

REPORT OF PROCEEDINGS BEFORE

**SELECT COMMITTEE ON THE CONTINUED PUBLIC
OWNERSHIP OF SNOWY HYDRO LIMITED**

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

At Sydney on Thursday 17 August 2006

The Committee met at 9.00 a.m.

PRESENT

Reverend the Hon. Dr G. K. M. Moyes (Chair)

The Hon. A. Catanzariti
The Hon. G. J. Donnelly
The Hon. A. R. Fazio
The Hon. P. Forsythe
Ms S. P. Hale
The Hon. M. Pavey

CHAIR: Welcome to the third public hearing of the Legislative Council's Select Committee on the Continued Public Ownership of Snowy Hydro Limited. Last month the Committee held a public hearing at Cooma at which it took evidence from members of the community of Cooma and surrounding region. The second public hearing was held in Sydney at which the Committee heard from the Irrigation Committee of the New South Wales Government. We have received well over 100 individual submissions. I need to place several procedural issues on the public record. The Committee previously noted to authorise the media to broadcast sound and video excerpts for public proceedings. Copies of the broadcasting guidelines are available on the table by the door. In reporting Committee proceedings the media must take responsibility for what they publish, including any interpretation they place upon evidence before the Committee. In accordance with these guidelines, while a member of the Committee and witnesses may be filmed or recorded, people in the public gallery should not be the primary focus of footage or photographs.

Under the standing orders of the Legislative Council evidence and documents presented to the Committee that have not been tabled in Parliament may not, except with the permission of the Committee, be disclosed or published by a Committee member or any other person. A transcript of the evidence presented today will be available early next week on the Committee's web site at www.parliament.nsw.gov.au. Members and their staff and witnesses are advised that any messages should be delivered through the Committee clerks. I ask that mobile phones be turned off during this hearing as they interfere with the electronic Hansard recording. I welcome today our first witness, Dr Peter Dodd.

PETER RAYMOND DODD, Financial Consultant, 7 Lyndhurst Crescent, Hunters Hill, sworn and examined:

CHAIR: Dr Dodd, in what capacity do you appear before the Committee today?

Dr DODD: As an individual.

CHAIR: Do you wish to make a brief opening statement before we proceed to questions?

Dr DODD: Yes. I think you have seen my resume. Just briefly, I have had a long career as a corporate finance professional. I have had many years in corporate finance, both as a senior corporate finance academic at the Australian Graduate School of Management and before that at the University of Chicago, and almost 20 years in investment banking and corporate finance, most recently with ABN Amro, the Dutch-owned international investment bank, where I was global head of corporate finance responsible for 28 countries. I have also been on a number of boards of public companies, private companies and not-for-profits, including chairman of Delta Electricity, the New South Wales Government State-owned corporation and electricity generator for four or five years. I have never done any work with Snowy Hydro but earlier this year I was a consultant to UBS, which was one of the banks appointed as co-lead manager of the proposed IPO, with a relatively minor role. Of course, the transaction did not eventuate.

The Hon. MELINDA PAVEY: Which is why we are here today.

CHAIR: Please continue.

Dr DODD: I am open to any questions you would like to ask me.

The Hon. MELINDA PAVEY: As I said, we are here today because the transaction did not go ahead following enormous community anxiety about the sale of the iconic Snowy institution. How does Snowy Hydro move forward? There is great concern at a local level that the company continues to be successful and strong, continues to maintain a massive asset and continues to employ local people. How does the company move forward into the future to ensure the viability of the company and the local work force on the basis that a law has passed through the New South Wales Parliament that Snowy Hydro will never be privatised? What is the way forward?

Dr DODD: It is up to the company to elaborate on its strategy and plans in the future. I am not privy to those. The electricity industry in Australia today, particularly on the east coast, is a very dynamic and fast-moving industry. The notion that we used to have some years ago that electricity generation was a great big machine somewhere pumping out the power from a coalmine into households is very different today. It is a very vibrant market. The competitive structure of the industry is changing. We are seeing not only in Australia but also a trend worldwide vertical integration where companies are competing all the way from retail through to generation. There is tremendous risk in the industry, from the pricing risk to the volatility that comes with the industry, the natural risk that is there. Companies are always trying to find ways to optimise their risk positions and maximise their returns. So it is a complex industry and it is changing quickly. The competition is fierce. You have got a mixture of publicly owned companies, privately owned companies, very large companies and some fast-moving companies. So it is a challenge going forward.

