

Attachment A - NSW Government response

Final report of the Select Committee on Barangaroo sight lines

The NSW Government acknowledges the report into “Barangaroo Sight Lines”.

The NSW Government appreciates the work of the Committee and thanks all witnesses who appeared before the inquiry, and those organisations, groups and individuals that took the time to make submissions to the inquiry.

Introduction

The Barangaroo Delivery Authority (**the Authority**) was established in 2009 upon the commencement of the *Barangaroo Delivery Authority Act 2009* (NSW).

On 1 July 2019, the Authority was dissolved, and its assets, rights and liabilities transferred to Infrastructure NSW (**INSW**) under the *Barangaroo Act 2009* (NSW).

In February 2020, Grocon entities commenced litigation against INSW in the NSW Supreme Court. This litigation is ongoing and some of the matters identified in the Committee’s Terms of Reference overlap with matters in issue in the litigation proceedings.

INSW provided a detailed submission to the Committee in October 2022, its then CEO Mr Simon Draper appeared at a Committee hearing in November 2022, and INSW answered supplementary questions and provided further material also in November 2022. INSW has endeavoured to observe the sub judice convention and limited its commentary on matters which it knows to be the subject of the Grocon proceedings. All this material is available on the NSW Parliament website.

Recommendation	Response
<p>Recommendation 1</p> <p>That the NSW Government engage in resolution processes for development disputes that seek to arrive at a transparent package of financial compensation rather than development bonuses.</p>	<p>Noted</p> <p>The Committee identified that the means by which the sight lines dispute with Crown and Lendlease was resolved included both direct financial compensation to those parties and also potential compensation to Lendlease based on the timing and nature of a particular planning outcome.</p> <p>It is noted that Infrastructure NSW was not the consent authority for Lendlease development applications, and Infrastructure NSW ensured that all elements of the settlement were approved by a Government Steering Committee and by Cabinet. The Department of Planning and Environment was not involved in those processes.</p> <p>Dispute resolution packages must necessarily be considered on a case by case basis. The requirement for transparency is acknowledged as an important aspect, subject to any applicable confidentiality restrictions.</p>

Recommendation	Response
<p>Recommendation 2</p> <p>That the NSW Government review any guidelines governing post-separation employment for senior public servants to ensure that any conflicts of interest, whether real or perceived, are appropriately managed.</p>	<p>Noted</p> <p>The Government acknowledges the Committee’s finding of the appearance of a conflict of interest in a former INSW executive who worked on the Central Barangaroo project subsequently accepting a consultancy arrangement with the Central Barangaroo developer. It is noted that the former INSW executive had no commercial relationship with the Central Barangaroo developer until after leaving the employment of Government, and well after the sight lines dispute was settled.</p> <p>Senior Executives are subject to the arrangements provided for under the Government Sector Employment Act 2013 and as outlined by the NSW Public Service Commission.</p> <p>Public Service Senior Executives have continuing obligations after leaving employment under the Code of Ethics and Conduct for NSW Government Employees, and may have continuing obligations under supplementary codes of conduct of their agency, policies set by their agency, and their employment contract, including in relation to information or knowledge acquired as a public official, in relation to intellectual property created during their employment in the government sector, and in relation to maintaining Cabinet confidentiality.</p> <p>From 1 July 2023, new section 83B(1) of the Government Sector Employment Act 2013 will require certain senior executives and heads of agencies (senior executive band 3 Deputy Secretary and band 4 Secretary levels) exiting the NSW government sector to seek the guidance of the Public Service Commissioner before accepting an offer of employment in the private sector.</p>

Recommendation	Response
<p>Recommendation 3</p> <p>That the NSW Government, in consultation with the Heritage Council of NSW, develop a view management strategy that effectively identifies and preserves sight lines in the Millers and Dawes Point precincts that are of significant cultural or heritage value to New South Wales, and ensures that these views are considered in the context of any major redevelopment project.</p>	<p>Noted</p> <p>The Government will ask the Department of Planning and Environment, including the Government Architect, to consider the development of a view management strategy that provides a framework for protection and consideration of significant views and sightlines when major redevelopment projects are proposed.</p>
<p>Recommendation 4</p> <p>That the NSW Government reject Modification 9 and ensure that the redevelopment of Central Barangaroo remains small in scope so as not to cause significant obstructions to the Barangaroo sight lines.</p>	<p>Not supported</p> <p>Modification 9 is a modification to the concept approval for the development of Central Barangaroo. The modification seeks approval for the height and GFA and will also amend the relevant planning controls for the site. It will be assessed by the Department of Planning and Environment once further information is received by the proponent, addressing issues raised from exhibition of the modification. The Department would consider an approved view management plan during its assessment of the modification, if available.</p>