

Submission to the Public Accountability Committee Inquiry into the Appointment of Mr John Barilaro as Senior Trade and Investment Commissioner to the Americas

From: Dr Marianne Broadbent, Managing Partner, NGS Global

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About NGS Global and the Trade and Investment Executive Searches

1. NGS Global Pty Ltd is a top-tier executive search firm whose Partner team have led high level executive search services to the public, private, education and not-for-profit sectors for 15 years. These Partners have been engaged to undertake multiple appointments for Departmental Secretaries, Commissioners, Chief Executive Officers and other Senior Executive Searches across all jurisdictions in Australia. The Partner team has completed over 450 successful executive searches at the Band 2 level and above.
2. Over the past four years I have personally managed dozens of successful senior executive searches including those for board chairs, board members, CEOs and other 'C' level appointments across the public, private, education and not-for-profit sectors. I was the lead executive search consultant appointed by NSW Treasury, and then Investment NSW, to work with them on the six Senior Trade and Investment Commissioner appointments, five of which are completed and in place. Our work is always undertaken with a high level of sensitivity and confidentiality.

Context for the STIC Appointments

3. NGS Global was engaged by NSW Treasury in November 2019 as the executive search firm to work with Treasury on the first two of the Senior Trade and Investment Commissioner appointments. These appointments were for the Agent-General to the UK, Europe and Israel to be based in London, and the Senior Trade and Investment Commissioner – North Asia, to be based in Tokyo. Processes for these two roles were put on hold due to the COVID situation, but then resumed later in 2020 and proceeded to three appointments. These were for the Agent General, the STIC North Asia and the role of Trade and Investment Commissioner Europe. The last named appointment arose from the strength of the second placed candidate in the search for the Agent General.
4. NGS Global was subsequently engaged by NSW Treasury in February 2021 to work with them on the appointments for the STIC India / Middle East and the STIC ASEAN / Singapore. Both proceeded to successful appointments. Following a Machinery of Government Change and the establishment of Investment NSW, Investment NSW engaged NGS Global as the executive search firm to work with them on the appointment of the STIC Americas and the STIC Greater China.
5. As indicated above, NSW Treasury was the agency that initially briefed NGS Global on the nature of background and experience required for candidates for the STIC roles. High quality candidates were expected to have considerable experience in the trade and/or investment domain. They would likely have lived and/or worked in the region related to their application,

have appropriate language capabilities and have strong networks across that region. Candidates were expected to have strong international business backgrounds and would likely come from the ranks of major international firms (including investment banks) and professional services firms. They would also have the personal attributes and experience to be able to lead in what was basically a 'start up' environment, that is, without the extensive infrastructure of a large firm or organisation to support them. It was reiterated to NGS Global that these were not political appointments but appointments of senior international business executives.

6. There was considerable discussion about the conditions of appointments. This included that the appointees would receive a total remuneration package at the level of Deputy Secretary, that is about \$450,000 per year. While removal expenses would be paid if they were not already 'in country', appointees were expected to organise and pay for their own accommodation, utilities and other expenses incurred in living in another country. They were also to be paid in local currency, that is, not in Australian dollars. Thus, these appointments did not include the conditions and amenities of Commonwealth offshore appointments which usually included accommodation, payment for utilities and support for other additional expense such as school fees. It was expected that the candidates taking on these roles would likely have been on higher remuneration prior to their appointment and would take on these roles in the spirit of service to the state of NSW.

