

**INDEPENDENT COMMISSION AGAINST CORRUPTION  
IN THE MATTER OF AN INVESTIGATION KNOWN AS  
OPERATION KEPPEL**

**OPENING STATEMENT OF COUNSEL ASSISTING THE COMMISSION  
(SCOTT ROBERTSON AND ALEX BROWN)**

**The general scope and purpose of this Public Inquiry**

1. This is a public inquiry conducted for the purposes of an investigation (**Investigation**) into whether between 2012 and 2018 Daryl Maguire MP engaged in conduct that involved a breach of public trust by using his public office, involving his duties as a member of the NSW Parliament and the use of parliamentary resources, to improperly gain a benefit for himself and/or entities close to him, including G8wayInternational/G8wayInternational Pty Ltd and associated persons (**Public Inquiry**).
2. In short, this Public Inquiry will investigate whether Mr Maguire sought to monetise his position as a Member of Parliament, Parliamentary Secretary and Chair of the NSW Parliament Asia Pacific Friendship Group.

**The origins of the Commission's investigation**

3. The origins of this investigation lie in a separate investigation undertaken by the Commission – **Operation Dasha**.<sup>1</sup> Operation Dasha is an investigation into allegations concerning the former Canterbury City Council including whether certain public officials dishonestly and/or partially exercised their official functions in relation to planning proposals and/or applications concerning properties in the Canterbury City Council local area.

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<sup>1</sup> See <https://www.icac.nsw.gov.au/investigations/current-investigations/2018/canterbury-city-council-operation-dasha>.

4. During the course of Operation Dasha, telephone calls were intercepted between Mr Maguire and former Canterbury City Councillor Michael Hawatt. Over the course of a number of telephone calls in May and June of 2016, Messrs Maguire and Hawatt discussed commissions they could make from brokering the sale of significant development sites owned by developer Charbel Demian or interests associated with Mr Demian.<sup>2</sup> The proposed buyer in these transactions was the developer Country Garden Australia Pty Limited, whose interests Mr Maguire purported to be representing.
5. After those telephone calls came to the Commission's notice, the Commission decided to conduct an investigation into Mr Maguire's conduct on the Commission's own initiative as it is empowered to do by s 20(1) of the *Independent Commission Against Corruption Act 1988* (NSW) (**ICAC Act**).
6. Mr Maguire was called as a witness in the public inquiry held for the purposes of Operation Dasha on 13 July 2018. During the course of his evidence, Mr Maguire admitted that he and Michael Hawatt were planning to share in commissions obtained from property developers who sold their properties to clients of Mr Maguire.<sup>3</sup> Mr Maguire resigned from his then role as a Parliamentary Secretary and as a member of the Parliamentary Liberal Party that day and resigned from Parliament a few weeks later, with effect from 3 August 2018.

### **Obligations of Mr Maguire as a public official**

7. Prior to his resignation from Parliament, Mr Maguire had been a Member of the New South Wales Legislative Assembly for more than 19 years, representing the electorate of Wagga Wagga from 27 March 1999.

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<sup>2</sup> See Exhibits 136, 137, 138 and 140 in Operation Dasha (Proposed Exhibits 110, 111 and 112).

<sup>3</sup> See transcript of evidence given by Mr Maguire in Operation Dasha Public Inquiry on 13 July 2018 (Proposed Exhibit 113) at 2349.

8. Tracing his Parliamentary career:<sup>4</sup>
- (a) on 7 April 2003, Mr Maguire was appointed Opposition Whip and, following the State election of March 2011, was appointed as Government Whip;
  - (b) on 24 February 2014, Mr Maguire was appointed a Parliamentary Secretary by then Premier Barry O'Farrell and continued as a Parliamentary Secretary across a number of portfolios in the O'Farrell, Baird and Berejiklian governments up until his resignation from the Parliamentary Liberal Party on 13 July 2018.
9. Mr Maguire was also the Chairman of the NSW Parliament Asia Pacific Friendship Group from 21 June 2011 until his resignation from Parliament.

*Mr Maguire's obligations as a Member of Parliament*

10. As a Member of Parliament, Mr Maguire had an obligation not to use his position to promote his own pecuniary interests or those of entities close to him in circumstances in which there was a conflict, or a real or substantial possibility of a conflict, between those interests and his duty to the public.<sup>5</sup>

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<sup>4</sup> See Public Inquiry Brief Vol 1 (Proposed Exhibit 105), 1-2.

<sup>5</sup> *R v Obeid (No 2)* [2015] NSWSC 1380 at [75] per Beech-Jones J. See also *Obeid v The Queen* (2017) 96 NSWLR 155 at 180 [79] per Bathurst CJ (with whom Leeming JA, R A Hulme, Hamill and N Adams JJ agreed).

11. Additionally, Mr Maguire was subject to the Code of Conduct for Members of the Legislative Assembly.<sup>6</sup> That Code imposed strict disclosure obligations upon Members of Parliament. Clause 1(a) required Mr Maguire to take all reasonable steps to declare any conflict of interest between his personal financial interests and decisions in which he participated during the execution of his office.<sup>7</sup> Clause 3 required that he declare all gifts and benefits received in connection with his official duties, in accordance with the requirements for disclosure of pecuniary interests.<sup>8</sup> Clause 4 required that he apply the public resources to which he was granted access in accordance with applicable guidelines and rules.<sup>9</sup>
12. The “*applicable guidelines*” in relation to the use of Parliamentary resources include those set out in the NSW Parliament Members’ Entitlements Handbook.<sup>10</sup> Those guidelines address the potential intermingling of parliamentary duties and private activities<sup>11</sup> and provide that certain resources “*should not be intermingled under any circumstances*”<sup>12</sup>, including parliamentary staff, parliamentary offices, stationery and allowances relating to travel.

