

**INQUIRY INTO THE CONTINUED PUBLIC OWNERSHIP  
OF SNOWY HYDRO LIMITED**

**Organisation:**

**Name:** Mr H M Talbot

**Telephone:**

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**Theme:**

**Summary**

RECEIVED

31 JUL 2006

SELECT COMMITTEE

SNOWY HYDRO

26<sup>TH</sup> July 2006

Reverend the Hon Dr Gordon Moyes  
Chairman  
Parliament of NSW Inquiry into Continued Public Ownership of Snowy Hydro Ltd.,  
Parliament House  
SYDNEY NSW 2630

Dear Hon. Rev. Dr Moyes and Fellow Committee Members,

**Inquiry into Continued Public Ownership of Snowy Hydro Ltd.**  
Supplementary Submission No. 2, by HM (Max) Talbot, FIEA, B.Com.

Having had the opportunity to read some of the submissions to the Inquiry and in the light of recent media reports that the Inquiry is set to recommend that Snowy Hydro's electricity trading business be sold, I wish to make the following Supplementary Submission.

**1. Sale of Snowy Hydro's electricity trading business.**

Before considering the likely ramifications of such a proposition it is worthwhile to briefly examine the management of the Snowy Scheme prior to Corporatisation.

With the inclusion of 'The Agreement' (Schedule 1 of the Snowy Mountains Hydro-Electric Power Act 1949) in the Act in 1957 and the subsequent formation of Snowy Mountains Council, responsibility for the Operation and Maintenance of the permanent works of the Authority passed to the Council, whilst the Authority continued to build the Scheme.

Thus the Scheme had a dual management structure with the Authority retaining ownership together with responsibility for, inter alia, financing, staffing (except for

operating personnel), whilst the Council had responsibility for day to day operations including water management and electricity production.

The State Electricity Commissions scheduled electricity production and on sold it to their customers.

Inevitably this model caused conflicts from time to time, because of an absence of clear accountabilities, with respect to inter alia, division of responsibilities and provisioning funding. The 'workability' of the arrangement often rested on the willingness of individuals to work co-operatively and thus waxed and waned.

Formation of the National Electricity Market saw the establishment of Snowy Hydro Trading Pty Ltd to trade the States electricity entitlements into the market.

The Scheme thus then had three bodies with a say in its management and operations further complicating the division of responsibilities and accountabilities that lead to conflicts and dysfunctional behaviour. It is a model I believe that no one would wish to go back to – as Corporatisation, apart from putting the Scheme on a commercial footing brought it under a single management structure for the first time.

The proposal to sell the trading business would effectively take the Scheme back to pre-corporatisation days and raises a myriad of questions that cannot be easily answered, for example;

- Will the trading business 'own' the water licence? Without it the trading business is worthless.

If the trading business owns the water licence then this raises exactly the same issues with respect to the privatisation of water as were raised by the original decision to sell.

- Who has responsibility for day to day running of the plant – is it the traders or is it the owners of the plant?
- Who finances the ongoing maintenance, refurbishment and modernisation of the Scheme and how are these finances to be obtained?
- Where do the liabilities lie in the event of a disaster?
- Etc, etc.

I firmly believe that such a proposal is not practically workable as trading is inextricably linked to the Scheme's infrastructure – the two cannot be separated – it is a recipe for disaster and must be buried as quickly as it was floated.

## **2. Future Funding Requirements.**

There seems to be a prevailing view that Snowy Hydro needs to grow to survive in the National Electricity Market and that it needs an injection of capital to do this. This was certainly the companies expressed view and the stated reason for the decision to privatise.

Where is the independent analysis to support or refute this view?

Notwithstanding the foregoing, Snowy Hydro in its preliminary submission to the Inquiry identified three strategic pathways (Part 6 P 37).

Of these the risk manager strategy provides a reasonable way forward enabling it to maintain its position in the market without the need for additional capital.

This then raises the question – why is the need for additional capital still being seen as an issue that needs to be addressed when clearly it is not?

