

Submission
No 5

**INQUIRY INTO ENVIRONMENTAL PLANNING AND
ASSESSMENT AMENDMENT (SNOWY 2.0 AND
TRANSMISSION PROJECT) ORDER 2018**

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Submission to the Inquiry into the Environmental Planning and Assessment Amendment
(Snowy 2.0 and Transmission Project) Order 2018

1 Introduction

- 1.1 The NSW Legislative Council's Regulation Committee (**Committee**) is conducting an inquiry into the *Environmental Planning and Assessment Amendment (Snowy 2.0 and Transmission Project) Order 2018 (Snowy 2.0 Order)*. The terms of reference are to 'inquire into and report on the impact and implementation of the Order'. The Committee will report by 29 June 2018.
- 1.2 The NSW Department of Planning and Environment (**DPE**) has prepared this submission to assist the Committee with its inquiry. The key matters DPE has covered in this submission can be summarised as including:
- relevant background information about the existing Snowy Hydro-Electric Scheme;
 - a description of the Snowy 2.0 and Transmission Project;
 - an outline of the legislative process and reasons for making a Critical State Significant Infrastructure (**CSSI**) declaration; and
 - the effect of declaring the Snowy 2.0 and Transmission Project as CSSI.
- 1.3 All references to sections in this submission relate to the *Environmental Planning and Assessment Act 1979* (EP&A Act) unless otherwise stated.

2 Snowy Hydro-Electric Scheme

- 2.1 The existing Snowy Hydro-Electric Scheme (**Snowy Scheme**) comprises an integrated network of dams, tunnels, pipelines, aqueducts, power and pumping stations that collects and stores water from the Eucumbene, Snowy, and a range of other rivers, and then diverts and releases these waters into the Murray and Murrumbidgee Rivers for the purposes of generating electricity and supplying water to the western rivers and irrigation areas.
- 2.2 The Scheme which is largely located in the Kosciuszko National Park (**National Park**) was constructed between 1949-1974 and prior to the corporatisation of its managing

entity, the Snowy Mountains Hydro-Electric Authority, was largely not subject to NSW planning and environmental laws. This changed however with the enactment of the *Snowy Hydro Corporatisation Act 1997 (Corporatisation Act)*, which brought the ongoing operations of the Scheme under NSW law.

2.3 Under the Corporatisation Act, the then Snowy Mountains Hydro-Electric Authority became Snowy Hydro Limited (**Snowy Hydro**). It also became entitled to the following key legislative requirements necessary for the continued operation of the Scheme:

- the grant of a water licence under the *Water Management Act 2000*, which authorised it to continue to use the water in the Scheme to collect, store, divert, generate with and release water notwithstanding the provisions of that Act;
- the grant of a lease to undertake the operation of the Scheme inside the National Park notwithstanding the provisions of the *National Parks and Wildlife Act 1974 (NPW Act)*; and
- all necessary planning approvals.

2.4 In addition, an existing plan of management (**POM**) for the National Park was amended to explicitly acknowledge the continued existence and operation of the Scheme. Also, a separate plan of management was made under the NPW Act to govern the activities of Snowy Hydro in the National Park. This POM, known as the *Snowy Management Plan Procedures Agreement*, is supported by an Environmental Management Plan to cover specific values and activities.

2.5 In addition, a proclamation titled '*Snowy Hydro Corporatisation Act 1997 No 99 – Proclamation*' was made on 19 June 2002 and defines Existing Scheme Development to be 'the works, activities and other things listed in the document entitled *Snowy Hydro Corporatisation Act 1997 – Schedule of Existing Developments in accordance with s.40 of the Act*'.

2.6 These arrangements have successfully enabled the ongoing operation of the Scheme for the past 15 years.

3 Snowy 2.0 and Transmission Project

- 3.1 Snowy Hydro and TransGrid are now proposing to augment the existing Snowy Scheme by carrying out a suite of works known as the “Snowy 2.0 and Transmission Project”.
- 3.2 The project would expand the generating capacity of the existing Snowy Scheme by up to 50% and would generate approximately 2000 MW of electricity.
- 3.3 The project includes the development of underground tunnels to link the existing Tantangara and Talbingo reservoirs, a new underground power station, and upgrades and additions to TransGrid’s electricity transmission system to allow the project to supply major centres in NSW and the broader National Electricity Market.
- 3.4 Water would be pumped from the lower reservoir (Talbingo) for storage in the higher reservoir (Tantangara) using excess off-peak power. It would then be released to generate electricity in times of peak demand.
- 3.5 The generation component of the project is located almost entirely within the National Park and has a capital investment value of between \$3.8 and \$4.5 billion with further expenditure required for the upgrades and additions to the transmission network.
- 3.6 The project would be developed in stages and is expected to be completed within 5 to 7 years. The key stages of the project comprise:
- an exploratory tunnel and portal approximately 3 to 4 km in length to gain a greater understanding of the geotechnical conditions at the proposed location of the underground power station;
 - construction and operation of a 2000 MW underground hydro power station, and associated water and access tunnels between the Tantangara and Talbingo reservoirs; and
 - construction and operation of three major new electricity transmission lines - from the portal to a new substation to the west of the National Park; north to Bannaby near Yass; and southwest towards the NSW-Victorian border.

