

INQUIRY INTO BARANGAROO SIGHT LINES

Organisation: Highgate Owners Corporation SP49822

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Submission to the Legislative Council Inquiry into Barangaroo Sight Lines

We would like to acknowledge the Gadigal of the Eora Nation, the traditional custodians of this land and pay our respects to the Elders both past and present and emerging.

The residents of Highgate thank the Honourable Mark Latham for calling for an Inquiry into Barangaroo sight lines. We are pleased to make this submission to assist the special committee of the Legislative Council in their laudable work to review sight lines disputes and to develop *'measures to ensure the integrity of the Barangaroo redevelopment project and similar projects in the future'* (Term of Reference (e)).

This objective is both critical and urgent. The current Infrastructure NSW proposal, in partnership with the developer, Aqualand, for the redevelopment of Central Barangaroo repeats the resale of sight lines at Central Barangaroo that led to disputed sight lines at Barangaroo South, which are the primary focus of concern for this inquiry. In the case of Central Barangaroo, however, the redevelopment proposal threatens resale of sight lines of residents who bought their properties from the NSW Government from 2016 with advertised views and prior commitments undertaken by the NSW Government that protected these views.

Of even graver concern are the sale to developers of sight lines to and from Australia's prized heritage aspects and significant colonial buildings. These quintessentially Australian features of our Harbour identify Sydney as a city of exceptional beauty and historical significance globally.

Under the Infrastructure NSW proposal, these heritage and historical connections to Sydney Harbour, that give the Harbour its unique Australian character would be destroyed. These reminders of Australia's past belong to all Australians. They are protected under the Barangaroo Concept Plan and under commitments made in exchange for the movement of the Crown building onto prime public parkland and the increase in height of One Sydney Harbour under Modification 8.

The urgency comes from the impending decision, made solely and without any constraints, by the Minister for Planning, about the Infrastructure NSW redevelopment proposal for Central Barangaroo. The unconstrained power of the sole arbiter of planning decisions, the Minister for Planning, has been made possible by the systematic stripping of all independent checks and balances for State Significant Developments and under the *Environmental and Planning Act 1979 (EP&A Act 1979)*. Approval may be given by the Minister regardless of the strong objections of the public and organisations such as the National Trust of Australia, the Environment Protection Authority, the Powerhouse Museum, Friends of Sydney Harbour Inc etc. This places Australia's unique heritage at serious risk.

The risks of approval of the Infrastructure NSW proposal are magnified by the dishonesty of the Infrastructure NSW proposal (known as Modification 9 to the approved Concept Plan, or MOD 9), which is based on disinformation, distortion and misrepresentation of the approved Concept Plan and the impacts of the proposed 'modifications' to that Plan. The proposal is entirely misleading.

The Infrastructure NSW proposal also completely disregards the advice of the only independent body to review the Barangaroo development, the Planning and Assessment Commission (PAC), the forerunner of the current Independent Planning Commission (IPC). The Minister has repeatedly stated he will not consult the IPC on the Central Barangaroo Development, and is no longer required to do since the mandatory gateway activated by more than 50 independent objections, or the objections of Council, was removed from the *EP&A Act, 1979* in late 2021.

Highgate residents support development at Central Barangaroo that respects, is sensitive to, enhances, and displays the continuity of our heritage views, panoramas, and vistas with their connections to the Harbour for the benefit of the people of NSW and Australia. The Concept Plan (2006) meets these requirements; the Infrastructure NSW proposal annihilates them.

Throughout the application for the proposed development at Central Barangaroo submitted by Infrastructure NSW, and in the press, the contempt of the proponents for the historical importance of Central Barangaroo's heritage curtilage, historical connections to the Harbour, and highly valued aspects, is palpable. The public concern about the irrevocable loss of intrinsic values of the Harbour, our nation's heritage, and the historical connections between them, is attacked and demeaned, as private interests surpass public good at every turn.

Executive Summary

- The sight lines of residents sold by the NSW Government since 2016 with the protections of the commitments undertaken under Modification 8 of the Barangaroo project, are to be resold under the Infrastructure NSW proposal with the commitments defaulted.
- The rights to these views are no less, nor dissimilar, to those returned to Crown Resorts and Lend Lease under identical reasoning.
- The Infrastructure NSW proposal would destroy highly significant heritage sight lines in breach of:
 - the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (NSW)*;
 - the *Sydney Local Environment Plan 2012, Reg 6.47*;
 - the Sydney Observatory Conservation Plan; and
 - The approved Concept Plan for the development of Central Barangaroo.
- Protections for Australia's heritage sight lines have been stripped in the planning process itself and more broadly for State Significant Developments (SSDs) through:
 - Removal of the final independent checks and balances of the *Environmental and Planning Act 1979 (EP&A Act 1979)* that enforce referral to the Independent Planning Commission (IPC) for review if:
 - There were more than 50 objections to the development proposal, or
 - The local council lodged an objection to the proposal.
 - SSDs are not required to comply with heritage protections enforced for all other developments in NSW including:
 - the *Heritage Act (1977)*;
 - *Local Government Plans 2012*;
 - *Environment Protection and Biodiversity Conservation Act 1999*; and

- the Minister's Planning Principles (NSW Government, 2021).

These merely need to be 'considered' by the Minister for Planning.

- The Infrastructure NSW proposal places Australia's heritage sight lines at risk through distortion, misrepresentation, minimisation of harms, and claims of non-existent benefits that include, but are not limited to:
 - Misrepresentation of the approved Concept Plan;
 - Minimisation and distortion of harms inflicted by the proposal on the integration, connection, and display of heritage assets along the Harbour foreshore;
 - Claims of benefits to the public that do not exist;
 - Contravention of the protections provided for Australia's most significant and valued heritage areas and items;
 - Default on commitments made in return for massive development increases already achieved at South Barangaroo; and
 - An invalid application for modification of the Concept Plan (2006) under Section 75W of the *EP & A Act, 2009*, as
 - this is by no stretch a 'modification' of the Concept Plan;
 - transitional arrangements for Section 75W ceased on March 1st, 2018;
 - lodgement of all applications for consideration under Section 75W closed on 1st September 2018; and
 - The Infrastructure NSW proposal was not submitted until November 2021.

Threatened Resale of Sight Lines at Central Barangaroo

The terraces along High Street and Kent Street, sitting atop the High Street cutting, have been sold by the NSW Government since June 2016; many advertised with views of the Harbour. Underpinning these sales were the commitments made by the NSW Government under Modification 8 to retain the heights and Gross Floor Area (GFA) of Blocks 5, 6 and 7 determined under the Concept Plan, with the reductions committed to under Modifications 3 and 8. Apartment sales in neighbouring high-rise buildings also relied on the integrity of these commitments to retain the views they purchased.

From the approval of Modification 8 in June 2016, purchasers of terraces in High and Kent Streets, and the high-rise buildings of Kent Street, have bought their properties with faith that the NSW Government would honour these commitments and view loss would be restricted to that under the Concept Plan, with its modifications. The Infrastructure NSW proposal plan is to default on these commitments.

The Infrastructure NSW proposal is to raise the heights of all blocks at Central Barangaroo, add a 73.7m residential tower, increase the mass of the buildings, and fill the development envelope of each block. This would obliterate views from the southern terraces of Kent and High Street and the lower levels of the adjacent high-rise buildings, while destroying views to the north and west for all by reducing and enclosing them, as shown in Figure 1.



FIGURE 1 ENCLOSURE OF THE HIGH STREET TERRACES, CUTTING THEM OFF FROM THE CONNECTION TO THE HARBOUR

This constitutes a resale of residents' views. Because the resale of views does not involve large corporations but private citizens, Infrastructure NSW disregards their importance. Nevertheless, the rights to these views are no less, nor dissimilar, to those returned to Crown Resorts and Lend Lease under identical reasoning.

