

**Central Barangaroo - Sight Lines Inquiry**  
**Simon Draper, Opening Statement – 11 November 2022**

Thank you for the opportunity to assist the Committee's inquiry. Infrastructure NSW has made submissions to the inquiry which are publicly available and which I will resist restating here. However, I do wish to mention briefly a small number of important matters.

Infrastructure NSW's functions in relation to the Barangaroo precinct include the orderly and economic development of the precinct including the public domain.

In all dealings in relation to Barangaroo, Infrastructure NSW has focussed on delivering value to NSW by progressing the development in accordance with Government approvals and with the commercial agreements with our development partners, at all times managing public money as carefully as possible.

Two high profile and relevant examples of this were the settlement of the sight lines issues at Barangaroo South with Lendlease and Crown, and our very limited role in relation to the exit of Grocon from the Central Barangaroo development.

The settlement of the sight lines issues at Barangaroo South occurred in August 2019 in accordance with Government approvals and was informed by detailed legal and accounting advice. The settlement achieved certainty in the context of a Supreme Court judgement against the Government for which a substantial potential damages liability had been assessed. It avoided large outright payments to Lendlease and Crown and made no promises as to planning decisions. These were for the Department of Planning or Minister for Planning.

The State did not sell sight lines to Grocon. The tender process for Central Barangaroo revealed the sight lines clauses with Lendlease and Crown to all bidders, the Central Barangaroo Development Agreement included express acknowledgement by the developer of the sight lines clauses and contained extensive provisions to address the uncertainty created by those clauses, including rights retained by the Barangaroo Delivery Authority to require compliance with current planning controls at Central Barangaroo and provisions to adjust the development rights fee according to the development envelope ultimately achievable. Aqualand, not Grocon, funded the upfront payment of the development rights fee.

Grocon's exit from the Central Barangaroo development in September 2019 was initiated and pursued by Grocon. The transaction was actually its third attempt to sell its development rights and was in the context of its well-publicised financial difficulties on other projects. The transfer of development rights to Aqualand occurred under pre-agreed consortium arrangements, free from any bias. Infrastructure NSW in fact responded to requests from the parties, including Grocon, supported Grocon's proposal and took steps to assist it to complete the transaction.

Infrastructure NSW was not obliged to give Grocon a sight lines resolution notice in August 2019 or at all. In any event, no such notice could have been issued before the actual resolution of the negotiations with Lendlease and Crown, and by that stage Grocon was not asking for a sight lines notice, it was asking for Infrastructure NSW's assistance to sell to Aqualand. There was no delay by Government at any time. The Central Barangaroo development agreement expressly allowed for negotiations with Lendlease and Crown to take until January 2020, and the negotiations were resolved within that timeframe. A sight lines notice, when issued, was not a gift. It imposed immediate obligations on the developer to incur additional costs within defined timeframes, something which Grocon was in no position to do because of its financial situation.

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In the context of a Supreme Court security for costs application in August 2020, it was revealed that Grocon actually profited from its involvement in Central Barangaroo, nearly doubling its investment in only a few years. Grocon does not claim loss at Central Barangaroo – it claims only that it could have made greater profits, on a project that it wanted to exit. Grocon was unable to convince the Court that the Central Barangaroo project materially contributed to its financial issues. The Court noted the existence of liabilities unrelated to Central Barangaroo, and that Grocon’s financial difficulties dated back as early as mid-2017. Grocon subsequently appointed administrators to a large number of its companies in November 2020. The administrators found that Grocon was unable to pay its debts and had likely been insolvent for over 18 months, and well before its exit from Central Barangaroo.

Finally, I wish to address two matters of procedure.

Firstly, as the Committee is aware, Infrastructure NSW is presently involved in Supreme Court litigation with Grocon. I will of course seek to answer questions to the best of my ability but if any question is directed to matters yet to be determined by the Court, I may alert the Member to that fact, so as to allow the Member and the Committee to determine whether to press the question.

Secondly, I commenced with Infrastructure NSW in April 2019, so my direct knowledge of events prior to that time is limited. I will seek to answer questions where I have direct knowledge or have sufficient information, but there may be some matters within the Committee’s Terms of Reference on which I cannot provide any information.

I look forward to assisting the Committee.

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