4 Critical State Significant Infrastructure (CSSI)

- 4.1 On 26 October 2017, Snowy Hydro and TransGrid requested that the NSW Minister for Planning declare the Snowy 2.0 and Transmission project as critical State significant infrastructure (**CSSI**) under sections 5.12(4) and 5.13 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.
- 4.2 Under the EP&A Act, the Minister for Planning can declare the entire project as CSSI if, in the Minister for Planning's opinion, the project is essential to the State for economic, environmental or social reasons (section 5.13).
- 4.3 The legislative process for making a CSSI declaration involves making either a SEPP or an Order of the Minister (published on the NSW legislation website) amending a SEPP to declare specified development on specified land as SSI. That same declaration may also declare the SSI to be CSSI (combined effect of sections 5.12(4) and 5.13).
- 4.4 In the case of the Snowy 2.0 Order, the Order was drafted by the Parliamentary Counsel's Office (**PCO**) under sections 5.12(4) and 5.13, an opinion was provided by PCO that such an order could be legally made, and then the order was signed by the Minister and published on the NSW legislation website.
- 4.5 On 7 March 2018, the Minister for Planning signed an order titled *Environmental Planning and Assessment Amendment (Snowy 2.0 and Transmission Project) Order 2018 (Snowy 2.0 Order)* and the Order was notified on the NSW legislation website on 9 March 2018. The consequence is that development for the purposes of Snowy 2.0 and Transmission Project, as described in the Order, is SSI and CSSI under the EP&A Act.
- 4.6 The Snowy 2.0 Order had the effect of amending Schedule 5 of the SRD SEPP to insert development for the purpose of the Snowy 2.0 and Transmission Project. Clause 16 of the *State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)* declares infrastructure in Schedule 5 of the SRD SEPP to be CSSI.
- 4.7 The Snowy 2.0 Order will enable applications for CSSI approval to be made to the Minister for all the parts of the project declared by the Order to be CSSI.

5 Reasons for the CSSI Declaration

5.1 In signing the Snowy 2.0 Order, the Minister formed the opinion that the Snowy 2.0 and Transmission Project is essential for the State for economic, environment or social reasons, including the following:

Economic

- The project could enhance the existing Snowy Scheme and promote energy security and reliability for NSW by:
 - generating approximately 2000 MW of electricity output;
 - diversifying the State's electricity supply; and
 - dispatching electricity at any time to meet demand in peak periods or to respond to disruptions to the electricity network.
- The hydro power component of the project is forecast to have a capital expenditure of between \$3.8 and \$4.5 billion with the transmission projects to add significant additional expenditure and investment.

Environmental

- The project could substantially increase the amount of renewable energy generated in NSW and facilitate reduced reliance on other forms of non-renewable electricity generation by:
 - using existing renewable energy (wind and solar power) to pump water from the Talbingo to Tantangara Reservoirs;
 - 'storing' energy for use in peak periods when other forms of renewable energy are less productive; and
 - augmenting the transmission network to enable the development of renewable energy hubs in regional NSW by increasing transmission capacity and providing reliable paths for excess intermittent energy to be stored.

- The project would be consistent with State and Federal policies and commitments, including:
 - the *NSW Renewable Energy Action Plan* which aims to reduce carbon emissions through increased use of renewable energy; and
 - Australia's commitments under the *Paris Agreement* to reduce greenhouse emissions by 26 to 28% by 2030 and the *NSW Climate Change Policy Framework* which aims to achieve net-zero emissions of greenhouse emissions in NSW by 2050.

Social

- The project could contribute to the on-going social wellbeing of the State by:
 - promoting energy security and reliability;
 - assisting with the transition of the NSW economy to renewable energy; and
 - creating thousands of construction jobs and associated flow-on social benefits to the region and to NSW as a whole.

6 Effect of CSSI Declaration

6.1 The Minister for Planning is the approval body for CSSI. Section 2.4(3) prevents the Minister delegating his or her function of determining an application for approval to carry out CSSI.

6.2 The assessment process for CSSI applications is essentially the same as other State Significant Infrastructure projects, including requirements for detailed community consultation and comprehensive environmental assessment.

6.3 The key steps in the assessment process for CSSI include:

- issuing of environmental assessment requirements in accordance with applicable NSW Government policies and guidelines;
- preparation of an environmental impact statement (**EIS**) by the proponent;
- public exhibition and opportunity for comment on the proposal by the community;

- response by the proponent to the submissions made during exhibition;
- detailed assessment of the proposal by the DPE and other relevant government authorities; and
- determination by the NSW Minister for Planning.

6.4 Other consequences of a CSSI declaration include:

- a development control order cannot be given in relation to CSSI (section 5.22 (4));
- certain directions, orders or notices cannot be made or given to prevent or interfere with the carrying out of approved CSSI (section 5.23 (3)); and
- third party appeal provisions (under Division 9.5 of the EP&A Act and sections 252 and 253 of the POEO Act) do not apply in relation to a breach of the EP&A Act in respect of CSSI, including a breach of any conditions of an approval for CSSI (section 5.27), except with the approval of the Minister.

7 Implementation of the Order

7.1 Snowy Hydro lodged an application for the first stage of the project works (these works are referred to as 'Exploratory Works') in March 2018, along with a Preliminary Environmental Assessment (PEA) and request for environmental assessment requirements for the preparation of an Environmental Impact Statement (**EIS**) (see attached).

7.2 DPE will shortly be issuing environmental assessment requirements for the Exploratory Works EIS in consultation with relevant NSW Government agencies, including the National Parks and Wildlife Services, the NSW Office of Environment and Heritage, the NSW Environment Protection Authority, and local councils.

7.3 DPE expects to receive and publicly exhibit a detailed EIS for the Exploratory Works later this year, with further EISs to be submitted by Snowy Hydro and TransGrid for the other stages of the project over the next 2 years.

7.4 Copies of the relevant documents for the Exploratory Works application are all publicly available on the DPE website at: www.majorprojects.planning.nsw.gov.au