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<sup>6</sup> See Public Inquiry Brief Vol 1 (Proposed Exhibit 105), 4-16.

<sup>7</sup> Public Inquiry Brief Vol 1 (Proposed Exhibit 105), 5, 9, 13.

<sup>8</sup> Public Inquiry Brief Vol 1 (Proposed Exhibit 105), 5, 10, 13.

<sup>9</sup> Public Inquiry Brief Vol 1 (Proposed Exhibit 105), 6, 10, 13.

<sup>10</sup> Public Inquiry Brief Vol 2 (Proposed Exhibit 105), 1ff, 141ff.

<sup>11</sup> Public Inquiry Brief Vol 2 (Proposed Exhibit 106), 9-12, 168-171.

<sup>12</sup> Public Inquiry Brief Vol 2 (Proposed Exhibit 106), 12, 170.

13. Further, from the time he entered Parliament in 1999, Mr Maguire was subject to the *Constitution (Disclosures by Members) Regulation 1983* (NSW) (**Regulation**). Under that Regulation, Mr Maguire was obliged to lodge returns from time to time disclosing: his sources of income (Clause 9); any gifts received (of a value of \$500 or more) (Clause 10); any contributions to travel expenses (Clause 11); and any interests or positions in corporations (Clause 12). From 24 March 2007, the Regulation also required Members of Parliament to disclose any engagement to provide a service that involved the use of the Member's parliamentary position to or on behalf of any client (Clause 15A).

*Mr Maguire's obligations as a parliamentary secretary*

14. As we have said, Mr Maguire was a Parliamentary Secretary, a role that he occupied in different portfolio areas continuously from 2014 until his resignation from Parliament. Parliamentary Secretaries are Members of Parliament appointed by the Premier to assist the Premier or another Minister with his or her portfolios.<sup>13</sup>
15. As a Parliamentary Secretary, Mr Maguire was also subject to certain provisions of the NSW Ministerial Code of Conduct from the time of its introduction on 20 September 2014.<sup>14</sup>
16. As its preamble makes clear, the Ministerial Code was promulgated in recognition of the fact that:

It is essential to the maintenance of public confidence in the integrity of Government that Ministers exhibit and be seen to exhibit the highest standards of probity in the exercise of their offices and that they pursue and be seen to pursue the best interests of the people of New South Wales to the exclusion of any other interest.

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<sup>13</sup> See *Constitution Act 1902* (NSW) Pt 4A.

<sup>14</sup> The NSW Ministerial Code of Conduct is set out in the Appendix to the *Independent Commission Against Corruption Regulation 2017* (NSW) and was set out as an Appendix to the *Independent Commission Against Corruption Regulation 2015* (NSW) and (from 20 September 2014) the *Independent Commission Against Corruption Regulation 2010* (NSW).

17. Some, but not all, of the provisions of the Ministerial Code apply to parliamentary secretaries.<sup>15</sup>
18. **Clause 6** of the Ministerial Code required Mr Maguire, in the exercise or performance of his official functions, not to act dishonestly and to act only in accordance with what he considered to be the public interest. That clause also required Mr Maguire not to act improperly for his private benefit or for the private benefit of any other person.
19. **Clause 7** required Mr Maguire to not knowingly conceal a conflict of interest from the Premier.
20. **Clause 9** required that he not improperly use public property, services or facilities for the private benefit of himself or any other person.
21. In addition, Part 2 of the Schedule to the Code (entitled “*Standing disclosures of interests*”) required Mr Maguire to comply with his obligations as a member of Parliament under the *Constitution (Disclosures by Members) Regulation 1983* (NSW) in relation to the disclosure of his pecuniary and other interests<sup>16</sup> and to provide a copy of returns made under that Regulation to the Premier.<sup>17</sup>
22. Disclosures to the Premier under Part 2 of the Schedule to the Ministerial Code are required to be kept on the Ministerial Register of Interests, which is the register kept by the Secretary of the Department of Premier and Cabinet<sup>18</sup>.

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<sup>15</sup> Clause 11 of the NSW Ministerial Code of Conduct provides that, when used in or in relation to the Code, Minister includes Parliamentary Secretary (other than in Parts 1 and 5 of the Code).. Parts 1 and 5 of the Schedule to the Code deal with prohibited interests including secondary employment and employment after leaving ministerial office.

<sup>16</sup> See Clause 5 of the Schedule to the NSW Ministerial Code of Conduct.

<sup>17</sup> See Clauses 6 and 7 of the Schedule to the NSW Ministerial Code of Conduct.

<sup>18</sup> See Clause 19 of the Schedule to the NSW Ministerial Code of Conduct.