The Hon. MELINDA PAVEY: How does Australia's electricity costs compare to those throughout the world? You said that the east coast of Australia is particularly competitive. What has that competition done to prices and how do we compare to other OECD countries?

Dr DODD: I would not have that knowledge. I am not an expert in electricity. I am more the financial side. But certainly competition will inevitably force prices to be relevant based on the marginal cost in industry. But you have got a structure where you have different forms of generation capacity coming in. You have got this mix of brown coal, black coal, hydro and gas and the other forms of energy, the new energies and green energies coming in. So it is quite a dynamic and complex industry.

The Hon. MELINDA PAVEY: Snowy Hydro has placed itself in the market as an emergency supplier. It is a top end player in terms of return. But that return is based on the ability to jump into the market and fill emergency needs. Will that need continue on the east coast?

Dr DODD: Yes. I think you have to put it in the context of what the industry is producing. Obviously they are producing power from all different sources. Inherent in that is a lot of risk. Even when I was chairman of Delta one of the things we were very concerned about always was the risk we faced as a generator in terms of the contracts we were writing with our customers. We would use a contract with Snowy and others, as well as market contracts, to try to manage that risk as best we could. We are seeing there is now a trend towards vertical integration where people are using the physical assets of the businesses to offset some of that risk. While Snowy is in a very unusual and somewhat unique position in terms of being able to offer the contracts it can offer in that market, there are other forms of competition coming through now that allow companies to address those risks.

The Hon. MELINDA PAVEY: Such as gas-fired generation?

Dr DODD: Gas-fired generation, but you have integration where a retailer can have ownership of a generator and hedges naturally some of the risks.

The Hon. PATRICIA FORSYTHE: Dr Dodd, one of the submissions we have received called for the issuing of bonds as a way forward. Would that still be advocated within the financial world?

Dr DODD: Bonds are just another form of raising capital. If the Snowy, with its growth plans, is going to expand and invest in new assets and rebuild and refurbish its existing assets, it is going to require capital. The capital can come from generally three places. It can come from the funds that are generated by the company through its operations, which are not paid out to the shareholders as dividends and that is retained. In deciding how much to pay as dividends and how much to retain, it is very important that the board and management are aware of and understand the requirements for maintenance and the capital expenditure program going forward. That is one source. That is constrained by the amount of profits and cash you can generate in a year and accumulate. For large expansions of a company it is often hard to do that for very long. Even with lower dividends, you might not have enough capital internally generated.

Then you have to go to either the debt markets or the equity markets. One of the parts of the debt markets is the bonds. It is no different from borrowing from an institution such as a bank. You can go to a capital market and issue bonds or debentures or some other form of paper, which is just people lending money to you, the company, and you provide a security for that loan and the interest payments and no more. Yes, they can use bonds but ultimately the question is: How much can they borrow? There is a constraint. Unless the shareholders are prepared to offer either guarantees or further security for the company, the markets will not let you borrow past a certain limit—the same as we do in every other part of our business society, whether it is individuals or private companies.

So there is a constraint on that. Once you go past that constraint to borrow more, the lenders are going to protect themselves by requiring covenants where they say you cannot borrow more or you must maintain your earnings to interest cover and other ratios. That limits the amount at which the company can borrow. Ultimately if you want to keep expanding with a borrowing constraint in force, then you are going to have to have equity. That means the shareholders are going to have to contribute either through shareholder loans or further direct investment as shareholder equity. Otherwise you will face this constraint. It is subject to how much you can generate internally and the volatility of the business because the lenders will always worry about not just the amount of cash you have now but what is the likelihood of you having cash in the future. Your operations being variable over time will limit the amount of cash you can borrow.

Ms SYLVIA HALE: The fundamental constraint facing Snowy is the fact that the shareholders, namely the three Governments, have refused to issue any further guarantees, as it were, or go for security for any further borrowing. If Snowy itself borrows, then it puts at risk its triple B plus rating, which it requires to participate in the national electricity market.

Dr DODD: Yes. The rating is a guide to the market as to what the credit standing of the company is. In some of the markets in which Snowy operates—when I was chairman of Delta we were a counterpart to some of those contracts—you will have to look at the underlying credit risk of your counterpart. You have a contract and you have to worry about whether that counterpart will be there in the future. That is very important. If you have exhausted all the internal cash you can generate and you have borrowed to the limit, then the only other way you can expand on capital is to get some sort of shareholder support either through guarantees, shelter loans or direct equity.

Ms SYLVIA HALE: Snowy Hydro has a triple B plus rating. I understand to participate a company has to have a triple B rating. Is there an average rating for electricity generators? For example, what is Delta's credit rating?