The Recruitment Process Undertaken for the STIC Appointments

7. After client briefings from NSW Treasury or Investment NSW, each of these appointment processes started with NGS Global conducting extensive primary research and sourcing to build candidate pools, along with press and other advertising for each role. Throughout the process NGS Global prepared a number of progress reports for the client, and then a Shortlist Recommendations Report. The Shortlist Report was reviewed by and discussed with Selection Panel members together, usually on video call after the onset of the COVID situation. The Panel then decided on the Final Shortlist of candidates to be interviewed by the Panel. I was present at each full Selection Panel meeting as the search consultant and the 'scribe' to prepare a first draft of the Selection Report. I was not a member of the Panel as such. (As agreed with the client, a Managing Partner colleague participated in part of one Panel process when I had another commitment.)
8. At the conclusion of each Panel meeting the Panel came to an agreement about which candidates would progress to the next stage. This next stage usually involved NGS Global seeking referees from the lead candidates and conducting 360 style reference checks by phone. Alongside or following this process, NSW Treasury, and then following its establishment, Investment NSW, would organise for the preferred candidate to meet with one or more Ministers. My understanding of the reason for such meeting/s is that, as these were senior executives who would be representing the NSW Government, Ministers needed to be comfortable with their appointments in representational roles.
9. Panel meetings for each of these roles resulted in two strong candidates, where at least one proceeded to reference checks. (Note that the first two appointments, the Agent-General and the STIC North Asia, had a first round early in 2020 but this process was then put on hold due to the COVID situation, and resumed later in 2020.)

10. Following completion of reference checks, and following usual practice, NGS Global would prepare and send to the Panel Chair the first draft of the Selection Report. The Chair would usually review this, provide feedback as to its accuracy and completeness, and indicate any changes needed. The Chair would then arrange for the draft Selection Report, incorporating any changes, to be sent to Panel members for review, or ask NGS Global to do this. Concurrently the client would organise directly with the lead candidate to undertake the client's psychometric assessments. These were the client's standard preferred psychometrics and organised by the client, though it appears that not all candidates undertook all of these assessments. The client team (in this case NSW Treasury or Investment NSW) would enter results of these assessments into the Selection Report which would then be circulated to the Panel members for confirmation by signature. This signature process was usually undertaken by the client, but if requested, was completed with the assistance of NGS Global.
11. My recollection is that that there were few, if any, changes recommended to the draft Reports for all roles as prepared by NGS Global, other than that for the second round of the STIC Americas.

The Recruitment Process Undertaken for STIC Americas – Round 1

12. The first process (Round 1) for the STIC Americas followed the steps outlined above. Two candidates were seen as very suitable and proceeded to reference checks – Jenny West and Rob Fitzpatrick. At both the Panel meeting and following reference checks, Jenny West was then the Panel's preferred candidate. The Panel recommended Rob Fitzpatrick for the Talent Pool. I advised Rob Fitzpatrick that while he was seen as a strong candidate, another candidate was preferred. On acceptance by the Panel members of the Selection Panel Report, the arrangements for and with Jenny West were undertaken by Investment NSW.
13. NGS Global was later advised by the Panel Chair that the Government was now considering that these appointments would become Ministerial appointments and so there was a hold on this appointment for STIC Americas. This also impacted the appointment already in process for the STIC Greater China for which Investment NSW had received a Shortlist Recommendations Report. Our understanding is that this change in appointment approach considered in September 2021 was reversed or not acted on.
14. Towards the end of 2021 Investment NSW advised NGS Global that the appointments for the Americas and Greater China were proceeding as previously, that is, they were to be public service rather than Ministerial appointments. We were asked to resume the process for the STIC Greater China. We were asked to commence a new process for the executive search for the STIC Americas role.

The Recruitment Process Undertaken for STIC Americas – Round 2

15. The second process (Round 2) for the STIC Americas followed a similar process as for Round 1 in relation to advertising and further search process. Candidates who had previously applied were able to apply again. One of the candidates who was shortlisted and in the Talent Pool for the first process, Rob Fitzpatrick, applied again. Rob Fitzpatrick was again shortlisted by the Panel. However, at the shortlist stage the Panel Chair decided that she did not believe that he needed to be re-interviewed.