## **This Commission’s function**

23. Under s 13(1) of the ICAC Act, this Commission’s principal functions include the investigation of circumstances which, in the Commission’s opinion, imply that “*corrupt conduct*”, conduct liable to allow encourage or cause the occurrence of corrupt conduct or conduct connected with corrupt conduct may have occurred. This Public Inquiry is being conducted for the purposes of such an investigation.<sup>19</sup>
24. For conduct to constitute “*corrupt conduct*” for the purposes of ICAC Act, it must (generally speaking) fall within the description in s 8 of the Act but not be excluded by s 9 of the Act.
25. Section 8 of the ICAC Act identifies a number of categories of conduct that may constitute “*corrupt conduct*”. The category of principal relevance to the present Investigation is that set out in paragraph 8(1)(c) of the ICAC Act. That paragraph provides that corrupt conduct may be constituted by “*conduct of a public official that constitutes or involves a breach of public trust*”.
26. The concept of the “*public trust*” is one that has a considerable historical pedigree<sup>20</sup> although it may fairly be described as having “*partially unmapped boundaries*”<sup>21</sup>. It is not limited to trusts in the private law sense.<sup>22</sup> Rather, it is directed more generally to the “*public trust and confidence*”<sup>23</sup> reposed in public officers by virtue of their office.

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<sup>19</sup> See *Independent Commission Against Corruption Act 1988* (NSW) (**ICAC Act**) s 31(1).

<sup>20</sup> See, eg, Finn, “The Forgotten “Trust”: The People and the State” in Cope (ed), *Equity: Issues and Trends* (1995) at 132-135; Hall, *Investigating Corruption and Misconduct in Public Office: Commissions of Inquiry – Powers and Procedures* (2<sup>nd</sup> ed, 2019) [1.65].

<sup>21</sup> See *Greiner v Independent Commission Against Corruption* (1992) 28 NSWLR 125 at 184C. See also Finn, ‘Public Trusts, Public Fiduciaries’ (2010) 38 *Federal Law Review* 335, 336 describing the public trust as an “*abstract*” concept.

<sup>22</sup> See, eg, *Attorney-General v Brown* (1818) 1 Wils Ch 323 at 357-358 per Lord Eldon LC.

<sup>23</sup> See, eg, *R v Bembridge* (1783) 22 State Tr 1, 155-6.

27. That being so, a “*breach of public trust*” may be constituted by what might broadly be described as “*abuse of office*”. For example, it may be a breach of public trust for a public official such as a member of parliament to use, for private purposes, taxpayer funded resources to which he or she is given access to perform public duties.<sup>24</sup> It may also be a breach of public trust for such a public official to leverage, or seek to leverage, that position for personal financial gain.<sup>25</sup>
28. As we have already noted,<sup>26</sup> conduct only constitutes “*corrupt conduct*” for the purposes of the ICAC Act if it is not excluded by s 9 of that Act.
29. Section 9 provides that conduct does not amount to corrupt conduct unless it could constitute or involve (relevantly):
- (a) a criminal offence (whether under the law of this State or any other law<sup>27</sup>);
  - (b) reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official;
  - (c) a substantial breach of the Code of Conduct for Members of the Legislative Assembly<sup>28</sup> or the NSW Ministerial Code of Conduct;<sup>29</sup> or
  - (d) conduct that would cause a reasonable person to believe that the conduct would bring the integrity of a Minister or Member of Parliament’s office concerned or the Parliament itself or into serious disrepute.<sup>30</sup>

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<sup>24</sup> See, eg, *State v Gleitsmann* 161 A.2d 747 (1960) in which the Superior Court of New Jersey, Appellate Division held that use by a police officer of an official police car for his personal affairs was capable of constituting criminal misconduct in office. Referred to in Finn, ‘Official Misconduct’ [1978] 2 Crim LJ 307 at 314.

<sup>25</sup> See, eg, *Horne v Barber* (1920) 27 CLR 494 in particular at 501-502 per Rich J.

<sup>26</sup> See paragraph 23 above.

<sup>27</sup> See definition of “*criminal offence*” in s 9(3) of the ICAC Act.

<sup>28</sup> The Code of Conduct for Members of the Legislative Assembly is a code of conduct adopted for the purposes of s 9 of the ICAC Act by resolution of the Legislative Assembly: see Public Inquiry Brief Vol 1 (Proposed Exhibit 105), 4, 9, 12; ICAC Act s 9(3)(b).

<sup>29</sup> The NSW Ministerial Code of Conduct was, from 25 March 2014, a ministerial code of conduct prescribed for the purposes of s 9 of the ICAC Act by the regulations: see *Independent Commission Against Corruption Regulation 2017* (NSW) cl 5; *Independent Commission Against Corruption Regulation 2010* (NSW) cl 4A (as in force from 20 September 2014); ICAC Act s 9(3)(a).