Dr DODD: I do not know what Delta is today. I have not been there for a couple of years but you have also got to separate Delta as a company from Delta as a Government-owned vehicle because if the Government stands behind the company then it has got the Government's rating.

Ms SYLVIA HALE: But then presumably the Government is also standing behind Snowy Hydro, in effect, is it not?

Dr DODD: Yes, but when you placed the question you said that if the government shareholders do not give any more support then the company standing on its own asset base and its own future cash flows, and that will be constrained by the markets.

Ms SYLVIA HALE: Is there any fully privatised electricity supplier that is the equivalent to the Snowy Hydro? Obviously its means of generation would be different. What would you expect to be a reasonable credit rating for a privatised electricity generator?

Dr DODD: I think it has to be at the levels you are talking about above the triple-B because the counterparties will not contract with you without that. In fact, most companies such as Delta and others have policies which prohibit the management from writing contracts with counterparties that have less than that minimum level of credit rating because that is the risk that you do not want to take.

Ms SYLVIA HALE: In terms of electricity generators Snowy is in a somewhat unique position in that it basically gets its raw material free: It does not pay anyone for the water which it uses—admittedly though that water is subsequently released to irrigators. It has substantial capital works which to construct today would be far in excess of the \$3 billion or so, its market valuation was estimated to be. The Snowy Hydro has the additional aspect essentially of having governments there that will step in to prevent the whole scheme crashing to the ground if push came to shove. Would you agree that that gives it advantages in the market that other generators may not have?

Dr DODD: As I said before, Snowy is unique as an operator because it has a different form of generation. It has the opportunity to be a participant in the contract market which other companies cannot do without taking a lot more risk than they would prudently take. Does that give it any advantage in the borrowing or debt markets? No. It still has to face the same commercial constraints and commercial market forces unless the shareholders are prepared to give more support because the lenders are also looking after their shareholder interests and they are not going to take undue risks. They have got the same sort of prudential controls that their boards and their management face and they have to be concerned about lending money and the risk is too great.

The Hon. MELINDA PAVEY: Following the line they have this free way to generate electricity, governments today probably could not even expect to build an engineering feat such as Snowy Hydro. The maintenance cost of ensuring that huge piece of infrastructure is not cheap because it needs to be maintained at an incredibly high level to ensure it can access that emergency market at the flick of a button. Is that right?

Dr DODD: Yes, but that is for all companies, particularly major generating companies. They have to be very concerned about maintaining their plant to be able to operate because they have got contractual obligations. Whether it is a black coal or a brown coal fired power station or a hydro-type business you have to be very concerned as management and the board that you are maintaining the

asset base so that you can continue to operate to meet the obligations you have got and to achieve the value that you are trying to achieve for the owners.

The Hon. GREG DONNELLY: Could you elaborate on the issue of vertical integration which you mentioned because you said that through vertical integration there was a capacity to in some sense perhaps provide some insulation in the market in terms of, I presume, building some relationships with your customers? Could you explain how vertical integration operates? How important is it in a flexible market such as the electricity market?

Dr DODD: Vertical integration will take me back to my teaching days, and it will take a lecture of 1½ hours to go through it. But what you do with vertical integration is you are saying that the full production chain which goes from the raw input to the end customer, in that chain there are different parts of the chain, and different risks allocated across that chain. If you are a coalminer producing coal for the power station you have one risk because it was the contract right with the power stations and your capacity to get coal out to meet those contracts. The power station has got the risk of the coal coming in and the price for the coal and then it has got to sell its power going out to the retailer. The retailer then has to contract with the customers. They all face risks along the way. As management of a company in that chain you have to decide what your risks are in the business you are in and how you best manage those risks. One way, if you are a generator, you can take a position by owning some of the retail or contracting with the retailer to allow you to offset some of the risks you take for the price you get for your product versus the price you pay for your inputs.

In theory you can do it with the contracts. The economist says in the perfect market world you can write contracts for all these sorts of risks and someone will take them. Ultimately if there is not a contract market where someone is prepared to take the risk and write the risk you have to find a way to manage it yourself. Now Snowy is in that market providing those risk contracts. Another way is for companies to vertically integrate by buying businesses and having them so they have the risks inherently offset inside their own asset base and that is what vertical integration does.

The Hon. GREG DONNELLY: In the context of the electricity industry about which we are talking specifically it is the building up of a base amongst customers. Is that the key aspect?