Proposal to default on commitments made in return for massive development increases already realised at South Barangaroo

The commitments undertaken in order to gain approval for massive increases in building heights, GFA, and number, and the movement of the Crown building onto publicly owned foreshore parklands at South Barangaroo, limit the size of the development at Central Barangaroo to protect its heritage aspects and connections to the Harbour. Infrastructure NSW, in partnership with Aqualand, propose to continue to renege on these commitments.

The Approved Concept Plan allowed for 388,300m² of GFA for the mixed zone of the Barangaroo development, which included Blocks 1-5. Through ten successive modifications this has ballooned to 602,354m², with the majority of increase being given to private interests through the transfer of publicly owned Harbour foreshores into private hands, primarily for commercial and retail purposes. Only one modification has benefitted the public, Modification 3.

Modification 3 allowed for the incursion of Nawi Cove into Central Barangaroo and was in the interests of the public. It was accompanied by a commitment to remove Block 8 and reduce the GFA of Block 7 from 28,000m² to 15,000m².

Modification 8 allowed the movement of the privately owned Crown building onto prized public foreshore parklands and the increase in height and GFA of the privately owned Sydney Harbour One. To compensate the public, prevent the enclosure of Hickson Park, and provide a proper connection for Hickson Park to the Harbour parklands, commitments were made to reduce the overall dimensions of Block 5, removing a large component of the block to relocate the boundary further to the north. The GFA of Block 5 was reduced from 41,225m² to 29,688m².

The reductions in GFA arising from Modifications 3 and 8 were compensated for by massive increases in GFA for the development of Barangaroo South from 328,100m² to 539,686m². These have been realised.

Infrastructure NSW now proposes a more than three-fold increase in Central Barangaroo GFA from the approved 47,688m² to 144,189m², all of which is allocated to commercial and retail development at

Central Barangaroo, while *reducing* residential and community space in the precinct, leading to a reduction in offsets for social housing. This increased GFA represents a 'double dipping' of that already transferred from Central Barangaroo to South Barangaroo with the removal of Block 8, part of Block 7, and the reduction in Block 5.

For a NSW Government agency to propose to renege on commitments already made to provide massive gains for private interests, is a breach of public trust. If approved, this proposition would undermine the integrity of the planning processes and public confidence in the NSW Government.

The people of NSW rely on the Government to prioritise public good over private commercial gain, and to act with integrity at all times by keeping commitments made. NSW residents of the terraces and apartment buildings impacted by the Central Barangaroo development purchased properties trusting the NSW Government to honour its commitments.

INSW plans to demolish the basis of trust in the NSW Government to put short-term pecuniary gain and private interests above the public interest in the development of the publicly owned Harbour foreshores. Of more serious concern is the proposal's plan to demolish the integration and continuity of Australia's heritage and reduce the unique value of Sydney Harbour.

Threatened Destruction of Heritage Aspects at Central Barangaroo

Sydney Harbour is internationally renowned for its stunning beauty, iconic sights, and hundreds of kilometres of shoreline that display and connect highly significant historical items and aspects of outstanding importance to the Harbour. These exceptional and irreplaceable assets would be ruined by the Infrastructure NSW proposed development of Central Barangaroo.

Central Barangaroo is situated to the west, with Circular Quay to the east, of the most significant promontory of Sydney Harbour in terms of its historical importance and value to Australia's people. Together with the Sydney Harbour Bridge connecting the city to the northern shore, The Rocks, and Millers Point, this historical area has strong connections to the Harbour. Fished by the Gadigal people of the Eora nation long before European settlement, Millers Point displays core components of Australia's remaining colonial history, as can be seen in Figure 2.



FIGURE 2 THE HERITAGE DISPLAY OF THE HIGH STREET CUTTING OF MILLERS POINT AS SEEN CURRENTLY FROM THE OPPOSITE FORESHORES

The historical remains of Australia’s early colonial settlement and the Millers Point’s central importance as the maritime centre of Sydney that supported the colony, linking it to the outside world, is currently displayed at Central Barangaroo. The Millers Point High Street cutting, topped by the terraces of High and Kent Street, and capped by the Observatory sitting within Observatory Park surrounded by ancient Moreton Bay figs are of special significance to Australia’s heritage. This display, and the associated continuity of our historical past around the headland with its connections to the Harbour, are irreplaceable, invaluable and must be preserved at all costs.

Heritage protections for Sydney Harbour, Millers Point, the Sydney Observatory and Observatory Park.

The proposal for Central Barangaroo, submitted by INSW, is in breach of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (NSW)*, which aims:

- (a) to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained*
 - (i) as an outstanding natural asset, and*
 - (ii) as a public asset of national and heritage significance, for existing and future generations.*

From the outset, the Urbis (2021) report claims that the Barangaroo site ‘belongs’ to Infrastructure NSW, and thereby the NSW Government. Through this means, Infrastructure NSW assumes the right to indiscriminately destroy the natural beauty of the Harbour and its integrated heritage aspects. However, the principles of the plan make clear:

- (a) Sydney Harbour is to be recognised as a public resource, owned by the public, to be protected for the public good,*
- (b) the public good has precedence over the private good whenever and whatever change is proposed for Sydney Harbour or its foreshores,*

(c) protection of the natural assets of Sydney Harbour has precedence over all other interests.

The development proposal for Central Barangaroo is in direct opposition to the public good. It does not *enhance and maintain this public asset of national and heritage significance, for existing and future generations*; it ruins it.

Specific protections for Millers Point

The High Street cutting is within the curtilage of the Millers Point Conservation Area, and thereby is provided particular protections that limit development under the *Sydney Local Environment Plan 2012, Reg 6.47*:

Development consent must not be granted to development affecting a building that is not a heritage item unless--

(a) the consent authority considers the impact of the development on the built form and heritage significance of the heritage conservation area, and on the built form, fabric and heritage significance of any heritage item in the vicinity of the building, and

(b) the development will not result in either or both of the following--

(i) the height of the building exceeding 9 metres,

(ii) the floor space ratio for the building exceeding 2:1.

Despite any other provision of this Plan, the maximum height of a building on land to which this clause applies is the height of the building on the land as at the commencement of this clause.

The Infrastructure NSW proposal obliterates half of the High Street cutting from all aspects, and encloses, overwhelms, and overshadows the remaining half. It significantly diminishes the value of the cutting's protected historical aspect. Furthermore, in doing so, it destroys the aspect and western connections to the Harbour of the Sydney Observatory and Observatory Park.

While *Reg 6.47* of the *Sydney Local Environment Plan 2012* can be overruled by the Minister for Planning, such a decision would irrevocably destroy significant heritage aspects. It would be a decision that would not stand up to independent scrutiny.

The proposal also contravenes the protections provided under the *Concept Plan (2006)*. These were restated in the commitments for approval for the Modification 8 development:

From the water and the public spaces on the surrounding foreshores ... the area is visually distinctive due to the tree canopy of Observatory Hill Park, the landscape form and trees of Millers Point proper, the roofscape of rows of terrace houses and the stone escarpments of Millers Point and Hickson Road. These elements are all located north of the east-west portion of High Street, adjoining Kent Street, and are sited at a much higher level than the wharves of the subject site. The prominence of these elements and features in relation to the CBD context will remain appreciable due to appropriately scaled and articulated building forms proposed by the Concept Plan.

- *To and from the High Street cutting and terraces ... This view has had an evolving history. Originally the cutting and the terraces were obscured by the wharf buildings on the western side of Hickson Road ...and it is only relatively recently that these views have become available. The impact upon the views has been mitigated as:*
 - *Building heights are lower in this section of the site retaining visual access to the Millers Point roofscape;*
 - *The heights of the towers interpret the V-shape profile of High Street;*
 - *The separate towers are articulated providing filtered and framed views to the area; and*
 - *There is a specific view corridor provided from the proposed walkway at the lowest point in High Street to the harbour's edge.*
- *Views west towards the water from the western slopes of Millers Point: view corridors are retained from Gas Lane, Jenkins Street Park, Munns (sic) Street Park and filtered views from the majority of High Street will also be retained. Although the proposal will impact on Millers Point in part, the views are considered to be retained to an extent that will not diminish the sense of relationship between the harbour and Millers Point.*
- *Views to Observatory Hill Park (Views H6, H7 and H9): will not be affected because it sits high above the surrounding development. The tree canopy of the park will remain apparent.*
- *Views from Observatory Hill Park to the west and north west (H4): The photomontages and cross sections (Attachments B and C) demonstrate that the tower elements will be visible within existing views; however, they will not detract from the quality of the view because the majority of the harbour will remain visible and legible and the opposite foreshore (Peacock Point) will remain visible. The issue here relates, as discussed above, to the opportunity to create a new active precinct along the former wharf areas and to allow residential and recreation uses that will enhance the city and the water's edge.*

(City Plan Heritage, 2006, pp. 48-49).

