



**NSW Government response to recommendations of the Standing Committee on State Development report entitled *Allegations of impropriety against agents of the City of Canterbury Bankstown Council***

Recommendation	Government response
<p><b><u>Recommendation 1</u></b></p> <p>That the Standing Committee on State Development refer the influence of property developers in the creation of planning instruments and the positioning of infrastructure in the City of Canterbury Bankstown Council to the Independent Commission Against Corruption, along with its report and committee transcripts of evidence, for investigation.</p>	<p>This recommendation is directed to the Committee.</p>
<p><b><u>Recommendation 2</u></b></p> <p>That the NSW Government review the potential for candidates in local government elections to receive funds from property developers through shell companies, including third party lobbying firms, contrary to the ban on political donations from property developers.</p>	<p>The Government accepts recommendation 2.</p> <p>The Government has conducted a review of the potential for candidates in local government elections to receive funds from property developers through shell companies. The review has demonstrated that the legislative framework remains appropriate and continues to meet its objectives. The <i>Electoral Funding Act 2018</i> (the <b>Electoral Funding Act</b>) was developed following an extensive review of electoral funding laws by an independent panel of experts chaired by Dr Kerry Schott (the <b>Panel</b>), a review of the Panel's report by the Joint Standing Committee on Electoral Matters (<b>JSCEM</b>), and close consultation with the NSW Electoral Commission.</p> <p>Division 7 of Part 3 of the Electoral Funding Act declares property developers, among others, to be 'prohibited donors' and provides that it is unlawful for:</p> <ul style="list-style-type: none"><li>a) a prohibited donor to make, or solicit another person to make, a political donation;</li><li>b) a person on behalf of a prohibited donor to make, or solicit another person on behalf of a prohibited donor to make, a political donation; and</li></ul>

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	<p>c) a person to accept a political donation that was made, wholly or partly, by a prohibited donor or by a person on behalf of a prohibited donor (section 52).</p> <p>This prohibition extends to ‘close associates’ of property developers, whether the property developer is an individual or corporation.</p> <p>The Electoral Funding Act includes robust mechanisms to prevent prohibited donors from circumventing these prohibitions, including through the use of shell companies.</p> <p>For example, it is an offence under the Electoral Funding Act to enter into or carry out a scheme for the purpose of circumventing a prohibition or requirement of Part 3 of the Electoral Funding Act with respect to political donations or electoral expenditure, including the ban on donations by property developers (section 144(1)).</p> <p>It is also an offence under the Electoral Funding Act to do any act that is unlawful under Division 7 of Part 3 of the Act if the person was, at the time of the act, aware of the facts that result in the act being unlawful (section 145(1)).</p> <p>Section 58(3) of the Electoral Funding Act further provides that if a person makes a political donation and becomes a property developer within the next 12 months, they must double the amount of the donation to the State, to capture persons who intend to make relevant planning applications but who are not captured by the definition of ‘property developer’ at the time of donating.</p> <p>The Government notes that the Standing Committee on State Development made no findings in relation to the use of shell companies to circumvent electoral funding restrictions. The scope of the inquiry was limited to the City of Canterbury Bankstown and the previous City of Bankstown Council, and the evidence before the Committee did not suggest the widespread use of shell companies for political donations.</p> <p>While the Government considers that the relevant legislative framework is appropriate and continues to meet its objectives, the Government is open to referring the matter to the Joint Standing Committee on Electoral Matters (when it is established) to consider in the context of its anticipated inquiry into the administration of the 2023 State election.</p> <p>The Government also notes that any evidence that NSW electoral laws have been contravened should be referred to the NSW Electoral Commission.</p>

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<p><b><u>Recommendation 3</u></b></p> <p>That the Office of Local Government review the:</p> <ul style="list-style-type: none"> <li>- <i>Guidelines for the payment of expenses and provision of facilities to Mayors and Councillors in New South Wales</i> to ensure that they align with community expectations</li> <li>- <i>Model Code of Conduct for Local Councils in New South Wales</i> to ensure that the obligation to disclose pecuniary interests extends to overseas and interstate property interests.</li> </ul>	<p>The Government accepts recommendation 3.</p> <p>The Office of Local Government will:</p> <ul style="list-style-type: none"> <li>a) review and update the <i>Guidelines for the payment of expenses and provision of facilities to Mayors and Councillors in New South Wales</i> in consultation with the local government sector; and</li> <li>b) review and update the appropriate model policies governing conduct and interests declarations to ensure that the obligation to disclose pecuniary interests extends to overseas property interests. Council officials are already required to disclose interstate property interests in their returns of interests.</li> </ul>
<p><b><u>Recommendation 4</u></b></p> <p>That the Legislative Council re-establish the <i>inquiry into allegations of impropriety against agents of the City of Canterbury Bankstown Council</i> in the 58<sup>th</sup> Parliament to enable the Standing Committee on State Development to further pursue current lines of inquiry.</p>	<p>This recommendation is directed to the Legislative Council.</p>