<sup>30</sup> Although by reason of s 9(5) of the ICAC Act, the Commission is not authorised to include a finding or opinion that a specified person has, by engaging in conduct that would cause a reasonable person to believe



30. Thus, in the course of considering whether Mr Maguire engaged in “*corrupt conduct*” within the meaning of the ICAC Act, one of the questions that will be necessary for the Commission to consider is whether Mr Maguire has engaged in any conduct which could constitute or involve a criminal offence or which could otherwise fall within one of the categories in s 9 of the ICAC Act.<sup>31</sup>
31. It is important, however, to emphasise that – in considering that matter – this Commission is doing so as an investigatory body and not as a criminal court. Consistent with that, the Commission will not be making any findings of criminal guilt.
32. The Commission will, however, consider whether – if the facts as found by the Commission were to be proved on admissible evidence to the requisite standard and accepted by an appropriate Tribunal – there would be grounds on which such a tribunal would find that Mr Maguire has committed a criminal offence such as the common law offence of misconduct in public office.
33. The Commission is also required to include in the report (**Report**) that it is required to prepare in relation to this Investigation<sup>32</sup> a statement, in respect of each “*affected*” person,<sup>33</sup> as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the obtaining of the advice of the Director of Public Prosecutions with respect to the prosecution of the “*affected*” person for a specified criminal offence.<sup>34</sup>

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that that conduct would bring the integrity of the office concerned or of Parliament into serious disrepute, engaged in corrupt conduct, unless the Commission is satisfied that the conduct constitutes a breach of a law (apart from this Act) and the Commission identifies that law in the report.

<sup>31</sup> See ICAC Act s 13(3A).

<sup>32</sup> See ICAC Act s 74(3).

<sup>33</sup> An “*affected*” person is, relevantly, a person “*against whom, in the Commission’s opinion, substantial allegations have been made in the course of or in connection with the investigation*”: ICAC Act s 74A(3).

<sup>34</sup> ICAC Act s 74A(2).

34. The Commission will also consider making recommendations in its Report as to changes that should be made to laws, practices or procedures with a view to reducing the likelihood of the occurrence of corrupt conduct and to promote the integrity and good repute of public administration.<sup>35</sup> The details of any recommendations that the Commission is contemplating making will be dealt with in written submissions that will be made available after the conclusion of this Public Inquiry.

### **This Public Inquiry**

35. It should be apparent from what we have said so far that the focus of the Investigation and therefore this Public Inquiry is on whether Daryl Maguire engaged in conduct that constitutes or involves corrupt conduct between 2012 and 2018. That having been said, the evidence led in the Public Inquiry may reveal conduct of persons other than Mr Maguire which calls for findings or comments to be made<sup>36</sup>.

36. The Commission would not, however, make any findings adverse to any person without giving the potentially affected person notice of any finding proposed to be made and an opportunity to make submissions as to whether such a finding should be made. Any such notice will likely be given by way of written submissions that will be prepared by counsel assisting after the conclusion of this Public Inquiry.

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<sup>35</sup> See ICAC Act ss 13(1)(g), 13(3)(b), 74A(1)(a).

<sup>36</sup> See, eg, ICAC Act ss 13(3)(a), 13(5)(c). In this regard, it should be noted that the Commission's principal functions extend to the investigation of conduct liable to allow, encourage or cause the occurrence of corrupt conduct as well as the investigation of conduct connected with corrupt conduct: see ICAC Act ss 13(1)(a)(ii) and 14(1)(a)(iii).

37. Over the course of the Investigation to date, the Commission has gathered a wide range of evidence which will be presented, tested and expanded upon in this Public Inquiry. Such evidence has been gathered both through the voluntary assistance of various individuals as well as through the use of compulsory powers. The powers so exercised have included the conduct of compulsory examinations under s 30 of the ICAC Act; the issue of notices to produce under s 22 of that Act; the execution of search warrants issued under s 40 of the Act; and the interception of telecommunications services pursuant to s 46 of the *Telecommunications (Interception and Access) Act 1979* (Cth).
38. During the course of this Public Inquiry, we will tender some of the material that has so far been gathered and will also call a number of witnesses to give oral evidence.
39. It appears from the evidence available to the Commission that – while he was a Member of Parliament – Mr Maguire pursued a number of commercial opportunities between 2012 and 2018, although not always successfully. Commonly those interests involved at least some level of association with China.
40. It will not be possible within the four weeks that have been set aside for this Public Inquiry to explore all of the commercial opportunities that Mr Maguire apparently sought to pursue within the period between 2012 and his resignation in 2018.
41. The Public Inquiry will therefore instead focus on a series of topic areas. Further topic areas may be pursued if time allows or evidence emerges that justifies inquiry, in public, into additional topic areas.

## **G8wayInternational**

42. The first general topic area that will be explored in this Public Inquiry is Mr Maguire's involvement with G8wayInternational Pty Ltd. G8wayInternational Pty Ltd is a vehicle through which Mr Maguire appears to have pursued commercial opportunities, albeit while formally distancing himself from its ownership and managerial structure. Such opportunities were largely pursued either in China, or in Australia or the South Pacific, albeit involving Chinese associates.
43. "*G8WayInternational*" was registered as a business name on 14 June 2012 by Phillip Elliott.<sup>37</sup> Phillip Elliott was a close friend of Mr Maguire and had previously acted as his election campaign manager.
44. G8wayInternational Pty Ltd was incorporated on 2 October 2012.<sup>38</sup> Phillip Elliott was the sole director and shareholder upon incorporation.<sup>39</sup>
45. Prior to the incorporation of G8wayInternational Pty Ltd, Mr Maguire had already been pursuing business opportunities through China. By way of example, the Commission has obtained a series of emails between Mr Maguire (using his parliamentary email address) and representatives of a regional wine producer between March and May of 2012. Those emails concern prospective wine sales into China in which Mr Maguire and/or "*his*" company stood to make a commission.

