

Thursday 29 June 2023

Investigation into the conduct of the then member of Parliament for Wagga Wagga and then premier and others (Operation Keppel)

ICAC FINDINGS

The ICAC found that Gladys Berejiklian and Daryl Maguire engaged in serious corrupt conduct. Read the full findings [here](#).

ICAC RECOMMENDATIONS

The Commission seeks the advice of the Director of Public Prosecutions (DPP) on whether any prosecution should be commenced. The DPP determines whether any criminal charges can be laid, and conducts all prosecutions. The Commission is of the opinion that consideration should be given to obtaining the advice of the DPP about the prosecution of Mr Maguire, Phillip Elliott and Maggie Wang for various offences. Read the full recommendations [here](#).

CORRUPTION PREVENTION

The Commission has made 18 corruption prevention recommendations to help prevent the conduct identified in the investigation from recurring. Read the corruption recommendations [here](#).

BACKGROUND

This investigation commenced after the Commission lawfully intercepted telephone calls in May 2016 between Mr Maguire and Michael Hawatt, then an affected person in the Commission's Operation Dasha investigation concerning councillors of the former Canterbury City Council and others. In the telephone calls, Mr Hawatt and Mr Maguire discussed potential property deals. Mr Maguire told Mr Hawatt that he had a "mega big" client who wanted 30 properties with approved development applications. It became apparent that the "client" to which Mr Maguire was referring was Country Garden Australia Pty Ltd, the Australian arm of a Chinese development company.

Because the conduct concerning Mr Maguire was not sufficiently related to the matters under investigation in Operation Dasha, the Commission determined that it should be investigated separately. On 9 February 2017, the Commission commenced a preliminary investigation and on 5 May 2017, determined that the matter should proceed to a full investigation. In December 2019, the Commission determined that it was in the public interest to conduct a public inquiry into the allegation concerning Mr Maguire which, due to delay caused by the COVID-19 pandemic, was held from 21 September 2020 to 16 October 2020. Ms Berejiklian was one of 26 witnesses called to give evidence in what is referred to as the First Public Inquiry. In the course of this inquiry, both Ms Berejiklian and Mr Maguire gave evidence that they were in a "close personal relationship", which continued on their evidence until 13 September 2020, six days before the commencement of the First Public Inquiry.

The Commission then became aware of further allegations concerning grants of public monies made in 2016 to the Australian Clay Target Association (ACTA), and on two occasions in 2018 to the Riverina Conservatorium of Music ("the RCM"). In both cases, Mr Maguire had been an enthusiastic advocate for the grants and Ms Berejiklian had presided over and/or been a member of Expenditure Review Committee (ERC) meetings which had approved them. The Commission became aware that she had not disclosed her close personal relationship with Mr Maguire in exercising her public official functions as treasurer and premier respectively regarding their approval.

During its investigation of Mr Maguire, the Commission had become aware of the relationship between him and Ms Berejiklian. The investigation revealed them discussing aspects of Mr Maguire's conduct that the Commission was investigating and Ms Berejiklian's participation in grant decisions favouring projects in his electorate.

As the investigation progressed, it was apparent to the Commission that her acts and omissions gave rise to questions as to whether she had: seriously misused her public offices; breached the NSW Ministerial Code of Conduct; failed to exercise her duty under section 11 of the ICAC Act to report any matter that she suspected on reasonable grounds concerned, or may concern, corrupt conduct in relation to the conduct of Mr Maguire; and engaged in conduct that was liable to allow or encourage the occurrence of corrupt conduct by Mr Maguire such as could constitute serious corrupt conduct within the meaning of the ICAC Act.

The Commission determined on 30 September 2021 that it was in the public interest to conduct a further public inquiry for the purpose of investigating the allegations concerning Ms Berejiklian. The Second Public Inquiry was held over 11 days, from 18 October 2021 to 1 November 2021. It continued the investigation into the Maguire allegation as well as investigating the Berejiklian allegations. Evidence was taken from 14 witnesses at the Second Public Inquiry. Assistant Commissioner, the Hon Ruth McColl AO SC, presided at both public inquiries.

Following the close of evidence, a timetable was set for the filing of written submissions by Counsel Assisting and submissions in response on behalf of affected persons. All submissions in response to the submissions of Counsel Assisting were to be provided to the Commission by 28 March 2022. Some parties requested and were granted an extension of time in which to make their submissions. Those submissions in response were received on 9 May 2022.

Additional submissions were provided by the Commission to selected parties on discrete issues on 27 April 2022 and 6 October 2022. Respective responses were received on 4 May 2022 and 18 October 2022.

Read the report [here](#).