The design of the public domain will allow visitors to appreciate the history of the site and new views to the surrounding heritage precinct of Millers Points (sic), including the sandstone cliffs and Observatory Hill (Concept Plan, 2006, p. 49).

The overall concept is aimed to ensure that the historic precinct of Millers Point can be viewed from key vantage points across the harbour and that the harbour form and the relationship to suburbs within the view shed can be viewed and understood from Millers point (sic).

(City Plan Heritage, 2006, p. 47).

Protections for the Sydney Observatory and Observatory Hill

According to the Heritage Register, the Sydney Observatory is considered to be of 'exceptional' historical significance to Australia. The entire site of Observatory Hill is,

of outstanding historical significance and a major component of the Observatory Hill precinct. The park commands panoramic views to the north, west and south...

The elevation of the site, with its harbour and city views and vistas framed by mature Moreton Bay fig (Ficus macrophylla) trees of the surrounding park, make it one of the most pleasant and spectacular locations in Sydney.

(Department of Premier and Cabinet: Heritage NSW, 2021).

The Sydney Observatory Conservation Plan states, 'construction of the Observatory ensured that the 'surrounding views and visual alignments had to remain open' (Kerr, 2014, p. 70). These sight lines have remained protected for more than 150 years, but have already been diminished under the Barangaroo South development. The Infrastructure NSW proposal for Central Barangaroo would add significantly to the loss of the Observatory and Observatory Park's valued sight lines.

While the Observatory no longer functions as an astronomical observatory, having been converted into a museum in 1982, the Conservation Plan is clear:

The observatory is still an observatory, although after nearly a century and a half of use its role is now that of an educational rather than an exploratory scientific facility. However, it is still important that it continue to be able to demonstrate its traditional function to visitors – of which there are over 100,000 [as of 2014] each year.

(Kerr, 2014, p. 53).

The Infrastructure NSW proposal disregards these protections and demolishes Australia's prized heritage aspects that provide Sydney with its unique character. Those who object to this vandalism are called derogatory names, such as 'Nimbies' in the press, and could be ignored by the Minister for Planning, despite the overwhelming objections of the public and those organisations established to protect our heritage and Harbour foreshores. There is nothing to stop the Infrastructure NSW proposal from being approved, should the Minister for Planning wish it.

The Infrastructure NSW Proposal

The INSW application proposes to increase the building heights, mass, and density of all blocks at Central Barangaroo, confine a reduced amount of residential space into a 73.7m enclosing tower in the north, shown in Figure 3, and change the zoning requirements from a residential precinct with limited retail into a dominantly commercial and retail precinct. Community space is largely removed from the precinct itself and confined to The Cutaway underneath the Headland Park.

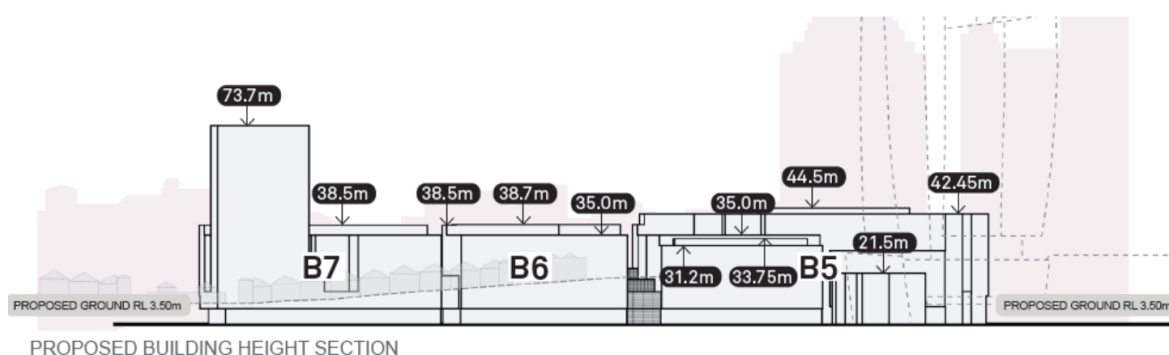


FIGURE 3 PROPOSED BUILDING HEIGHTS AND MASSING OF THE CENTRAL BARANGAROO BLOCKS

This proposal would inflict incalculable and irreversible harms on significant and outstanding key heritage aspects that belong to the people of NSW and Australia. No benefits for the public accompany these

changes. The movement of highly prized publicly owned foreshore land into the private hands of developers for commercial and retail use constitutes a tremendous loss for the public. The only benefits are to the developers and a short-term boost to the coffers of the NSW Government.

The Harms inflicted by the Infrastructure NSW Proposal on Heritage and the Harbour Foreshore

Immense harms would be perpetrated by the Infrastructure NSW proposal on Australia's heritage and Sydney Harbour foreshores. These are irreplaceable, unique, significant, and highly valued assets belonging to the people of NSW (not to INSW as claimed by the proponent).

The proposal's most grievous destruction of heritage aspects and Harbourside connections is inflicted by the unacceptable increase in height of all blocks at Central Barangaroo, along with their increased density. The proposed increased heights of all blocks, along with their increased bulk, massing, and density have the following impacts (see Figure 4):

- The essential elements of the heritage value of the High Street cutting, with its V-shape display of the High and Kent Street terraces, capped by the Sydney Observatory sitting within Observatory Park framed by Moreton Bay figs, is obliterated from a Darling Harbour or Pyrmont Park viewpoint, and split in two when viewed from the water, opposite foreshores, and Central Barangaroo itself.
- The proposal annihilates the continuity of the V shaped core by extinguishing the aspect to and from its southern half, walling in the remaining northern component, and destroying the continuity of the rows of terraces sitting atop the cutting. This dramatically reduces the heritage value of the cutting and its connections to the Harbour, the Sydney Observatory and Observatory Park.
- The well-loved view that connects the Harbour waters to Millers Point at the Agar Steps, which lead up to the Observatory Park, is overwhelmed, disconnected from the water, and destroyed.
- Hickson Park is disconnected from the parklands and Harbour foreshore, despite the rejection of this same proposal in Modification 8, and in contravention of the commitments made for the incursion of the privately owned Crown building into prized publicly owned land, along with massive increases in building heights to accommodate monstrous increases in GFA at Barangaroo South.
- A large swathe of potential green space within Blocks 5, 6 and 7 is replaced with a virtually impenetrable mass of buildings, providing cold, dark, narrow, overshadowed spaces, that wall off the Headland Park and Hickson Road and overhang the parklands.
- Panoramas protected under the Concept Plan from Darling Harbour and Pyrmont Park, the views to and from Millers Point, Observatory Hill Park, and Peacock Park in Balmain, that are required to be retained under the Concept Plan, are destroyed.



FIGURE 4 INFRASTRUCTURE NSW PLANNED DECIMATION OF HERITAGE VIEWS AND PANORAMAS

That this destruction of Australia's unique heritage displays and their historical connections to the Harbour, resulting in an impoverishment of uniqueness of the Harbour itself, is proposed by an agency of the NSW Government that exists to provide independent oversight of developments to ensure they are in the best interests of the public, is inexcusable. The destruction is also in breach of the standing protections afforded our heritage and Harbour foreshores.

Stripping of Checks and Balances in the Planning Process

All control of the planning process for SSDs, such as the Barangaroo project, has been removed from local councils and placed unilaterally and unencumbered in the hands of a single individual, the Minister for Planning. While the laws, regulations and heritage protections in NSW are required to be considered for all developments, they are not binding on the Minister.