Dr DODD: The retail end is the customer who pays ultimately for the power, and the price they pay and the generator at the other end has the cost going in, and they want to match the price they are going to get for the power and the price they pay for their inputs which is the power costs. We are seeing in New South Wales on the east coast of Australia and New Zealand and other markets where electricity utilities have been privatised a move towards vertical integration where they are having both generating capacity as well as retail. And retail, as you say, is having customers.

The Hon. GREG DONNELLY: For the Snowy at the generating level it would go to the building and the operating of other generating plants like gas-fired plants?

Dr DODD: It could well do that as may a retailer such as AGL, as might a black coal generator who might say that rather than a base level they would like to have some picking load as well. And that is part of the risk management you have to decide where you are going to be operating that market. But certainly Snowy with its hydro, it has already some plans and some gas-fired power stations and its retail so it will probably move more to having some of that mix of assets to help it constrain manage the risks that it faces.

The Hon. GREG DONNELLY: To the extent that one can predict these things—of course, no-one has a crystal ball—if the Snowy does not find itself in a position where it can leverage access in the forms of retain profits, bonds or equity going forward what would an economist say is likely to happen to an organisation in a competitive market like Snowy over time?

Dr DODD: Well it will depend upon the competitive nature of the industry. If it maintains its position as being a viable value-enhancing operator it will face the market forces which will try to change that. Now in the public markets that ultimately means that it has to adapt to and make different operating decisions. Ultimately if it cannot get there someone will take it over and if it really cannot make money at the end of the day it will go into liquidation. Now that is a long way from where we are now obviously and I would not predict in any shape for Snowy or any other utility at this stage.

One of the issues that Snowy faces, not only is it constrained in terms of its public ownership from having access to equity capital but it also does not have the capacity for others who want to change the ownership to come in and find someone who would like to be a different shareholder: that is not there unless the government shareholders agree to sell their shares. Whereas in the capital markets a listed company, such as AGL, is always subject to a takeover offer if someone feels that they can do a better job and create better value for the company they have the opportunity to do that through the capital markets with a takeover process that is well established and well recognised and regulated. That is not there for Snowy. So it is another force that you do not see and that puts an onus on the board and the management of Snowy to operate without that constraint on them to try to achieve the value that they have to achieve for their owners going forward.

Another analogy is a big private company with three big shareholders—they could be private individuals. What do they do to go forward when they cannot raise any more capital, or are not prepared to put in more capital? They will nearly always at some stage, to finance their growth, have to go to the capital markets, which means they will have to bring in new shareholders which you do through the markets or through finding other shareholders to join them.

The Hon. TONY CATANZARITI: Given that the three governments have now withdrawn from the sale, what will governments have to provide to ensure the continued profitability of the Snowy Hydro and its future expansion, particularly in diversification?

Dr DODD: There is a bit of circularity in the problem we are addressing here. It depends upon what the growth strategy is for the Snowy. If the growth strategy requires equity capital because you have exhausted all the potential for internal funds and also borrowing well that is a strategy that will not be able to happen, another constraint. If the shareholders want that growth to happen they are going to have to find a way to fund that growth by putting in capital through guarantees or shareholder loans or other equity. If that does not happen then Snowy is constrained in what it can grow to and where it will grow because it will not have the capital to do that. Ultimately, it will depend on the shareholders. The capital markets are there and any organisation can access those to a degree. Once you have reached that limit it is up to the shareholders to provide more capital, more support for the growth, and that is just a fact.

The Hon. TONY CATANZARITI: In your opinion should the Snowy Hydro now remain in the hands of three governments or from the Snowy's perspective would it be better managed by only one identity?

Dr DODD: Well, it is managed by management. I think you have got to be careful we do not confuse between shareholding and management. Snowy management happens to have a board representing the shareholders. It gets to the heart of what is the role of a shareholder in that organisation? Theoretically the way the Snowy is managed should not be affected by whether it is owned by governments, private individuals or the capital markets if they have got the right management and they are incentivised and they are capable and have the skills and experience to run the business. But shareholders are important to a structure, and we know through time that shareholders, in the government sense, will have different pressures whether or not they can support an organisation to expand.

The more you have the more difficult it becomes, I would suspect. With one shareholder it may be easier because only one shareholder has to understand and hear the demand from management for what they want to achieve going forward and agree to that. Otherwise you have got three, three governments as shareholders, as with three individuals, would have different perspectives on that. I do not know whether ultimately that is going to be better or worse but I would have thought the more there are the more difficult it would be to get a consensus view you need to have. Because you need to have all three of them agreeing, unless one is prepared to be diluted in their shareholding, and that is where the problem is going to be, whereas one does not have that problem.