16. In discussions about scheduling shortlist and Selection Panel meetings it became clear to me that the Selection Panel for the Round 2 process would have different members from that of the first round. I indicated to the Chair that although a similar process would be followed, since this was now a different Panel, it would be appropriate and advisable for the new Panel to interview Rob Fitzpatrick. My view was that this was now a new process, not simply the continuation of the previous recruitment process. However, the Chair indicated that she believed that there was no need to re-interview this candidate. I advised Mr Fitzpatrick accordingly – that he was shortlisted but did not need to be interviewed again.
17. At the Selection Panel meeting for the STIC Americas Round 2 there was agreement by the Panel that there were two strong candidates to be progressed to the next stage: John Barilaro and Kimberley Cole. My recollection is that with her strong international experience, Ms Cole was seen by the Panel to be slightly ahead of Mr Barilaro, but they were close.
18. Towards the end of the Panel meeting, I again raised the matter of Mr Fitzpatrick's candidature, which I believed also needed to be considered. The Panel Chair indicated that she no longer regarded him as appointable. My understanding is that the Independent external member of the Panel (who was the only other Round 1 Panel member) was of the view that Mr Fitzpatrick continued to be a strong candidate. However, the other Panel members appeared at that time to be comfortable with the Chair's perspective. I asked about continuing to place this candidate in the Talent Pool and was advised to indicate in the Selection Report that he was not appointable and was not at the level of the two top candidates from Round 2.
19. The Panel's decision in relation to the two strongest candidates interviewed on 15 March, was for NGS Global to undertake reference reports for Mr Barilaro and Ms Cole. Concurrently with this, Investment NSW organised for Ms Cole to have a video conference meeting with a Minister. (It was a video meeting as Ms Cole was working from a base in Europe at the time.)
20. Reference reports prepared by NGS, along with the first draft of the Selection Report, were provided to the Panel Chair by email on 25 March 2022. The timing and nature of this draft Report followed the same practice as in all previous STIC recruitment processes. As was usual practice, the first draft Selection Report was not circulated to the full Panel at this stage to provide an opportunity for the Panel Chair to review and incorporate any changes. In relation to scoring of the candidates, this was not directly discussed at the Panel meeting. If there is no direct discussion of this, the process is usually that the Scribe will record an initial scoring based on the Panel discussions as part of the first draft Selection Report, which is then for review by the Chair and the Panel.
21. The wording of the email to which the first draft Selection Report was attached for the Panel Chair to review was as follows:

Amy and Kylie – we weren't sure if you wanted Kathrina and Warwick included at this stage, but happy to forward on if appropriate.

Attached is the draft Selection Panel Report for the Americas role – was not sure how you want to do this, but have done what we thought was in line at the time. Plus also attached are reference reports. We don't have the third referee for Kimberley as her nominated person has been unresponsive. We have advised her of this and hope this is resolved by Monday. But thought we would send you the report with the first two of the three refs at this stage. The full three for John are included.

Same for China will follow.

Regards Marianne B

22. In response to providing the draft Selection Report I received the email below from the Chair.

Hi Marianne

Thanks for preparing a draft selection report. I've sourced a couple of informal referees for the candidates, which I'll share with the group as they're likely to change things. I'll come back to you once I've discussed with Kylie.

(Same for China).

Kind regards

Amy

The tone of this email, together with the reference to 'Same for China', supports the fact that this was the usual practice. I did not perceive any overly negative feedback in that email, but rather that, quite appropriately, there would be further discussions within the Panel in relation to the content of the Report. (Note: I was not advised who the 'informal referees' were or the nature of their input.)

23. I later received advice that the Panel Chair considered that Ms Cole's video session with the Minister did not go particularly well. The Chair apparently came to the conclusion that Ms Cole might not have the level of presence required for the role. In mid April I was asked by Investment NSW to advise Ms Cole that she was not proceeding further in the process.
24. From my perspective, there then appeared to be a hiatus in the process. I do not recall receiving any further information or feedback and was uncertain of the next steps in the process. Because of this situation, I asked to meet with the Panel Chair for a 'catch up' which took place face-to-face on May 26. At that meeting I was advised that the decision was to appoint Mr Barilaro. The Chair requested that I revise the first draft Selection Report to place Mr Barilaro as the lead candidate and to include that his reference report was strong. I revised the draft as requested and provided the second draft of the Report to Investment NSW on 28 May. The second draft showed scoring for Ms Cole and Mr Barilaro to be at the same level as I was uncertain as to how the Chair, and ultimately the Panel, wanted these represented. As requested by the Chair, both Ms Cole and Mr Fitzpatrick were listed as unsuccessful and neither recommended for the Talent Pool.
25. On 8 June Investment NSW's Kylie Bell requested a video meeting with me to discuss the Selection Panel Report, and that meeting occurred on 9 June. My recollection of the meeting is that we discussed again the strengths and capabilities of the lead candidates and Ms Bell indicated that Investment NSW would work further on the Selection Report.