SSDs and Heritage Protections

NSW has in place strong protective legislation for heritage areas and individual heritage items with the *Heritage Act (1977)* and *Local Government Plans 2012*. The *Sydney Local Environment Plan (LEP)* has particular protections for Millers Point that provides limits on the height of buildings within and adjacent to the Heritage Area. These protections could be given little weight by the Minister for Planning if other interests, such as those of developers, private individuals, or the State's coffers, are considered more pressing.

The East Darling Harbour (Barangaroo) project was listed as a SSD site under the EPA on 2nd July 2007 (Pham, 2017). In NSW the *Heritage Act (1977)* 'binds the Crown', meaning that the Australian Executive (Cabinet and Ministry) of the Federal government is subject to this NSW law. However, the legislation does not bind SSDs in NSW! Nor are SSDs subject to *Local Government Plans 2012*, such as the *Sydney LEP*.

SSDs are exempt from the need to obtain approvals under the Heritage Act (Environmental Defenders Office, 2012), and from Council planning controls, such as LEPs. However, these instruments, as well as the Sydney Development Control Plan 2012, 'are still fully considered in the SSD assessment' (Department of Planning, Industry and Environment, 2021, p. 10), and are instrumental in guiding decision-making in relation to SSDs.

SSDs are subject to Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*. Significantly, this Act offers heritage protections through two specific objectives, to:

- provide for the protection of the environment, especially matters of national environmental significance, and
- enhance the protection and management of important natural and cultural places.

These apply to:

- world heritage properties, and
- national heritage places.

However, evaluation of the impacts of development under this Act is in the hands of no authority other than the Minister for Planning. This leaves prime colonial heritage of the country, and their historical connections to the water that focus at Central Barangaroo, with the Minister for Planning as the sole arbiter.

Importantly, the Minister's Planning Principles (NSW Government, 2021) do bind the Minister for Planning, Industry and Environment. They provide for protection of heritage areas and items and must be followed within the approval process for any development under the Minister's authority. Nevertheless, there is no objective oversight of the application of these principles.

The Environmental and Planning Act 1979 (EP&A Act 1979)

SSDs are bound by the *Environmental and Planning Act 1979 (EP&A Act 1979)*. However, protections under this Act have been systematically stripped to leave all authority for approvals of SSDs in the hands of the Minister for Planning.

Curiously, the Infrastructure NSW application for development of Central Barangaroo was lodged in November 2021, the same month and year that the gateways in the Act that enforced an objective evaluation of a development proposal under the Act were stripped from the Act. These were:

1. There were more than 50 objections to the development proposal, or
2. The local council lodged an objection to the proposal

It is no longer required for the Minister for Planning to send a development application to the Independent Planning Commission (IPC) for determination if either of these conditions are met.

In the case of the Infrastructure NSW application for the proposed development for Central Barangaroo 851 objections have been lodged, and only four submissions of support. The City of Sydney, which is the local council, lodged a submission objecting to the proposal, as did the National Trust of Australia, the Environment Protection Authority, the Powerhouse Museum, Friends of Sydney Harbour Inc., Urban

Taskforce Australia (representing property developers), and the winning architects of the Concept Plan, Hill Thalys Architecture and Urban Projects.

Placing full authority for the approval process into the hands of one individual with unfettered power is an unacceptable risk when serious impacts to the public good and Australia's heritage are at stake. The Central Barangaroo Infrastructure NSW proposal is a striking example of the dangers created by this stripping of protections for heritage and the public good in the planning process.

A Single Individual should not Determine the Future of Australia's Heritage and Prized Publicly owned Foreshores

When dealing with prized, publicly owned Sydney Harbour Foreshore threatened by proposed development that would destroy Australia's unique historical views and connections in favour of private interests, rejection of the application should be straightforward. However, given the pecuniary interests of the NSW Government, and the fact that they themselves (i.e. Infrastructure NSW) are partners with the developers in the application, there is a strong conflict of interest. In these circumstances no individual politician should be permitted to individually make such a decision.

According to the press, the Minister for Planning, the Honourable Anthony John Roberts MP, has indicated he alone will determine the outcome of the Infrastructure NSW development application for Central Barangaroo. Approval of the application would be exceptionally courageous, given the consequences for Australia's heritage aspects and the current political climate in which political self-interests and conflicts of interest are being challenged with politicians being called to account by the people and corruption exposed.

Public confidence in the planning processes already exemplified in the Barangaroo development are at a very low ebb, and anger over the perceived corruption of the planning processes and the laws by self-serving politicians would only amplify should this proposal be approved by a politician, or politicians. Such a move would constitute a breach of trust of the people of NSW, and be known throughout history as highly detrimental to the country. It would leave a horrific legacy for the Liberal Party and the Minister of Planning himself.

We believe the determination of the proposal should be made with integrity, and therefore independently of the NSW Government. The proposal needs to be sent to the IPC for determination. The IPC would be best able to take account of the heritage impacts and value of heritage aspects being threatened by the proposal, as well as review the entire history of the Barangaroo development with its standing commitments, to act in the best interests of the public in this critical development.

Deceptive Infrastructure NSW Redevelopment Proposal for Central Barangaroo

The submitted Infrastructure NSW has redevelopment proposal for Central Barangaroo is founded on distortion, misrepresentation, minimisation of harms, and claims of non-existent benefits that include, but are not limited to:

- Misrepresentation of the approved Concept Plan;
- Minimisation and distortion of harms inflicted by the proposal on the integration, connection, and display of heritage assets along the Harbour foreshore;

- Claims of benefits to the public that do not exist;
- Contravention of the protections provided for Australia’s most significant and valued heritage areas and items;
- Default on commitments made in return for massive development increases already achieved at South Barangaroo;
- An invalid application for modification of the Concept Plan (2006) under Section 75W of the *E P & A Act, 2079*.

Misrepresentation of the Approved Concept Plan

One of the key aims of the Concept Plan for Barangaroo is to protect the heritage aspects located to the east of the Central Barangaroo development. The intent of the built form principles, design elements and controls of the Concept Plan for Central Barangaroo ensure the aspects to and from heritage areas and items were protected and enhanced. The Concept Plan has been egregiously misrepresented throughout the documentation submitted by Infrastructure NSW in its development proposal.

The diagrammatic image of Blocks 5, 6, 7 and 8 of the original Concept Plan is shown in Figure 5. Section A shows a line approximating the point from which all buildings have been removed to the north to allow for the incursion of Nawi Cove under Modification 3. Modification 3 removed Block 8 and more than half of Block 7, reallocating the GFA removed from Central Barangaroo to South Barangaroo, where it has been implemented.

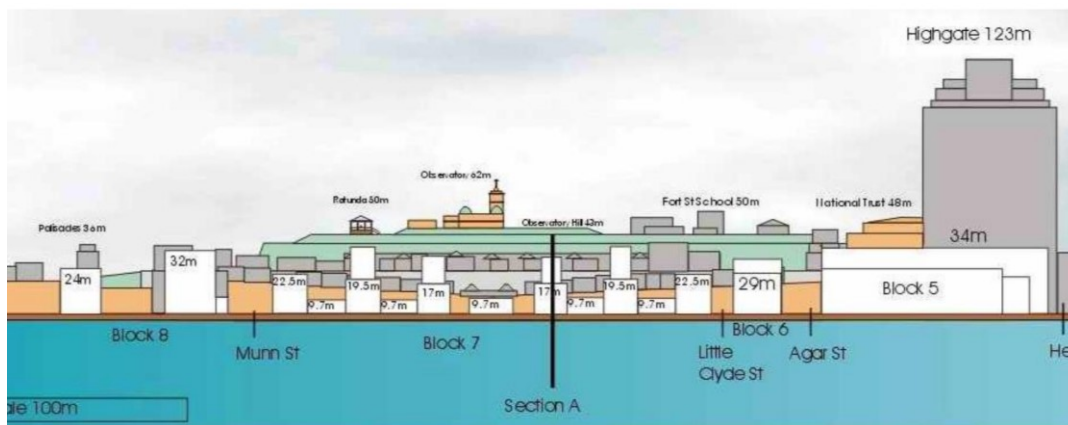


FIGURE 5 ACTUAL DIMENSIONS OF THE BUILT FORM OF CENTRAL BARANGAROO BARANGAROO MASTERPLAN BLOCK ENVELOPES WEST ELEVATION

Maximum heights of Blocks 5, 6 and 7 located at Central Barangaroo were established under the Concept Plan to ensure heritage protections. These were:

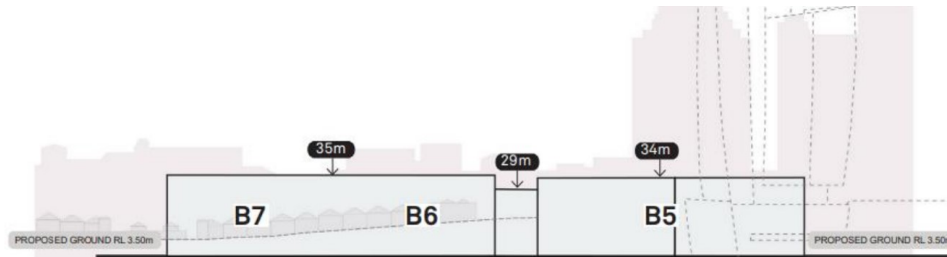
Block 5: **34m** with only 20% of the building envelope permitted to reach this height.

Block 6: **29m** with only 15% of the building envelope permitted to reach this height.

Block 7: **32m** with only 25% of the building envelope permitted to reach this height.

Each block, as depicted in Figure 5, is widely spaced by low podiums and wide laneways. Block 5 is dissected, north to south at its centre, by a valley with an RL of 20m and 37m width, and a central laneway at ground level of at least 10m. All blocks taper towards the water. Block 6 tapers to the north.

The documentation provided by INSW deceptively misrepresents this built form through removal of the built form principles and design controls of the Concept Plan. It depicts the built form of the three blocks of Concept Plan as continuous, massed, rectangular building envelopes that fill the width and heights of the built forms to the maximum, as seen in Figure 6. This is an inaccurate, distorted, and dishonest representation of the building heights and built forms approved under the Concept Plan.



Picture 6 Approved building height Section Plan (MOD 8 approval)

FIGURE 6 MISREPRESENTATION OF THE APPROVED CONCEPT PLAN BUILDING ENVELOPES FOR CENTRAL BARANGAROO PROVIDED BY HASSELL, PRESENTED BY URBIS, AND SUBMITTED BY INFRASTRUCTURE NSW

This deception was used for comparison with the proposed height and density increases of the Infrastructure NSW proposal along with the claim they were approved under Modification 8. This is false. The articulation and design controls of the blocks at Central Barangaroo have not been changed in any way, other than in the *reductions* of sizes of Block 7 in Modification 3, and Block 5 in Modification 8. The reduction in Block 5 is deceptively not portrayed here despite it being the current approved envelope for Block 5. This sleight of hand represents dishonest dealing with the Minister of Planning and the public.

The Infrastructure NSW proposal not only excludes the offsets for increases in GFA at Barangaroo South, and allowance for the privately owned Crown to be situated in public foreshore parkland, it substantially worsens the outcome for Hickson Park. It reinstates the removed part of Block 5 and reinstates the enclosure of Hickson Park that was rejected by the PAC under Modification 8.

Infrastructure NSW also provides *falsified representations* of the Concept Plan in photomontages. None of the photomontages provided in any of the reports can be trusted to actually represent the Concept Plan, or indeed the negative impacts of the Infrastructure NSW proposal itself. For example, AECOM (2021) misrepresents the Concept Plan by falsely expanding and filling the built form envelope of the three blocks and then comparing this falsification to the Infrastructure NSW proposal.

Figure 7 shows the impacts of the actual Concept Plan development on the view from the Agar Steps to the water, contrasted with the misrepresentation of the Concept Plan provided by AECOM. All reports of the application are replete with such deceptions.



FIGURE 7 MISREPRESENTATION OF THE CONCEPT PLAN IN THE VIEW FROM THE AGAR STEPS TO THE HARBOUR: ACTUAL CONCEPT PLAN REPRESENTATION TO THE LEFT; AECOM 2021 REPRESENTATION TO THE RIGHT.

Minimisation and distortion of harms inflicted on the integration, connection, and display of heritage assets along the Harbour foreshore

The evaluations of the harms inflicted on the Harbour foreshore and Australia’s heritage by the proposal are founded on falsehoods perpetrated by Urbis, AECOM, and GML. This is the responsibility of Infrastructure NSW. A few examples are provided here.

The majority of views east to Darling Harbour and beyond from Millers Point, and west from Pyrmont and Balmain East looking back towards Millers Point, have already been lost to the Approved Concept Plan, with MOD 9 often only marginally increasing the extent of this view loss to attractive elements, or elements of specific interest within the landscape. Extensive harbour views are still available north of Central Barangaroo from sensitive viewing locations within Millers Point including from Observatory Hill Park, High Street, Merriman Street (north end), and Dalgety’s Road. A substantial and visually cohesive component of the Millers Point Heritage Conservation Area remains visible from two of the three identified key observer locations along the western shore of Darling Harbour.

(AECOM 2021).

This statement is an outright falsehood. Again misrepresentation of the Concept Plan is designed to distort the reality that is to be delivered. Four photomontages (Figure 8, Figure 9, Figure 10, & Figure 11) tell the true story when compared to Figure 5 above .



FIGURE 8 DESTRUCTION OF THE PROTECTED VIEW FROM PEACOCK PARK INFLECTED BY THE PROPOSAL



FIGURE 9 LOSS OF VIEW AND CONNECTION TO THE HARBOUR FROM OBSERVATORY PARK UNDER THE PROPOSAL



FIGURE 10 LOSS OF AN ICONIC VIEW FROM DARLING HARBOUR UNDER THE PROPOSAL

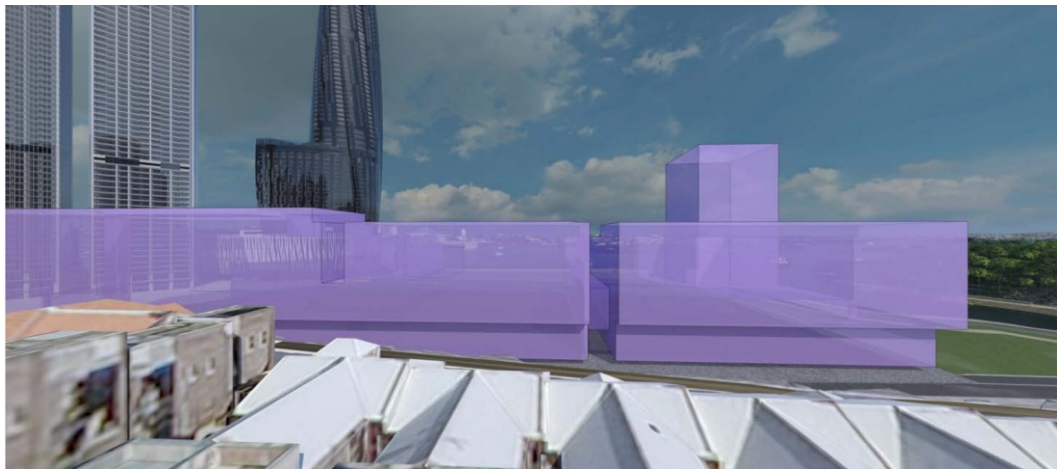


FIGURE 11 THE IMPACT OF THE PROPOSAL ON THE TERRACES OF HIGH AND KENT STREETS, AECOM 2021.