The Hon. PATRICIA FORSYTHE: The Committee heard oral evidence in Cooma and a submission contained a suggestion that a way forward for Snowy Hydro was to lease its assets to get capital. Would you comment on that?

Dr DODD: Lease the assets?

The Hon. PATRICIA FORSYTHE: Yes.

Dr DODD: Leasing is just another form of borrowing. Ultimately the lenders lend to the company and they want to know what security they have got to get their money back and their interest to be paid. The general forms of security they look for are the operating performance of the company, where it is likely to be. Secondly, if there is not enough cash from the operations to meet their obligations for interest and repayments they ultimately look at the asset base there. Whether it is a loan from a bank or you are leasing assets, it is the same thing as far as the debt is concerned and that will constrain how that lending can go. There is nothing magic about leasing, it is just another form of debt.

Ms SYLVIA HALE: I do not know whether you have had a chance to see the submission from Snowy Hydro but under part 6 is a chapter on financing the Snowy Hydro's strategy. It puts forward three possibilities. One scenario is a cash-cow alternative which sees basic minimum maintenance but not a great injection of additional capital being required and suggests there would be a gradual lessening of the company's value. The second, is as a risk manager for which there is not a need for additional equity, it can fund any expansion within fairly limited constraints out of the profits it generates, and it continues its current operations as basically a provider of risk management contracts.

The third scenario is that it becomes a major player. Under that second scenario the equity value of the business would be between \$2½ billion and \$3 billion. It says if it becomes a major player the equity value would again be between \$3 billion and \$3½ billion but it is constrained from pursuing that path because it cannot persuade its shareholders to go guarantor for further borrowings. Would you therefore agree that the only reasonable options for Snowy Hydro are either the cash cow or the risk manager, and presumably the risk manager would be the path it should pursue?

Dr DODD: I have read the submission, but I am not in a position to know whether there are other strategies it could pursue. I have not worked closely with the company. However, as I read the three alternatives, the third involves unconstrained opportunities to grow in the dynamically fast-moving electricity industry and to become a major player. I have some sympathy with the view that there will be more and more vertical integration. I do not think we will finish up with only three or four big players. There will always be entities coming into the market trying to apply pressure. That is what we want; that is part of the dynamic fabric of an industry structure.

However, as I read the three alternative strategies, Snowy Hydro recognises the constraints it faces. A private, profit-maximising, wealth-maximising business would go one way, but to achieve that strategy it must be able to get the funds required to support that approach. If that is not available, investment strategies and expansion plans must be constrained. One must then determine what are the funding constraints. Between the first and the second Snowy Hydro submissions there was a change in dividend because part of that is what the shareholders will require from the company in terms of dividends. If the shareholders are prepared to say that they will take no dividends for 10 years, that gives a different financial situation than if they say they want X dollars each year, because that constrains the amount of internally generated funds.

When private companies decide to expand, if their plans are sensible, well founded on economic analysis and can be explained to the market, they can raise capital. We often say that investment is independent of capital. Snowy Hydro faces a different situation. It may have a viable and totally defensible and sensible expansion plan, but if that requires equity capital and shareholders are not prepared to support that, it cannot follow that strategy and it will not be able to achieve that extra value and grow the business at it would want to.

The Hon. GREG DONNELLY: I refer to Snowy Hydro's comparative advantage in the sector with regard to generating peaking electricity that has been submitted by Snowy Hydro and others. In a competitive market presumably some premium is being paid by Snowy Hydro's customers for the provision of electricity to cater for peak needs. In a flexible and competitive market is that comparative advantage likely to be eaten away over time by new players trying to capture some of the customer base that is prepared to pay a premium for electricity?

Dr DODD: One would have to look at the Snowy Hydro business. There are customers who get the power and customers who contract with Snowy Hydro. In terms of the contract customers, Snowy Hydro has had an unusual and strong position. Not many other companies have been able to offer the same sort of contract in the market. As companies find other ways to offer similar contracts, they will compete some of Snowy Hydro's opportunities away.

The Hon. GREG DONNELLY: In the context of power generation with these new gas-fired peaking stations, they can obviously bring electricity on line much more quickly than previously, and that would be eating into Snowy Hydro's comparative advantage, in that by turning a valve it can release water to generate electricity. Over time we are likely to see this comparative advantage eaten away by these competitors.

