

Ms Kiersten Fishburn
Secretary
Department of Planning & Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Your Ref: IRF23/3079
Our Ref: Z21/0025

Dear Ms Fishburn,

SUBJECT: Plan of action to implement corruption prevention recommendations made in the report: *Investigation into the conduct of councillors of the former Canterbury City Council and others (Operation Dasha)*

Thank you for your letter of 7 December 2023 providing the final report on the Department's plan of action to implement corruption prevention recommendations arising from the Commission's *Investigation into the conduct of councillors of the former Canterbury City Council and others (Operation Dasha)*.

The implementation of the majority of recommendations directed to the Department since the release of the Operation Dasha report is a commendable effort, especially given the breadth of matters in both the local government and environmental planning areas. I also note the active engagement by the Department's staff in discussing its responses to the recommendations with Commission officers.

The Commission will no longer request a formal update from you regarding the implementation of the Operation Dasha recommendations. Consequently, I take this opportunity to provide some observations.

First, environmental planning remains an area of serious and ongoing risk of corruption. Almost half of the Commission's investigation reports since 2018 concern serious corrupt conduct findings involving the NSW planning system. This includes recent investigation reports into former Hurstville City Council / Georges River Council (Operation Galley) and the City of Canada Bay Council (Operation Galley). Implementing the corruption prevention recommendations made by the Commission in Operation Dasha and subsequent relevant investigation reports will help address opportunities for corrupt conduct. The Commission, however, will continue to monitor this area and recommend further actions if required.

Secondly, I note the recent discussions held between your staff and Commission Officers concerning the Department's clause 4.6 monitoring and reporting framework. As noted in these discussions, the adoption of a risk-based approach to the selection of councils for auditing, which focuses on high-risk areas such as large scale residential multiple housing developments, will help detect potential corruption and other improper conduct. It was also noted in these discussions that the term 'internal audit' has a specific meaning under the relevant Australian Standard which indicates that specific processes and methodologies

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have been adopted. The engagement of qualified internal auditors would assist in the development of an effective audit program that aligns with these assurance standards.

Thirdly, I note the Department's approach regarding recommendations 18 and 19. The Commission in its Operation Dasha report identified that a system for calculating development assessment fees, which relies on an estimated cost of works, is an obvious incentive for an applicant to understate the monetary value of a development. It also raised the prospect that the NSW Government had forgone revenue as a result. Similarly, it was observed in the Dasha report that capital investment values can be imprecise and are largely determined by information provided by applicants. While it is within the Department's remit to implement the Commission's recommendations in the way it has chosen, further vigilance may be required by councils to confirm the accuracy of estimated development costs.

Finally, I note the Department's advice that it no longer plans to implement recommendation 20 and the reasons you have provided for this decision. The Commission appreciates that the splitting of development applications is a complex issue and the Department has to balance a number of competing priorities, including ensuring the timely commencement of component works. Nevertheless, the Commission remains concerned that the planning system remains open to jurisdictional manipulation.

Consistent with our practices, the Commission will upload your letter and its attachment to our website to make it available for public access.

Should you require further assistance from the Commission, please contact Antony Pedroza, Senior Corruption Prevention Officer (Planning), on 8281 5810 or by email at apedroza@icac.nsw.gov.au.

Yours sincerely,



Lewis Rangott
Executive Director, Corruption Prevention
20 December 2023

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