GML Heritage claims, *The loss of views and vistas to and from High Street, its terraces, and the pedestrian High Steps will not be further impacted through the increased heights proposed in MOD 9 (GML Heritage, 2021, p.120).*

The Infrastructure NSW redevelopment proposal intends further intrusion into the vista of Gas Lane, protected under the Concept Plan, but where only a splinter of enclosed water view remains. Again, the current reality and the intended consequences of the reinstatement and bulking up with increased height of Block 5 is misrepresented, as shown in Figure 12 and Figure 13.



FIGURE 12 THE REALITY OF THE GAS LANE VISTA (PROVIDED BY HAROLD KERR)

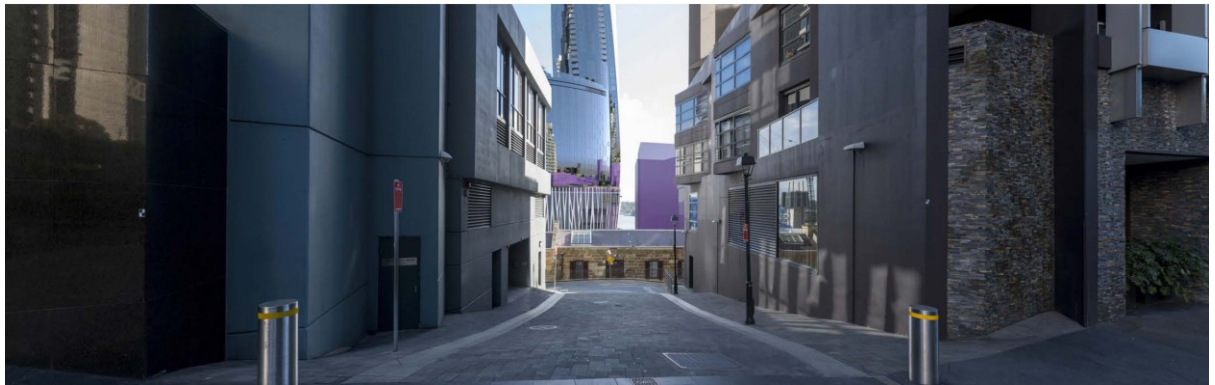


FIGURE 13 THE FALSE DEPICTION OF THE INFRASTRUCTURE NSW PROPOSED VISTA FROM THE TOP OF GAS LANE FROM THE SAME VIEWPOINT

The Duplicity of GML's Heritage Reports

From the initial Heritage Plan put forward by City Plan Heritage, through each Modification with its accompanying heritage impact and management statements (e.g. Besix Watpac, 2021; AMBS Ecology & Heritage, 2017; Tanner, Kibble Denton, 2016), the heritage aspects of the High Street cutting and its terraces, Millers Point, the Sydney Observatory, Observatory Park, and their connections, have been declared as significant and their preservation necessary.

In 2017, when unencumbered by an interest to support any development proposal, GML Heritage prepared a Statement of Significance for the High Street cutting for AMBS Ecology and Heritage to submit to Sydney Metro that is reported by Besix, 2021:

The Hickson Road Retaining Wall is a significant, contributory built element within the Millers Point and Dawes Point Village Precinct and the Millers Point Conservation Area, an intact residential and maritime precinct of outstanding state significance. The retaining wall is a dominant and relatively intact component of the extensive alterations to the natural topography of Millers Point designed to facilitate the management of cargo into and out of the new two-level finger wharves. The wall incorporated steps at its northern and southern ends to provide

improved access to the wharves for stevedores and wharf workers who resided in Millers Point. It provides a dramatic street edge to the eastern side of Hickson Road. The wall has landmark quality and displays an interface of fabrics, comprising the excavated rock face, cement render and masonry construction at the northern end of the wall. While there are varying degrees of erosion and deterioration to the stone/render, as well as intrusive fixtures, signage and penetrations, the retaining wall continues to define the edge of Millers Point and makes a positive contribution to the unique landscape character of Hickson Road. The Hickson Road Retaining Wall holds social significance as it forms part of the 'Hungry Mile', a historic stretch of Sydney's waterfront where men and women would walk from wharf to wharf in search of employment during the Great Depression of the 1930s.

(GML, 2017, p 22-23).

Based on this evaluation Besix concluded,

The significance of the High Street cutting and retaining wall as a contributory item of the state heritage Millers Point & Dawes Point Village Precinct should be understood by all on-site staff and construction team to ensure that no inadvertent damage is done to the wall.

(Besix, 2021, p.14).

In its Heritage Assessment and Impact Statement (2021) for the Infrastructure NSW proposal for Central Barangaroo, GML Heritage again quite extensively describes and extolls the significance of the High Street cutting, and its accompanying terraces topped by the Sydney Observatory and Observatory Park, with its prominent tree canopy. One example is:

There are a number of significant views, vistas and sight lines to and across the site, in particular from High Street south and north, which demonstrates the historical relationship between the housing along High Street and the former wharves of Darling Harbour, from Observatory Hill west over the conservation area to the harbour and from Sydney Observatory. This visual relationship connecting the residential areas of Millers Point to the former industrial wharves and the harbour provides evidence of their significant historical connection and is an important part of the setting of the High Street Terraces.

(GML Heritage, 2021, p. ii).

And another:

The key aspect of the north–south vista is the High Street streetscape, defined by the terraces on one side, the palisade fence and cutting to Hickson Road on the other. The north–south vista along High Street also allows appreciation of the dramatic topography of the street, a key part of its character.

(GML Heritage, 2021, p. 101).

However, throughout their Heritage Assessment and Impact Statement (2021), GML Heritage focusses primarily on what it considers to be the 'benefits' of the pedestrian link between Central Barangaroo and High Street, as shown in notionally from the point of High Street that currently connects the vista from the Agar Steps to the Harbour (as shown in Figure 7 above) both with the pedestrian bridge at this point and without it Figure 16.

GML Heritage explicitly and entirely erroneously states,

The proposed MOD 9 would potentially have a minor positive impact on the conservation area / precinct, by maintaining and re-establishing earlier pedestrian connections from Hickson Road to High Street, linking through to Observatory Hill and Circular Quay (GML Heritage, 2021, p. 119).

The notional position for a pedestrian crossing over Hickson Road as proposed by Infrastructure NSW is at the southern end of High Street. This is a vista point connecting the Observatory and Observatory Hill to the Harbour via the Agar Steps. The site draws tourists for photographs that display themselves within this historical setting shown in Figure 14. The only change required to this linking vista is the removal of the telegraph pole that bisects its continuity, and more sensitive placement of signs.



FIGURE 14 VISTAS TO AND FROM THE AGAR STEPS AT KENT STREET (PROVIDED BY HAROLD KERR)

When seen from the top of the High Street cutting to the west of the Agar steps, the current view is open and fulsome, encroached upon only by the Crown, as shown in Figure 15.



FIGURE 15 VIEW FROM THE TOP OF THE HIGH STREET CUTTING BELOW THE AGAR STEPS (PROVIDED BY HAROLD KERR)

The proposed destruction of this view by the Infrastructure NSW proposal is shown below in Figure 16, both with and without the addition of the raised pedestrian walkway. The Concept Plan included a potential pedestrian walkway from High Street to Central Barangaroo. If included at this point, it was likely to have utilised the rooftop of Block 6, which was to be 29m high, rather than 36.7m height of the proposal. Under the Concept Plan, the walkway would have sloped towards the water, retaining a strong connection from the High Street cutting to the Harbour, unlike the proposed INSW plan shown in Figure 16. The walkway was never intended to be at the height of the Infrastructure NSW proposal.



FIGURE 16 ENCLOSED VISTA CURRENTLY OPEN FROM THE AGAR STEPS TO THE WATER WITH AND WITHOUT THE PLANNED PEDESTRIAN BRIDGE

GML Heritage provides an appalling assessment of the impacts of the Infrastructure NSW proposal with statements such as:

The likely adverse heritage impacts of MOD 9 are primarily associated with building height including the impacts on Millers Point and Dawes Point Conservation Area and Millers Point and Dawes Point Village Precinct, heritage items within the Barangaroo site, heritage items in the vicinity (including Observatory Park and the Sydney Observatory site) and established heritage views. These are summarised below.