26. On 15 June I received an email from the NSW Investment HR lead Kristy Manton with a Selection Panel Report marked as 'Final'. This had augmented comments about both Mr Barilaro and Ms Cole and changed scoring for Mr Barilaro on one capability, which again is the Panel's prerogative. We were asked to arrange for Panel members to sign this Final Report as a matter of urgency that afternoon, or have them send an email confirmation regarding their approval:

From: Kristy Manton
Date: Wednesday, 15 June 2022 at 1:42 pm
To: Marianne Broadbent
Cc: Kylie Bell

Subject: FW: Urgent - Selection Panel Report- STIC_Americas_2204 Final.xlsx

OFFICIAL

Hi Marianne

This is the final the panel needs to endorse (if they haven't already). Are you please able to get their ok today please?

K

Kristy Manton

*A/Chief People Officer
People and Culture
Operations*

As I had commitments with another client already scheduled for that afternoon, my Executive Officer followed up with each Panel member immediately and succeeded in obtaining the required signatures within a few hours.

At the time, I did not realise that this was the only version of the Selection Report sighted by all Panel Members.

Further Comments on the Process in Relation to the STIC Americas Process

In light of the discussions and information that has been provided to and canvassed by the Parliamentary Inquiry I make further comments below.

27. Re the Draft Panel Report coming 'out of nowhere' or 'sent in error' and 'never asked for'.
In the light of other comments made in the Proceedings of the Inquiry held on 03 August 2022 about the process in relation to draft Selection Reports, I would emphasise that the process followed by NGS for Round 2 of the STIC Americas was conducted following the same process as for other STIC appointments. Provision to the Panel Chair of a draft Selection Report by the search consultant following the Panel meeting is absolutely the usual process and was implemented on every occasion for all STIC roles. These were never directly 'asked for' but rather were the normal process and practice. To characterise provision of a draft Selection Report as 'coming out of nowhere' or 'sent to me in error' or 'never asked for', in the case of the STIC Americas Round 2 process is a significant misrepresentation of the process that had been followed previously.
28. Placement of Candidates on the Round 2 Final Selection Report
As indicated in paragraphs 15, 16, 18 and 19 above, I sought clarification from the Panel Chair of the situation of the Round 1 STIC Americas Candidate Rob Fitzpatrick, both during the Round 2 process and at the conclusion of the Panel meeting. In preparing the first draft of the Selection Report I acted on the instructions of the Chair that I was to indicate in the Selection Report that Mr Fitzpatrick was not appointable and not at the level of the top two candidates from Round 2. This is then reflected in the first draft, second draft and final versions of the Selection Report. At no time was I advised that this was an incorrect reflection or understanding of the Chair's request. As noted previously and confirmed at the Parliamentary Inquiry by Ms Kylie Bell, the second draft Selection Report was augmented by Investment NSW resulting in the Final Selection Report. This was particularly in relation to reports for both Mr Barilaro and Ms Cole. There was ample opportunity for the Chair to change the positioning and scoring of Mr Fitzpatrick if it was not as she requested. His positioning remained unchanged from the first draft report on 25 March through to June 15, nor was there any request made to NGS to change it. The logical conclusion to be drawn from this situation is that that positioning was in accordance with the instructions initially indicated to me by the Chair. These changes were not made unilaterally by NGS Global.
29. Clarification of the term 'Hiring Agency'
In her testimony on August 5, panel member Kathrina Lo referred to feeling like she was 'used' by the hiring agency. By this Ms Lo meant Investment NSW not NGS Global, which performs the role sometimes described as 'recruiting agency'. The DPC Report clarifies this too on p39. I mention this as there has been some assumptions in the media that Ms Lo was referring to NGS Global. Ms Lo has confirmed with me that she was definitely referring to Investment NSW not NGS Global.
30. Feedback to NGS Global
At no stage did I receive the nature of negative feedback re Selection Reports as presented by the Chair to the Parliamentary Inquiry session held on 03 August 2022. This is supported by the tone of response by the Chair to the first draft Selection Report (see paragraph 23 above) along with all other communications I had with and from Investment NSW. This also includes the tone and nature of communication at the catch-up I had with the Chair on 26

May. She suggested we have a coffee together, and this meeting would best be characterised as a pleasant peer-to-peer conversation.

