implement the following further measures to protect a person's identity from being disclosed, including:

- ensuring the safekeeping of any files and documentation concerning the disclosure;
- permitting a discloser to adopt a pseudonym which will then be used by the Company, and otherwise redacting a discloser's name and using gender neutral identifiers, where practicable;
- where a disclosure has not been made anonymously, by contacting a discloser to ascertain what parts of their disclosure could inadvertently identify them;
- making those persons who investigate a disclosure, aware of the terms of this policy; and
- any other reasonable measures suggested by a discloser, such as communication through an anonymised email address.

#### *C) Further protections*

The protections given by the Act when an Eligible Disclosure qualifying for protection under the Act is made, are:

- the whistleblower is immune from any civil, criminal or administrative liability (including disciplinary action) for making the disclosure;
- no contractual or other remedies may be enforced, and no contractual or other right may be exercised against the whistleblower, on the basis of the disclosure;
- in some circumstances, the reported information is not admissible in evidence against the whistleblower in criminal proceedings or in proceedings for the imposition of a penalty, except where the proceedings are concerned with whether the information is false;
- a whistleblower's identity cannot be disclosed to a court or tribunal except where considered necessary; and
- unless the whistleblower has acted unreasonably or vexatiously, a whistleblower cannot be ordered to pay costs in any legal proceedings in which the whistleblower is seeking compensation for loss, damage or injury suffered as a result of the detrimental conduct.

#### *D) Protection of files and records*

To the extent that the Company deems it appropriate to do so, the Company will create records and maintain documents in the course of any investigation. All protected disclosures and any files and records created from an investigation of a protected disclosure will be securely retained.

A release of information in breach of this policy will be regarded as a serious matter and may have consequences for employment (or for contractors, their contract for services).

*E) Additional support*

The Company recognises that making a disclosure as a whistleblower can be stressful. If a person who makes a disclosure is an employee of the Company, they may request additional support by communicating with the Chief Executive Officer or Company Secretary.

The Company will look at ways to provide support to the extent reasonably practicable.

**13. Availability of policy**

This policy will be published on the Byron Energy Limited website.

**14. Review**

The Board will periodically review this Policy to check that it is operating effectively and to consider whether any changes are required.

Any questions about this Policy and its application should be directed to the Company Secretary.

**Adopted by the Board of Byron Energy Limited  
30 June 2021**

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