- *Additional height for Blocks 5, 6 and 7 will have some minor additional heritage impacts on panoramic views to and from the western slopes of the Millers Point and Dawes Point Village Precinct and harbour locations to the west. However, the main visual impact would primarily result from the proposed corner tower element of Block 7 (73.7 RL), which is taller than the Observatory domes (54 RL). Otherwise, heritage impacts are generally consistent with the approved Concept Plan. There are no heritage items in Central Barangaroo.*

(GML Heritage, 2021, p. iii).

The proposed MOD 9 would have no physical impact to the conservation areas (GML Heritage, 2021, p. 119).

The proposed MOD 9 would have no greater adverse impact on the remaining vista across Nawi Cove to the western harbour and the horizon, from the centre of High Street, than the currently approved Concept Plan (GML Heritage, 2021, p. 119).

The report also repeatedly misrepresents the Concept Plan with statements such as:

The proposed MOD 9 would provide view corridors and vistas through the articulation and separation of Blocks 5, 6 and 7, which are not provided in the currently approved Barangaroo Concept Plan (which would present as a singular high wall between High Street and the western harbour and horizon).

(GML Heritage, 2021, p. 119).

The impacts of the proposed MOD 9 massing generally remain consistent with the approved Concept Plan, except for the additional height of the Block 7 tower, which would result in some additional impacts on the setting of the Millers Point and Dawes Point Village Conservation Area/Precinct. The Block 7 tower will have some impact on the setting of the precinct and impact some of the views to and from Millers Point.

(GML Heritage, 2021, p. 120).

Such statements are merely a representative small sample of the falsehoods endemic within the report. The GML Heritage report's evaluation is a misrepresentation of both the Concept Plan and the true impacts of the proposal.

Above are but a few examples of the entire proposal's lack of integrity, which reflects extremely poorly on Infrastructure NSW itself. The proposal deliberately misrepresents and distorts the Concept Plan, while falsifying the comparison between the Concept Plan and the development proposal to minimise its massive impacts on Australia's prized assets and the shape of the City of Sydney itself; all in the interests of developers! On this basis alone, it should be rejected. It is quite evident that Infrastructure NSW does not have the integrity to serve the public.

Claims of benefits to the public that do not exist

The INSW proposal claims that the destruction of heritage aspects is acceptable, due to the 'public benefits and community uses provided':

Overall, the view impacts resulting from MOD 9 (predominantly Block 7) in comparison to the approved Concept Plan, are considered acceptable in the context of the public benefits and community uses provided, as well as the need to capitalise on the introduction of Barangaroo Station in order to maximise public transport patronage and contribute to achieving strategic objectives including delivering a 30-minute city.

(Urbis 2021, p.18).

This is absolute nonsense:

- As can be readily seen from the photomontages above, the view impacts are completely *unacceptable* to/from *all blocks*, although the cramming of a *reduced* residential space into an isolated Block 7 tower for the benefit of developers, commercial, and retail interests is a

particularly egregious use of publicly owned land and a self-interested enclosure of Harbour views.

- There are *no public benefits* from the proposed increase in commercial space, and the benefits of a large retail complex situated on publicly owned prime harbour foreshore are highly questionable at best.
- The character and nature of the precinct would be transformed from readily accessible open public space with low-rise residential and community buildings into overdeveloped commercial and retail space, alienating residents, and with community space forced underground below Headland Park at The Cutaway.
- No social housing is included at Central Barangaroo. Instead, the meagre contribution of 1% of the sale price of each residential dwelling to be donated to deliver affordable housing in a variety of locations (*not* at Central Barangaroo itself) is *reduced* by the proposal, as residential space is reduced by 1,000m².
- The large influx of workers into the area would cause alienation for residents, not only those of Central Barangaroo itself, but also for those of surrounding suburbs.
- Like South Barangaroo, buildings would be empty in the evenings and at weekends, creating a sense of desolation within the precinct.
- Barangaroo Station can quite adequately serve the commercial precinct of South Barangaroo and the city without a further increase in commercial and retail space.

No mitigating measures can counter the negative impacts of the Infrastructure NSW proposal. There are *no benefits* to the public provided by the proposal at all, and certainly not in contrast to the Concept Plan. The sole benefit is to developers (Aqualand) and private commercial and retail interests. The development would come at an enormous *cost* to the public, the City of Sydney, the Harbour foreshores, and our unique heritage aspects that contribute to the definition and beauty of Sydney Harbour.

The Infrastructure NSW Application for Modification of the Concept Plan is Invalid

Section 75W

Infrastructure NSW has applied to modify the Concept under the obsolete Section 75W of the *Environmental and Planning Act 1979 (EP&A Act 1979)*. The obsolete Section 75W had lower standards than the current Section 4.33, which the Infrastructure NSW application does not meet in any way.

Section 75W allowed applications for modifications under the now discredited 3A pathway for assessment and was revoked on March 1st, 2018. Transitional arrangements ceased on September 1st, 2018, by which time all application documents needed to be lodged. The documents for MOD 9 were not submitted until the end of 2021.

The current application is founded on a *preliminary and partial* application based on a 2014 request for the Director General's requirements that was *withdrawn* in 2016 following advice from the PAC that strongly indicated the proposal would not be approved, thus ending that application. The Director General's requirements of 2014 have been superseded by the determination of Modification 8 with its commitments and independent advice of the PAC.

The Proposal Bears Virtually no Resemblance to the Concept Plan

Any application for modification of an approved Concept Plan, whether under the obsolete Section 75W or the updated Section 4.33 of the *EP & A Act 1979*, is to be made against the Principles of that Concept Plan with its built form requirements and design controls. The NSW proposal does not reflect these core components of the Concept Plan in any way, shape, or form.

The massive increase in GFA

The carefully allocated 47,688m² of GFA for Central Barangaroo in the approved Concept Plan is increased more than three-fold to 144,355m² and cannot be considered a 'modification'. Any such proposal requires a new development application.

Not only is the GFA of the precinct massively increased, but it also remains unallocated to the three blocks, to enable 'flexibility'. Such a vague proposal is dangerous as it leaves the development open to further misrepresentations and 'minimal' increases in built forms resulting in even worse impacts.

Underground development

The proposed inclusion of 28,166m² of GFA below ground to accommodate retail development is well outside of the Concept Plan where underground development was limited and restricted to basements and service areas. This component of the proposal needs an entirely new, independent development application for consideration, as, not only is nothing like it included in the Concept Plan, but it is also not in any way part of the Barangaroo development to date. The desirability of such a proposal for prime public foreshore land needs careful consideration and justification.

Rezoning

The proposed rezoning of the Central Barangaroo precinct changes its nature from a primarily low-rise residential development, incorporating community space and some limited retail, to a massive commercial and retail development, while reducing residential space. Such a proposal cannot be considered a 'modification' of the Concept Plan; it is a complete transformation.

The Principles of the Concept Plan

The eight Principles of the Concept Plan for Barangaroo, with their accompanying built form principles and design controls for each block, have been breached in the Infrastructure NSW proposal, rendering the proposal invalid as a modification. Comparing the eight key [Principles of the Concept Plan](#) to the Infrastructure NSW proposed development:

1. *City's New Western Façade: To create an integrated new western frontage to the city centre, orient the slender ends of buildings to the waterfront to define an open and memorable silhouette.*

Buildings are massed, overblown blocks with little separation and poor articulation that runs primarily from east to west. The buildings do not have 'slender ends' to orientate to the waterfront, and the 'silhouettes' they present are closed and exceptionally unremarkable.

2. *Hickson Road as a Boulevard: To promote the scale of Hickson Road as a grand boulevard, buildings addressing the street are limited to 8 storeys in height, except where a podium of 4 storeys exists to support buildings of a greater height in the block south of Napoleon Street.*

Buildings along Hickson Road all exceed 8 storeys with devastating consequences. One storey is approximately 3.3m; eight storeys would therefore be **26.4m**¹. Under the INSW proposal, Block 5 is proposed to be **44m** high (13 storeys); Block 6, **38.7m** (12 storeys); and Block 7, **73.3m** (22 storeys) high. These heights engulf and enclose Hickson Road, and High Street (including for CU Lance Children's Centre), reducing sunlight and amenity, while destroying views protected under the Concept Plan.