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<sup>37</sup> Public Inquiry Brief Vol 5, 1 (Proposed Exhibit 114).

<sup>38</sup> Public Inquiry Brief Vol 7, 17-22 (Proposed Exhibit 115).

<sup>39</sup> Public Inquiry Brief Vol 7, 18 (Proposed Exhibit 115).

46. On the subject of commission, Mr Maguire wrote this on 28 May 2012 to a potential client who was seeking to sell wine into China:<sup>40</sup>

As for commission, standard industry is fine and vary according to price point, we want a long term profitable partnership so therefor [sic] we are flexible , our priority is for you to gain a sale and a bigger footprint in China , we all benefit. kind regards Daryl.

47. The “*we*” in this email appears to be a reference to the nascent G8wayInternational, which by that stage had had its first business cards designed by Nicole Hatton,<sup>41</sup> one of Mr Maguire’s parliamentary staff. The role that Mr Maguire apparently played in this proposed transaction is one that, the evidence suggests, Mr Maguire repeated on multiple occasions during the period from 2012 to 2018. Mr Maguire knows people – in this case it is a regional wine producer. He has cultivated trade contacts in China over a long time. He puts his respective contacts together and seeks a commission for his service. It appears to have been the intention that the business model G8wayInternational would adopt was to open the door to Australian and Chinese business interests in return for remuneration.
48. That appears to have been how G8wayInternational operated: it would utilise a network of contacts to provide a service and charge a fee, be it a fixed fee or a commission-based fee.
49. An email sent by Mr Elliott to Mr Maguire on 2 October 2012 (being the date of G8wayInternational Pty Ltd’s incorporation) appears to be indicative of Maguire’s intended role in the company. Mr Elliott wrote:<sup>42</sup>

By setting up a company it cocoons the income from my own business plus if the money that runs through is what **we** hope for it will be subject to company tax rate and not top marginal rate plus if and when you give your other job away we just appoint you as a director and away we go.

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<sup>40</sup> Public Inquiry Brief Vol 5, 162 (Proposed Exhibit 116).

<sup>41</sup> Public Inquiry Brief Vol 5, 99-101 (Proposed Exhibit 117).

<sup>42</sup> Public Inquiry Brief Vol 7, 25 (Proposed Exhibit 118) (emphasis added).

50. It thus appears that Mr Elliott was to be the “*official*” controller of G8wayInternational, at least until Mr Maguire’s retirement from Parliament, but that Mr Elliott and Mr Maguire would share a common interest in G8wayInternational’s financial success. It also appears from that material available to the Commission that, although Mr Maguire was not formally appointed as a director of G8wayInternational Pty Ltd, Mr Maguire controlled that company in such a way as to be a de facto director. Neither Mr Maguire’s role in G8wayInternational Pty Ltd, nor any income derived from his activities with that company was ever declared in Mr Maguire’s parliamentary returns between 2012 and 2018.<sup>43</sup>
51. G8wayInternational appears to have generated some income over the years that followed, including a commission of more than \$9,000 for the sale of nearly \$300,000 worth of wine from a regional wine producer into China.<sup>44</sup> G8wayInternational also appears to have charged a fee for (amongst other things) providing an “*introductory service*” in connection with a visit by a delegation from Liaoning Province in the People’s Republic of China to the NSW Parliament<sup>45</sup> during the course of which then Premier Barry O’Farrell had a courtesy call with the Party Secretary of Liaoning Province.<sup>46</sup>
52. However, despite some success, G8wayInternational does not appear to have produced the financial returns that Mr Maguire and Mr Elliott envisaged.
53. Messrs Maguire and Elliott were not the only individuals that the available material suggests were part of the G8WayInternational organisation. In an email sent by Mr Maguire to Mr Elliott on 25 June 2014 he wrote this:<sup>47</sup>

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<sup>44</sup> Public Inquiry Brief Vol 11, 75-77 (Proposed Exhibit 119).

<sup>45</sup> Public Inquiry Brief Vol 13A, 13-14 (Proposed Exhibit 125).

<sup>46</sup> See photograph of then NSW Premier Barry O’Farrell, then Party Secretary of Liaoning Province Wang Min and others: Public Inquiry Brief Vol 13A, 42 (Proposed Exhibit 126).

<sup>47</sup> Public Inquiry Brief Vol 11, 74 (Proposed Exhibit 120).

Great, I paid Rebecca \$500 and Nic \$300. Before you distribute can I see the amounts. We need to add Maggie into these and Rebecca was a one off. I think the partnership is You Me Nic Julian Maggie DuWei.

54. It therefore appears that Mr Maguire at least saw himself as being in a “*partnership*” that included various individuals including<sup>48</sup> “*Ni*” (Nicole Hatton, one of Mr Maguire’s parliamentary staff based in Sydney) and Rebecca (Cartwright), who had been a part of Mr Maguire’s staff when he was Government Whip.<sup>49</sup> Whether and, if so, the extent to which Mr Maguire improperly drew upon Ms Hatton and Ms Cartwright’s time to assist in the private business activities of Mr Maguire or others is an issue that will be explored in this Public Inquiry. Using parliamentary staff for such purposes was, of course, proscribed under the Code of Conduct for Members of the Legislative Assembly.
55. G8wayInternational had a website.<sup>50</sup> Under the “*Benefits*” tab the following is stated:<sup>51</sup>

In addition to this service we host and arrange your tour from China to Australia and Australia to China.

