

The Hon. Aileen MacDonald, OAM MLC
Member of the Legislative Council
C/o Ms Emily Treeby, Principal Council Officer

Your ref: D23/160022
Our ref: E23/0322

By email only:
State.Development@parliament.nsw.gov.au

12 July 2023

Dear Ms Treeby

I refer to the correspondence you emailed to the Commission on 28 February 2023, from the Hon Aileen MacDonald OAM MLC, who was then the Chair of the Legislative Council's Standing Committee on State Development, concerning the inquiry conducted by that Standing Committee into allegations of impropriety concerning the City of Canterbury Bankstown Council ('Council'). I also refer to the Commission's acknowledgment letter of 8 March 2023 and apologise for the delay in further writing to you.

The allegations and concerns raised

While the Commission was provided with a copy of the Standing Committee's report (Report No 49 - Allegations of impropriety against agents of the City of Canterbury Bankstown Council), the correspondence we received did not detail specific allegations of corrupt conduct that the Standing Committee wished the Commission to consider. However, from our assessment of the report and associated transcripts, the Commission has identified and considered several allegations.

Please note, the following is only a broad summary of the key allegations identified in the report; it is not a complete list of every matter raised in the report. That said, we have considered all the information contained within the report and the associated transcripts. The allegations and concerns we have more specifically considered are as follows:

- 1) Council's (then) Mayor, Khaldoun 'Khal' Asfour, misused Council funds to support his personal interests, including by financing a Master of Business Administration ('MBA'), health spa treatments, the purchase of alcohol, the purchase of luxury clothing, parking costs, international visits (as Mayor), and a dinner with the NSW Trades and Labour Council.
- 2) Property developers may have improperly influenced Mr Asfour's conduct in relation to planning decisions, including in respect of:
 - a) the rezoning and redevelopment of the West Terrace Carpark
 - b) the redevelopment of the Bellevue Function Centre, owned by Mr Walhan 'Wally' Wehbe.
- 3) During his 2021 local government election campaign, Mr Asfour accepted donations from Mr Bingsoo Pty Ltd, a business owned in part by property developer Mr David Fam and which is therefore a prohibited donor under the Electoral Funding Act 2018.

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- 4) Mr Asfour misused Council's resources by using Council letterhead to announce his withdrawal as a candidate for election to the NSW Legislative Council in 2023.

The Commission's decision

The Commission's Assessment Panel considered the allegations and concerns raised and decided not to investigate this matter, for the following reasons:

- Regardless of whether a reasonable person would consider it acceptable for Cllr Asfour to charge his MBA, clothing purchases and various trip expenses to Council, it appears that the expenses fell within Council's expenses policy. As such, this allegation essentially disputes a policy regarding reasonable expenditure by Council officials, as opposed to involving corrupt conduct.
- In relation to the allegation that there may have been corrupt conduct involved in the rezoning and redevelopment of the West Terrace Carpark and the Bellevue Venue, the information before the Commission is not sufficient to indicate a reasonable likelihood of corrupt conduct having occurred.
- The information before the Commission is not sufficient to support an allegation that Mr Asfour might have corruptly favoured David Fam and his family with work and business opportunities as a result of any electoral donations made by businesses reportedly associated with Mr Fam. Where corrupt conduct is not otherwise evident, the issue of allegedly unlawful electoral donations is generally a matter for the NSW Electoral Commission.
- The allegation concerning the announcement of Cllr Asfour's election bid withdrawal being printed on Council letterhead does not appear to be sufficiently serious and systemic to warrant investigation by the Commission.

In summary, the information before the Commission does not sufficiently support a reasonable likelihood that corrupt conduct, warranting investigation by the Commission, may have occurred.

Although we are not investigating the allegations and concerns raised, I thank the Standing Committee for drawing this matter to the Commission's attention. It will be retained for intelligence purposes.

Yours faithfully

**The Hon Paul Lakatos SC
Commissioner**