Snowy Hydro have an ability to retain significant funds on an annual basis,

these being:

- depreciation \$40 million per annum
- retained profits \$40 million per annum (approx. 70% dividend policy)

(Note that in Snowy Hydro's case the Board determines Dividend Policy – NSW Government Submission Section 1.3.2 page 6).

With net profit after tax of around \$150 million the Board has scope to further reduce its percentage dividend so as to internally fund additional gas plant – at around \$200 million each – when and if this becomes essential for Snowy Hydro to maintain its market position.

Vendor finance is an option that has not been mentioned but can always be explored; whereby, the manufacturer of the plant foregoes progress payments for a single payment at a mutually agreed future date and charges an appropriate fee for the service.

### **3. Snowy Hydro (Preliminary Submission No.102)**

Annual Water Operating Plans (Sections 17.4 and 19.3 pages 43 and 46).

Whilst in preparing the AWOP Snowy Hydro must consider WCLC comments in good faith it is not obliged to incorporate those comments. Likewise the DNR must approve the plan unless it contravenes a licence condition.

Also, the only firm obligation that Snowy Hydro has under the plan is to release the minimum agreed amounts of water (e.g. 2088 GI) by the 30<sup>th</sup> April each year.

The pattern and timing of releases identified in the plan are there to be met on a best endeavours basis – Snowy Hydro does not guarantee quarterly minimum release volumes.

Snowy Hydro's Ability to Store Water Indefinitely (Section 19.4, page 48)

Snowy Hydro has the capability to store significant quantities of water accounted as 'above target' for many years due to the large storage capacity of Lake Eucumbene and the fact that it is less than 70% full 80% of the time.

**4. NSW Government (Submission No 103)**

Financial and Corporate Governance Arrangements (Section 1.4.1., Page 8)

Whilst the Corporatisation process 'developed a comprehensive and legally enforceable contractual framework in relation to water' which may be appropriate for a Government owned entity, governments made no effort to establish whether or not this contractual framework was adequate to protect the water resource in private hands – thus displaying a dereliction of duty to the electorate.

Water Regulation (Section 1.4.3 Page 10)

The statement 'Snowy Hydro neither owns nor controls the water of the Snowy Scheme' is misleading. Snowy Hydro has rights over the collection, storage, diversion and release of the Scheme's water – as explained earlier in the Governments Submission and also in Snowy Hydro's Preliminary Submission. It thus controls the water up to the point that it is released from the Scheme into Blowering and Hume reservoirs – the State then regains control.

Term of Reference 1(a) (Part 2 Page 11).

As discussed in Part 2 of this Supplementary Submission Snowy Hydro should not need to demand new funds from governments to fund new projects.

If it must grow and this in itself is a questionable proposition, then it should grow Organically, i.e. within its own means.

On page 12 the Government maintains that Snowy Hydro's growth strategy exposes existing shareholders to increased risks.

However, as shareholder approval is required for – 'changes either directly or indirectly to the nature or scale of the Company's activities' (Snowy Hydro preliminary Submission Page 5) – Governments have the ability to control growth and mitigate risk.

Also, as Snowy Hydro is now to remain in public ownership capital growth is no longer particularly relevant such that it's strategy of venturing into acquisitions in the retail electricity and energy sector should be seriously questioned.

#### Water Regulatory Arrangements (Section 4.2 Page 21)

The Government cannot support the statements in the first two paragraphs of this section, for as stated above, Governments have not bothered to conduct a due diligence exercise on the water regulatory arrangements to establish whether or not they are robust enough to protect the national interest in the absence of Government ownership.

On Page 22, the statement that key water documents were made publically available during the Corporatisation process needs to be challenged.

As far as I am aware only the Water Inquiry Outcomes Implementation Deed was available. The Water Licence on the other hand is stamped 'Commercial-in-Confidence' and if it was available, I believe the public were never informed of this.

#### Required Annual Irrigator Releases (Section 4.3.1 Page 23)

The statement 'Before Corporatisation in 2002 there was no formal obligation for

either annual releases or within year release patterns from the Snowy Scheme' is not correct, as such arrangements were embodied in Schedule 1 of the SMHE Power Act and in Snowy Mountains Council Resolutions and Operating Procedures. (See Section 1.4.3 Page 9 of the Governments Submission).

