

ALL ELECTION PARTICIPANTS

Definition of prohibited donors, property developers and close associates

Unless otherwise stated, all references to legislation are to the *Local Government Electoral Act 2011* (LGEA). The information in this fact sheet does not replace legislation. If you are concerned about your obligations, you should seek independent legal advice.

This fact sheet relates to candidates, groups of candidates, political parties, associated entities, third parties and donors who participate in local government elections and by-elections.

It is illegal to make or accept a political donation from a prohibited donor in relation to a local government election. Individuals or entities who are not sure if they are prohibited donors may apply to the ECQ for a determination.

Please refer to [Fact sheet 43 – Ban on political donations from prohibited donors](#) and [Fact sheet 44 – Applications for a prohibited donor determination](#) for more information.

Who is a prohibited donor?

A prohibited donor includes:

- a **property developer**
- a **close associate** of a property developer
- an industry representative organisation with property developers as the majority of its members.

What is a property developer?

A property developer is a corporation engaged in a business that **regularly** makes **relevant planning applications** concerning the development of residential or commercial land with the ultimate purpose of selling or leasing the land for profit.

Who is a close associate?

A close associate of a property developer includes:

- a related body corporate of the property developer
- a director or other officer of the property developer
- a person with more than 20% of the voting power of the property developer or a related body corporate
- a spouse, de factor or civil partner of any of the above persons
- if the property developer is a trustee, manager or responsible entity in relation to a unit trust – a person who holds more than 20% of the units in the trust
- if the property developer is a trustee, manager, or responsible entity in relation to a discretionary trust – a beneficiary of the trust
- if the property developer or related body corporate is one entity in a stapled security – the other entity in the stapled security.

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More information

If you need more information relating to Funding, Disclosure and Compliance, please contact ECQ on 1300 881 665 or by emailing fad@ecq.qld.gov.au.



**Electoral
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What is a relevant planning application?

A relevant planning application includes an application or request:

- for a development approval under the *Planning Act 2016* or the repealed *Sustainable Planning Act 2009*
- about the making or amendment of a planning instrument or designation under the *Planning Act 2016* or the repealed *Sustainable Planning Act 2009*
- for a State Development Area approval under the *State Development and Public Works Organisation Act 1971*
- under the *State Development and Public Works Organisation Act 1971* about the following —
 - the declaration or variation of a coordinated project, prescribed development, prescribed project or State development area
 - the imposition of, or change to, conditions on a coordinated project
 - the preparation or variation of a development scheme
- for a Priority Development Area development approval under the *Economic Development Act 2012*
- under the *Economic Development Act 2012* or the Minister for Economic Development Queensland about—
 - a priority development area or provisional priority development area
 - a development scheme, interim land use plan or PDA-associated development for a priority development area
 - a provisional land use plan or PDA-associated development for a provisional priority development area.

A relevant planning application does **not** include:

- a development application made in another state or territory other than Queensland
- an application or request that predominantly concerns the corporation's own place of business or premises (unless the business involves selling or leasing a substantial part of the premises).

What is meant by 'regular'?

Regular means periodic, recurring, continuous or with precedent. No specific quantity of planning applications or timeframe in which they are made can be attributed to the definition.

Planning applications differ in size and complexity. A project may require a single planning application or several separate applications to cover various aspects of a development (e.g. reconfiguring a lot, material change of use, operational works).

Due to the nature of development projects, some property developers may submit planning applications numerous times a year. Others engaged in large-scale projects may only submit applications every few years. Both scenarios may be considered regular when assessing if an individual or entity is a property developer.

More information

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 **EXAMPLE**

A corporation intends to develop a parcel of land. The development includes private residential apartments, commercial retail premises and other aspects.

The corporation was established solely for the purpose of developing this land. It is not clear whether the corporation will need to lodge a single application or several to see the project completed.

Prior to lodging a development application with the local council, the corporation engages a number of consultants, architects, etc. for specialist reports to support their development application. These include noise mitigation reports, traffic management reports, drainage reports, etc.

The ECQ considers that the corporation is a property developer as they have begun engaging in a business that requires the lodgement of development applications on a regular basis.

Who is not a prohibited donor?

An individual or entity is **not** a prohibited donor if:

- they do **not** make relevant planning applications on their own behalf or as part of their own business activities

and

- they are **not** a close associate of an entity that does.

This may include:

- professional service providers engaged by property developers (e.g. engineers, architects, town planners, etc.)
- an individual or entity that submits relevant planning applications as a service on behalf of another individual or entity
- a relative (other than a spouse, de facto or civil partner) or employee of a property developer.

The ECQ can also make determinations that a person or entity is not a prohibited donor through a formal application process. For more information, please see [Fact sheet 44 – Applications for a prohibited donor determination](#).

What is the ban on political donations from prohibited donors?

Under the LGEA, it is unlawful to give or receive a political donation from a prohibited donor. Please refer to [Fact sheet 43 – Ban on political donations from prohibited donors](#) for details.

More information

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For further information

This fact sheet mainly refers to part 6, division 1A of the LGEA. The Act is available in full at legislation.qld.gov.au. Participants in the electoral process should ensure they understand their obligations under the LGEA.



RELATED FACT SHEETS

Fact sheet 43 – Ban on political donations from prohibited donors

Fact sheet 44 – Applications for a prohibited donor determination

Fact sheets can be found on the [ECQ website](#).

More information

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