At each end you will be met by our people who have the connections within the economic marketplace as well as **at all levels of government.**

56. Under the “*About Us*” tab, it can be seen that one of the services offered was membership in an “*International Business Network*” for an annual fee, noting that:<sup>52</sup>

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<sup>48</sup> The other persons identified as constituting the “*partnership*” were Mr Julian McLaren, Ms Maggie Wang (now known as Maggie Logan) and Mr Du Wei.

<sup>49</sup> Mr Maguire ceased to be Government Whip on 25 February 2014: Public Inquiry Brief Vol 1 (Proposed Exhibit 105), 1. Whips of recognised political parties of not less than ten Members are provided with a further member of staff in addition to those to which he or she is otherwise entitled: see Members’ Entitlements Handbook (1<sup>st</sup> ed, 2011) at [11.1(vii)] (Public Inquiry Brief Vol 2 (Proposed Exhibit 106), 112)

<sup>50</sup> Public Inquiry Brief Vol 12, 163 (Proposed Exhibit 121).

<sup>51</sup> Public Inquiry Brief Vol 12, 167 (Proposed Exhibit 121).

<sup>52</sup> Public Inquiry Brief Vol 12, 170 (Proposed Exhibit 121).

G8way international's influence and experience reaches to high levels of government.

57. Whether Mr Maguire used or attempted to use his parliamentary office and the access it granted him to advance his own interests and those of G8WayInternational are matters of interest in this Investigation.
58. Before leaving G8Way's website, a further service apparently offered by G8Way may be noted:<sup>53</sup>

G8wayinternational assists with immigration: G8way international has responded to demand for immigration services and assistance with the appointment of our specialist in that area.

Contact us for more information.

59. That "*specialist*" appears to have been Maggie Wang, to whom Mr Maguire appears to have been introduced in 2012.

### **The immigration scheme**

60. Mr Maguire's role in G8wayInternational's immigration activities is one of the topics that will be explored in this Public Inquiry.
61. In the "*immigration*" topic, the Commission is investigating whether Mr Maguire misused his public office, including his physical office at Parliament House and the "*colour*" of his office as Member for Wagga Wagga, improperly to gain a benefit for G8wayInternational and/or himself by referring constituents to Maggie Wang for their participation in a scheme to assist Chinese nationals to improperly obtain an employer nomination scheme visa or regional migration scheme visa. In short, the Commission is investigating whether Mr Maguire was involved in what might be described as a "*cash for visas*" scheme.

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<sup>53</sup> Public Inquiry Brief Vol 12, 167 (Proposed Exhibit 121).



62. The scheme in which G8wayInternational was involved appears to have had at least the following elements:
- (a) the identification by Mr Maguire of a business in or around Wagga Wagga as one that might be prepared to nominate or sponsor a person under the employer nomination scheme or regional sponsored migration scheme; compliant participation in such schemes were a prerequisite to the granting of visas to live and work in Australia.
  - (b) the identification of a person seeking such a visa – in this case all of those identified were Chinese nationals (often students);
  - (c) the payment by the visa applicant or their family of a “*training fee*” shared between the nominating business and G8wayinternational; and
  - (d) the payment by the visa applicant or their family of an amount of money sufficient to reimburse the nominating business for the visa applicant’s wages for three or more months.
63. In a compulsory examination, Mr Maguire accepted that on more than one occasion he received cash from Ms Wang in relation to immigration placements that he had facilitated.<sup>54</sup> Mr Maguire accepted that, sometimes, such cash was received by him from Ms Wang in his Parliament House office<sup>55</sup> before being passed on to Mr Elliott. Mr Maguire further indicated that, on at least one occasion, the cash was not passed on to Mr Elliott at all.<sup>56</sup>

### **Involvement in the Asia Pacific Friendship Group**

64. The next topic that this Public Inquiry will explore is Mr Maguire’s role in the NSW Parliament Asia Pacific Friendship Group.

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<sup>54</sup> PT1700.32-1700.38, 1701.16 (Maguire)

<sup>55</sup> PT1703.19 (Maguire).

<sup>56</sup> PT2180.20-2180.31 (Maguire).

65. As we noted earlier,<sup>57</sup> Mr Maguire was Chair of the NSW Parliament Asia Pacific Friendship Group (**APFG**) from 21 June 2011 until his resignation from Parliament. Parliamentary Friendship Groups are non-party political groups of Members of Parliament with a common interest in a particular area. They are regulated by the Parliamentary Friendship Groups Policy which (amongst other things) prohibits friendship groups from undertaking activities of a commercial nature and, from April 2015, provided that their activities must not confer or be seen to be conferring a material benefit on a commercial endeavour.<sup>58</sup>
66. The APFG had:<sup>59</sup>
- as its focus an opportunity for interaction of Members of Parliament and the Consular Corps, and a high interest in the nations surrounding Australia, with a particular interest in assistance to underprivileged areas.
67. In addition to being Chair of the APFG, Maguire was also Honorary Chairman of an organisation named the Shenzhen Asia Pacific Commercial Development Association or **SAPCDA**. That organisation appears to have been founded by Gordon Tse Ho Yuen Li, Maggie Wang and Mr Maguire. The President of SAPCDA was Mr Ho Yuen Li. It was, essentially, a consortium of private businessmen in China.
68. The establishment of SAPCDA appears to have commenced in Shenzhen in March 2016. Minutes of a meeting of the organisation that appears to have occurred on 20 July 2016 describe SAPCDA as a “*non-government organisation*” with “*rich enterprise and business resources in China*” and record (in English translation) that:<sup>60</sup>

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<sup>57</sup> See paragraph 9 above.