Throughout the selection processes for all the STIC roles, NGS Global has regularly received thanks from the staff of Investment NSW for our professionalism and commitment and the ongoing support provided through some often challenging circumstances. As noted to the DPC inquiry (p44) there is no evidence of any performance of service issues raised by Investment NSW. As further noted by that Inquiry, Investment NSW has paid for the services, which requires an acceptance that the services have been performed.

Further Comments on the Process in Relation to the Agent-General Process

In light of the discussions and information that has been provided to and canvassed by the Parliamentary Inquiry on the Agent-General Process I make further comments below.

31. Candidate Pool for the Agent General

The first round of the recruitment for the Agent General was interrupted by COVID, in that the search was put on hold after initial candidates were interviewed. The search was recommenced later in 2020 and it is on the public record that the lead candidate was confirmed as Paul Webster. References were completed and discussions with Mr Webster were underway. Mr Webster is an expatriate Australian who has been living and working with the UK in senior trade and investment roles both as a public servant and a consultant. His roles with the UK government were very similar in focus to that intended for the Agent-General and the STICs.

The Panel was then asked to consider another candidate, Stephen Cartwright. Mr Cartwright went through the same process as other candidates; that is, meeting with NGS Global for a screening interview and then being interviewed by the Selection Panel. References were completed and he was recommended by the Panel as the lead candidate with Mr Webster as the second candidate. Mr Webster was later offered and accepted the role of NSW Trade and Investment Commissioner, Europe and effectively the Agent General's Deputy.

32. Remuneration for the Agent General

At the start of the Agent General recruitment process with Mr Cartwright, as with all candidates for that role and the STIC appointments, I explained that the total remuneration was expected to be \$450,000, paid in local currency (and as per the conditions outlined in para 5 above). At the start of the process, we were advised too that we could indicate that there would be some consideration of the circumstances of the candidate. I provided Mr Cartwright with the information given to all candidates regarding remuneration. Following advice that he was the preferred candidate, and with input and advice from Investment NSW, I began initial negotiations with Mr Cartwright. He indicated that he had expected higher remuneration more in keeping with his previous position. On April 12 I was provided with advice regarding the financial arrangements that would be put in place for the Agent-General role, subject to final confirmation from Investment NSW. I conveyed these to Mr Cartwright. This was at the time of the transition of responsibility for the STIC roles from NSW Treasury to Investment NSW. My understanding is that there were ongoing discussions between NSW Treasury, Investment NSW and the Crown Solicitors Office in relation to whether the remuneration and package fell within the GSE Act. By agreement with the client,

Investment NSW then entered into direct negotiations with Mr Cartwright. NGS Global was not involved in negotiation of his final arrangements.

33. References to Changes in the Report

As indicated previously, it is expected that the search consultant will prepare a written report on candidates in relation to their suitability for a role as input to the process. This usually takes the form of a review of their CV and then a screening interview where the NGS Global practice is a behavioural event interview. These candidate screening reports are then provided to the Selection Panel members as background and input.

There has been some public comment on an email exchange that NGS had with Investment NSW on April 19 2021. The Investment NSW Officer asked if she could use this NGS candidate brief (=report) as the narrative for documentation that I understood was to be used in Departmental briefings. The NGS candidate brief to which she referred was a screening report prepared in February 2021 prior to the Panel meeting. It was not the Panel report following their meeting. Thus if she wished to use the narrative from the screening report, it needed to be updated to reflect fully the Panel's view and exclude parts that were not relevant. Perhaps inadvisably, I used the term 'massaging' to describe that process.