#### Ownership of Water (Section 4.4.1 Page 26)

Whilst Snowy Hydro must eventually release all water collected and stored, it does not have to do this on an annual basis as it can store above target water for many years and release it at its discretion.

Also, Snowy Hydro does have the ability to charge downstream users (it has already done so) to bring forward the timing of water release, i.e. to borrow it from future allocations, such borrowings have to be paid back.

#### Obligations on Snowy Hydro (Section 4.4.2 Page 26)

The maximum penalty and penal provisions referred to relate only to the Environmental Protection Act not specifically to transgressions of the terms of the Licence.

#### **5. Submission by Mr Ken Lister (No 79)**

Mr Lister states on Page 1 of his submission that 'the Scheme assets have been starved of expenditure prior to Corporatisation in 2002. Facilities for employees have not been upgraded for over 30 years'.

Neither statement is correct.

The Scheme's assets have been continuously maintained and refurbished – beginning in the early 1980's to a 20 year comprehensive rolling Strategic Maintenance and Refurbishment Plan.



At the time of Corporatisation the Scheme's generating plant was achieving world class performance for availability and reliability.

PB Power, in an independent Technical Due Diligence Report in 2002 stated, inter alia,

'Generally the equipment is of sound design. The plant as a whole has been extremely well maintained. Because of the above average operation and maintenance practices the actual life of the generating sets is, as expected, in excess of industry standards'.

Regarding employee facilities.

The Cooma Head Office was built during the 1980's and offices in each of the Regional Centres were extended and/or renovated to varying degrees. Additional, new housing and flats built in Cooma, Talbingo, Jindabyne and Khancoban, whilst housing in Cabramurra was refurbished, new single employee accommodation built and indoor sporting facilities constructed.

#### **Other Related Matters (Section g)**

I was concerned to read Mr Listers opinion of former employees of which I am one of the former Senior Colleagues mentioned.

As someone who was involved in Scheme management during the formation of the National Electricity Market and the Scheme's Corporatisation and in its operation in the Market for 5 years prior to my retirement, I have a good appreciation of its business and operating environment.

Governments don't run Snowy Hydro, Management and the Board run it as a corporate entity – governments are the shareholders. To maintain that governments

run the business is tantamount to saying that the shareholders run BHP – clearly a nonsense.

I can also assure the Inquiry that I have no ‘personal “baggage” and/or ambition’ relating to Snowy Hydro or its employees.

And finally, Terry Charlton did not ‘allow me to leave’, I retired at age 62.

**6. Snowy Hydro Cooma Social Club Inc.**

As the issue of my life membership of the Social Club was raised before the inquiry in Cooma I wish to inform the Inquiry that I received a letter from the President of the Social Club dated 4<sup>th</sup> July informing me that the Committee had withdrawn my life membership because of my public position regarding the future of Snowy Hydro.

A copy of my response to the Social Club is attached.

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15 July 2006

Mr H Brown  
President  
SHL Cooma Social Club Inc.  
C/- Snowy Hydro Limited  
Monaro Highway  
COOMA NSW 2630

Dear Howard

In response to your letter of the 4<sup>th</sup> July 2006 advising that the Social Club has withdrawn my life membership because of my public position regarding the future of Snowy Hydro.

I believe that we live in a democratic society wherein everyone has the right to express their views without fear or favour, provided such views are not against the law or defamatory. It is apparent that the Club does not share this belief.

On my retirement I was afforded the privilege of life membership of the Club. As I am still alive, have continued to support the Club, have not broken any Club rules or by-laws, nor done anything to damage the Club's reputation – and, whilst I note that the Club considers itself to be in an awkward situation (why this should be so is not clear) – I do not accept that it has the necessary grounds to withdraw my life membership, the withdrawal of which I view as discriminatory and thus quite possibly illegal.

It has been my pleasure to support the Club over many years and to enjoy the friendship of Snowy employees. However, the Club may rest assured that I have no desire to continue an association with an organization that is prepared to treat its members in the manner that the Club has treated me.

Yours sincerely



Max Talbot.