<sup>58</sup> Public Inquiry Brief Vol 4 (Proposed Exhibit 108), 9.

<sup>59</sup> Public Inquiry Brief Vol 4 (Proposed Exhibit 108), 30.

<sup>60</sup> Public Inquiry Brief Vol 18, 56-59 (Proposed Exhibit 122). Proposed Exhibit 122 is constituted The minutes were recorded in Chinese, and were translated on behalf of the ICAC.

The purpose of establishing SAPCDA is to open up extensive business cooperation, information sharing and mutual development with the South Pacific Island countries in areas such as tourism, marine resources, agricultural resources, mineral resources and real estate, and at the same time, to actively participate in charity events that assist with the development of the backward areas in the island countries.

69. The minutes of that meeting also record Mr Maguire as stating that:<sup>61</sup>

In the past three months, through the NSW Parliament Asia Pacific Friendship Group, I contacted many countries and did a lot of work, which achieved key development. At the moment, seven countries have largely confirmed their intention of strategic cooperation.

70. This use of the APFG is consistent with a letter Mr Maguire sent to Ho Yuen Li on Parliamentary letterhead on 16 June 2016 offering the assistance of the APFG.<sup>62</sup>

71. Mr Maguire is further recorded in the meeting minutes as stating:<sup>63</sup>

The South Pacific region covers an oceanic area as wide as one sixth of the total area of the earth, but the countries are scattered and **some have not formally established diplomatic relations with China. Therefore, it is not straightforward on the foreign policy level to establish cooperation with all the countries** at the same time, which will slow down the progress. With that in mind, I was selective in choosing the countries to establish intention of cooperation with SAPCDA.

72. Mr Maguire is later recorded as stating:<sup>64</sup>

Through the NSW Parliament Asia Pacific Friendship Group, SAPCDA will be able to connect with the South Pacific island countries and develop extensive business cooperation in areas such as tourism, marine resources, agricultural resources, mineral resources and real estate. As the Chairman of the NSW Parliament Asia Pacific Friendship Group and Honorary Chairman of SAPCDA, I will help expedite the work at SAPCDA by reasonably using the long-term network I have built with government officials such as the consuls general and commercial counsellors.

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<sup>61</sup> Public Inquiry Brief Vol 18, 56 (Proposed Exhibit 122).

<sup>62</sup> Public Inquiry Brief Vol 18, 26 (Proposed Exhibit 122)

<sup>63</sup> Public Inquiry Brief Vol 18, 56 (Proposed Exhibit 122) (emphasis added).

<sup>64</sup> Public Inquiry Brief Vol 18, 59 (Proposed Exhibit 122) (emphasis added).

73. Mr Maguire did not disclose his activities with SAPCDA formally to the APFG although he did declare his membership on his parliamentary returns.<sup>65</sup>
74. In light of this material, there is a question as to whether Mr Maguire used his position as Chair of the APFG and the diplomatic connections with which it provided him to further the commercial interests of SAPCDA.
75. In April 2017, members of SAPCDA including Mr Maguire visited a number of Pacific Island nations. One of those nations was Samoa. The Commission has obtained evidence suggesting that Mr Maguire arranged a meeting with the head of the Samoan Chamber of Commerce on 15 April 2017 via the Consul-General of Samoa.<sup>66</sup>
76. On 20 April 2017 the CEO of the Samoan Chamber of Commerce sent an email to members of the SAPCDA delegation, including Mr Maguire, that included information that had been “*requested*” by the delegation regarding the application process for a casino license.
77. Can telephone intercept session 4476 now be played. This is an extract of an intercepted call between Maguire and Elliott on 9 December 2017:<sup>67</sup>

MAGUIRE: Good, now um, ah, I organised for Li to go and meet the Samoa um, Consulate.

ELLIOTT: Oh yeah.

MAGUIRE: They’re, they’re happy with the meeting. He’s gone back to Shenzen now and um, they were happy with the meeting. So in February I’m going to Solomon Islands and PNG -

ELLIOTT: Mmm, mmm.

MAGUIRE: - so we’re gonna visit them in the next round and then um, March is um, after the wedding, um 10 days in Samoa.

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<sup>65</sup> See, eg, Public Inquiry Brief Vol 1 (Proposed Exhibit 105), 172.

<sup>66</sup> Public Inquiry Brief Vol 18, 241-242 (Proposed Exhibit 123).

<sup>67</sup> TI 4476, 22-24 (13:25-14:39) (Proposed Exhibit 124).

ELLIOTT: Oh good.

MAGUIRE: And they're bringing, they're bringing a dozen business people –

ELLIOTT: Mmm.

MAGUIRE: - they're bringing their own jet and um, calling in here and then going to Samoa and then come back to drop us off on the way back.

ELLIOTT: Yeah, nice.

MAGUIRE: Mmm.