3. Buildings to Define Streets: To define the public space of the street, set all building façades to the street alignment and respect the differing characters, scales and activation of the streets.

The building façades are aligned to the streets; however, there is no respect given to 'differing characters, scales and activation of the streets', all of which are narrowed in comparison to the Concept Plan and further reduced by cantilevered overhangs.

4. Low Scale Valley: To promote built form of a human scale along pedestrian lanes, to encourage diversity in open space uses and to allow midday sun penetration within more dense blocks, mid-block buildings are limited to 4/5 storeys in height and are to provide accessible roof top open spaces. This enables the formation of an accessible roof valley.

There are no low scale valleys provided to promote human scale. Buildings enclosing pedestrian lanes far outstrip the 4/5 storeys (13 – 16.5m) and, along with the loss of the wide podiums and laneways of the Concept Plan, would allow little sunlight to penetrate.

5. Tapering Built Form: To continue a built form dialogue with the adjoining city, building heights across the site are to generally taper towards the north, with the highest forms concentrated in the block in front of Napoleon Street.

This Principle has been abandoned within the South Barangaroo development; however, in 2016 the PAC determination stated,

the height of development on Block Y [Crown building] should 'book end' the high rise development in Barangaroo. As a consequence Barangaroo Central must maintain a building height that is consistent with the built form within the Concept Plan and sympathetic to the height of development and views at Millers Point and Observatory Hill.

(NSW Planning Assessment Commission, 2016, p. 15).

The Infrastructure NSW proposal totally disregards this advice, misrepresents the built form within the Concept Plan, and is destructive of the views at Millers Point and Observatory Hill.

6. Open Space Within Blocks: To create hollow blocks permeated with open public spaces, courtyards, walkways and gardens. Interrelate the central band of the accessible roof valley with the ground plane and intermediate levels.

These crucial elements of the Concept Plan are removed and replaced with bulked up, massed, and dense buildings that overfill the maximum building envelopes of each block. The result is nothing like the light open buildings of the Concept Plan.

¹ <https://www.convertunits.com/from/story/to/meters>

7. *View Sharing: To promote the equitable access to views towards the harbour, arrange the built form to define the street corridors and to allow filtered views from the existing private buildings to the east.*

The Concept Plan provides for filtered views via wide podiums and lanes in Block 7, and retains connection to the Harbour, as seen in Figure 17.



FIGURE 17 INDICATIVE VIEW FROM THE LANGHAM UNDER THE CONCEPT PLAN

Through increased heights, massing, bulk and the massive Block 7 residential tower, the Infrastructure NSW proposal obliterates views for residents of the southern terraces of High and Kent Streets, the Langham, and the lower levels of Kent Street apartment buildings, as shown in Figure 18.

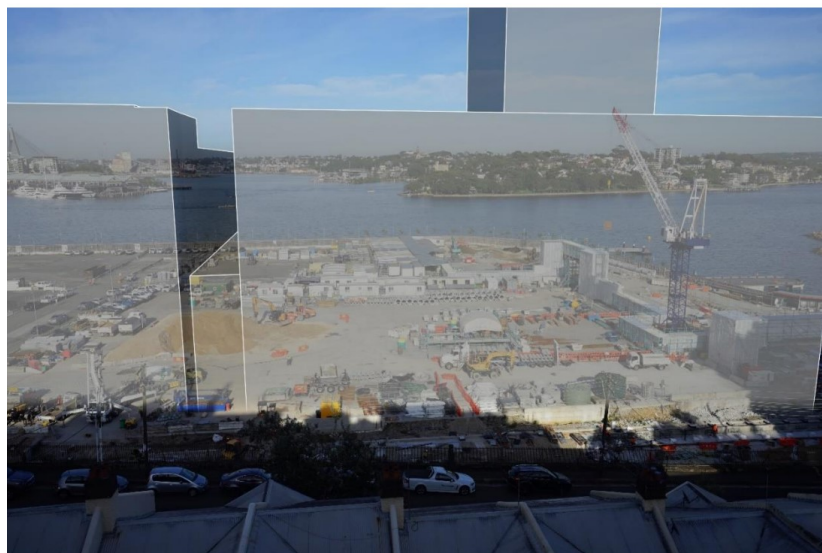


FIGURE 18 INDICATIVE VIEW UNDER THE INFRASTRUCTURE PROPOSAL AS SEEN FROM THE LANGHAM

As can be readily seen, the Infrastructure NSW proposal does not support view sharing. The PAC expressed sympathy for residents and stated that further impacts to residents' views following Modification 8 were to be minimised (NSW Planning Assessment Commission, 2016c, p. 25).

This blocking and enclosure of residents' views proposed by Infrastructure NSW comes despite the expressed statement of the Concept Plan, '*Retention of public views to the harbour is also of importance, particularly to local stakeholders*' (NSW Government, 2006, p. 156) and advice from the PAC to 'book end' high rise at the Crown building. In reviewing residents' view losses inflicted under Modification 8 in particular, the PAC instructed that further development '*must maintain a building height that is consistent with the built form within the Concept Plan and sympathetic to the height of development and views at Millers Point and Observatory Hill*' (NSW Planning Assessment Commission, 2016c, p. 15).

Legal precedents for development in Sydney require that an evaluation of view loss and consultation with residents losing views is undertaken where view loss occurs (*Tenacity Consulting v Warringah [2004] NSWLEC 140*, *Rose Bay Marina Pty Limited v Woollahra Municipal Council & Anr [2013] NSWLEC 1046*). In the development of the Infrastructure NSW proposal, no consultation has occurred with the owners of the terraces or the high-rise buildings, and no actual photographs have been taken from within the buildings themselves, despite depictions being purportedly shown from the residents' perspectives, e.g. from levels 15 and 25 of the Highgate building.

8. *Orientation of Buildings: To provide optimum orientation and transparency across the site and to create a silhouette of slender towers to Globe Street and the waterfront - orientate the long facades of tower forms to the north. However, on Hickson Road, to define the linear nature of this road, generally orientate the long façades to the east.*

There is no '*optimum orientation*' for the bulked-up mass of dense buildings, as no '*slender towers*' exist in the proposal. No transparency across the site is therefore possible, and the north is dominated by a high wall of solid buildings terminating in a high tower cutting into the protected views from the Observatory and Observatory Hill, slicing the Millers Point aspect, while looming over Nawi Cove, the Harbour parklands, and the High Street cutting.

The Loss of Public Confidence in Government and the Public Perception of Government Corruption

The public has lost all confidence in the planning processes of the NSW Government. The perception of corruption in the planning processes for the Barangaroo development is widespread in the community. Nevertheless, the current NSW Government continues to undermine heritage protections, due process, objective decision-making, and the interests of the public, including residents whose views are being considered for resale.

Under the current planning process there are no legal safeguards. It is therefore entirely possible for the Minister for Planning, the Honourable Anthony Roberts, to approve the Infrastructure NSW Central Barangaroo development application to primarily benefit developers at the expense of the interests of the public and heritage aspects of the Harbour. As Mr Roberts was at the helm of the Department of Planning and Environment when obligatory independent oversight requirements were stripped from the *EP&A Act 1979* there is grave concern that this was a prelude to the decision to approve this invalid and destructive development proposal.

A Government looking to the future with vision would ideally seize the opportunity to provide a remarkable legacy to the people of NSW and to the country by dedicating Barangaroo Central in its entirety as parkland, creating an extension to Barangaroo Reserve to bookend Sydney's CBD with green open space.

A rush to approval, coupled with avoidance of an IPC determination, for such a significant development so close to the forthcoming NSW elections, raises concerns about the motivation of the current Government and its relationship with developers. Should this result in approval of the Infrastructure NSW proposal, with its irrevocable loss of Australia's heritage assets and utter lack of public benefit, the Liberal Government of NSW will forever be known for heritage vandalism.