



# The Treasury

Reverend The Hon Fred Nile  
Chair  
General Purpose Standing Committee No.1  
Legislative Council  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Contact: Richard Timbs  
Telephone: (02) 9228 3340  
Our Reference: EA1635355

25 JAN 2011

Dear Reverend Nile

## **Inquiry into the Gentrader transactions – Gentrader Transaction Proceeds**

I refer to the transcript of NSW Treasury's evidence to the Inquiry into the Gentrader Transactions on Tuesday 18 January. In the interests of your accurate understanding, I want to address for the Committee's benefit a number of serious misperceptions that have arisen publicly regarding the financial benefits to the State that will flow from the Energy Reform Transactions ("Transactions").

These misperceptions appear to have arisen as a result of confusion between Committee members and me in my response to a series of questions concerning total cash proceeds to be received by the Crown from the Transactions. These questions and my answers to them are on pages 11 and 14 of the transcript.

As I confirmed to the Committee, in response to the first question regarding total proceeds (p 11), the \$5.3 billion cash proceeds of the transactions will be paid to the State and will be available to the State from the date the transactions close. This amount includes upfront capacity payments for the Delta West and Eraring Gentrader transactions.

Review of my evidence before the Committee shows that throughout the proceedings the Treasury went to some lengths to explain that the full cash proceeds received from bidders at transaction close, including the capacity payments under the Gentrader contracts, are freely available to the Crown. The proceeds are a cash financial asset of the state and as such increase the assets on the NSW balance sheet by the full \$5.3 billion.

As you will recall, an issue arose from Dr. Kaye's reference to a comment by Origin Energy in a communication to its shareholders in which it stated the proceeds for the Eraring Gentrader contract would be placed "on security deposit" with the State.

The cash payments are equal to the present value of annual capacity charge payments that would otherwise be made over the life of the relevant contracts. The cash received upfront by the Crown under these payments is freely available to the Crown from financial close.

The "security deposit" structure referred to by Origin Energy in fact "secures" the obligation of Origin to make annual capacity payments to Eraring over the life of the contract. Having paid the capacity charges in full up front to the Crown, Origin does not have to make further cash payments in respect of the capacity charges.

With this in mind, I am concerned that members of the Committee and persons reading or reporting on the Inquiry transcript may be confused by a subsequent question and my response in relation to the issue of the State's net cash position.

When I stated that the cash position of the State ... "does not improve by \$5 billion as a result of the sale..." (p14 of transcript), I was referring to the net cash position of the State following retirement of all outstanding Delta and Eraring Debt. Retirement of this debt subsequently enhances the State's financial capacity to fund new budget measures.

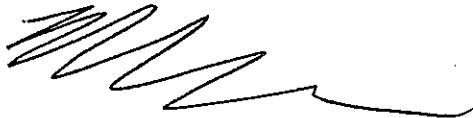
To avoid any doubt, I want to make it clear that whether the \$5.3 billion cash proceeds from the transactions are in part used to retire State Debt, or are used directly for other State Budget purposes, the fact remains that the full \$5.3 billion cash will be available for use by the Crown to optimise its financial position. This was the point that I was making when I said (p 14) "...it is unambiguously the State's balance sheet and it is the additional fiscal flexibility, that improvement to the State's balance sheet, is what is important here in terms of the overall impact on the State's finances...."

In summary:

- The capacity charge payments will be made in full in cash to the Consolidated Fund and the State has complete and unfettered access to those funds from the time of receipt of payment.
- The cash received is reflected in full on the State's balance sheet at financial close.

I request that you please accept this letter as a clarification appended to and referenced in the formal record.

Sincerely,



Secretary

Cc: The Hon Eric Roozendaal