ELLIOTT: Nice.

MAGUIRE: So we'll probably – we're just teeing up some meetings for the Prime Minister and all those other people.

ELLIOTT: Mmm, mmm.

MAGUIRE: So, so Samoa is definitely a go.

ELLIOTT: That's good, we need a result.

MAGUIRE: Mmm, so which is really good.

ELLIOTT: We need a result. Got to get a bit of cash flow back in the tin.

MAGUIRE: Mmm. Well um -

ELLIOTT: But um -

MAGUIRE: - there, so that's, that's really good.

ELLIOTT: Mmm.

MAGUIRE: Anyway, they're probably the kind of things you should talk about over a barbecue fire, you know.

ELLIOTT: I agree.

78. Evidence obtained by the Commission indicates that the reference by Mr Maguire to "*Samoa is a go*" may have been a reference to a casino being developed in Samoa by business interests connected with SAPCDA. The call suggests that Mr Maguire and/or G8WayInternational may have had a financial interest in that project with the result that, if the project proceeded, there may have been "*a bit of cash flow back in the tin*".

79. The Commission will use Mr Maguire’s activities in Samoa as a case study to explore the adequacy of controls over Friendship Groups generally and, in particular, to consider whether Mr Maguire improperly used his role and the accompanying diplomatic weight of his office as Chair of the APFG as a “*door opener*” or “*gateway*” in the pursuit of his own financial interests as well as private Chinese business interests.
80. A further issue that will be considered in connection with SAPCDA is whether Mr Maguire received travel expenses for the Pacific Islands visit of April 2017 from Ho Yuen Li. The Commission has obtained evidence that Mr Maguire was handed an envelope by Ho Yuen Li at Sydney Airport which he subsequently dropped, revealing cash inside. No received travel expenses were declared in any of Maguire’s subsequent returns.

#### **Involvement with developers**

81. Another topic that this Public Inquiry will explore is Mr Maguire’s association with property developers and/or vendors of substantial properties – the issue that was the genesis of this Investigation.
82. It appears that – whilst he was a Member of Parliament – Mr Maguire had relationships with a number of developers and vendors and took steps to further their interests with the intent, at least in some cases, to earn profits for himself.

83. For example, during the course of his evidence at the public hearing held as part of Operation Dasha, Mr Maguire admitted that he had an interest in facilitating the sale of properties owned by interests associated with Charbel (Charlie) Demian to Country Garden, a large property development company based in China.<sup>68</sup> Discussions around this topic took place in May-June of 2016 between Mr Maguire and Michael Hawatt. One such conversation, which took place on 2 June 2016, became Exhibit 140 in the Operation Dasha Public Inquiry. I will play an extract of that call now:<sup>69</sup>

MAGUIRE: ... my position is this is that if Country Garden decides that they want a strategic policy engagement director well I'm it and they can pay my company. But the work has to be done by some others at lengths or at arms lengths without - some of the work has to be done at arms length -

HAWATT: Yep - yep - yep.

MAGUIRE: - so - so that's where I rely on you.

HAWATT: Yep.

MAGUIRE: To take - to take them to planning and people like that because you can do that.

HAWATT: Yeah.

MAGUIRE: In return what we do is those things that I place, that you put me onto with Charlie and others you negotiate the dollars and cents -

HAWATT: Yep.

MAGUIRE: - and you and I - you and I can share that okay?

HAWATT: Okay that's alright that's good.

MAGUIRE: So -

HAWATT: I'll do that -

MAGUIRE: (INAUDIBLE)

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<sup>68</sup> See transcript of evidence given by Mr Maguire in Operation Dasha Public Inquiry on 13 July 2018 (Proposed Exhibit 113) at 2349.46.

<sup>69</sup> Exhibit 140 in Operation Dasha (Proposed Exhibit 112 in Operation Keppel) (4:23-5:59).

HAWATT: - so what I've going to do then tomorrow afternoon I'll work that out – that part of it out -

MAGUIRE: Yeah – yep.

HAWATT: And then I'll start putting the whole things together correctly alright.

MAGUIRE: That's right. So – so – so you – so you and I will share that –

HAWATT: Yep.

MAGUIRE: - so that it – it works two ways. I need someone to go and to do some – some door openings and lobby work and whatever I can make all the appointments and do all that, but it needs you to go and take them -

HAWATT: Yep.

MAGUIRE: - to talk through the planning issues and do all that and because you're well known you know you – you can talk to planning, you can talk to those people and do a legitimate job.

HAWATT: Yep.

MAGUIRE: And then the ones that I need to do I will take him by the hand and make sure that happens.

HAWATT: Yep – yep.

MAGUIRE: But sometimes there's - particularly ones that, you now, need somebody a good friend to look after it.

84. That conversation raises a number of issues: in particular, Mr Maguire's involvement in what he described as "*door openings*" and "*lobby work*" for developers whilst Mr Maguire was a Member of Parliament. Those issues will be explored in this Public Inquiry in relation to a number of developers and potential vendors.



**Conclusion**

85. As a Member of Parliament, Daryl Maguire had a duty to serve the public. This Public Inquiry will investigate whether and, if so, he breached that duty to pursue his own financial interests and/or those of his associates.
86. May it please the Commission.

21 September 2020

**SCOTT ROBERTSON**

**ALEX BROWN**