Dr DODD: I think that is right. The competitive nature of the industry is changing day by day, and it will continue to change. To the extent that Snowy Hydro is constrained where others are not in expanding to meet that competition, it will suffer. There is no question about that in my mind.

Ms SYLVIA HALE: As we know, Snowy Hydro is the largest mainland Australia provider of renewable energy. You have just suggested that over time its competitive advantage might be eaten away by the entry of gas-fired peaking power stations. In a context of environmental concerns, Snowy Hydro would always have that edge, would it not, because at the moment there are relatively few downsides from its operation, which would not necessarily be the same for the gas-fired peaking stations? For example, Snowy Hydro indicated at one stage that it was contemplating a peaking station in Western Sydney, but AGL is also contemplating a gas-fired peaking station in that area as well. It is in a context of considerable environmental degradation and air pollution. My point is that the possibility of its competitive advantage being challenged by others is lessened by the nature of its electricity generation processes.

Dr DODD: To the extent that it is hard to replicate another hydro system, Snowy Hydro will always have that advantage. I am not a specialist in forecasting energy sources. However, one would expect to find new forms of energy as the cost of existing energy increases. If we start to face increasing costs because of environmental or other issues that are attached to a particular form of energy, that differential pricing will affect the industry, including Snowy Hydro. Whether Snowy Hydro has the advantage going forward depends on the cost of the alternatives that are affected by the changes. I cannot proffer an expert opinion on that.

Ms SYLVIA HALE: When the national electricity market was established, I understand it was not envisaged that there would be a great amount of vertical integration, but this has eventuated. Is that correct? My colleague says that that is rubbish, but I am interested in your opinion. Was vertical integration seen as a desirable outcome, or does that inhibit competition in the market?

Dr DODD: No, vertical integration does not inhibit competition in a market as long as there are alternative forces in the market. We can have competing vertically integrated companies and still have vibrant competition. I probably read the analysis when this first started, but every industry faces opportunities for vertical integration. It would be very unwise as an economist to say that we will never see vertical integration in a sector; that does not make sense. We have seen it throughout the world. It also depends upon the pricing structure in the industry. We introduced a different form of pricing in that market and the risks involved in being in the business of electricity generation changed. Part of vertical integration has been to manage those risks. We are all familiar with the AGL example in New Zealand.

The Hon. MELINDA PAVEY: You are obviously an expert in capital raising and the need for competitive electricity markets. Why do you think large sections of the population are concerned about the word "privatisation" and the reality of living in a free-market economy? There are many fundamental political and policy issues involved. Politicians face many problems in looking to the future and wanting to do a good job in governing and ensuring that we have money for schools, hospitals and so on. There are some big problems.

Dr DODD: I cannot comment on the politics of it because I am not a political analyst. Many people have problems accepting privatisation. It is often not explained well. My personal view is that

these assets and businesses belong to the taxpayers and we want them to achieve the most value they can. If that can be done best through a private structure then we should support that if there are no other impacts. I do not share some of the concerns that have been expressed. It gets back to a fundamental view about who is best equipped to run businesses, if they are businesses. If they are regulatory functions or if they have other roles to play, that is different. If they are purely commercial businesses then the question is who is best equipped to own them if we want to achieve maximum value. That is what privatisation is about. From a political point of view, there are many other issues and honourable members are much more expert in that than I am.

CHAIR: Thank you for appearing before the Committee.

Dr DODD: Thank you.

(Short adjournment)

TERRY VINCENT CHARLTON, Managing Director, Snowy Hydro Limited, Level 25, 6-10 O'Connell Street, Sydney,

DAVID GRAHAME HARRIS, General Counsel, Snowy Hydro Limited, Level 25, 6-10 O'Connell Street, Sydney,

STEPHEN JOHN MIKKELSEN, Chief Financial Officer, Snowy Hydro Limited, Level 25, 6-10 O'Connell Street, Sydney, affirmed and examined:

CHAIR: Mr Charlton, do you wish to speak on behalf of all three of you first or make a brief opening statement?

Mr CHARLTON: I would like to make an opening statement and to cover some of the ground we have been over in our general briefing, and then we will take the questions between the three of us, wherever the questions fall most appropriately.

To understand why we did—and still do—need the company to have access to equity in the future, I would like to make a few points about Snowy Hydro Limited. There is a big difference now between Snowy Hydro Limited, the business, and the Snowy Scheme, the engineering achievement. The national electricity market [NEM] needs Snowy Hydro Limited, the business, much more than it needs the Snowy Scheme, the asset. I will explain that as we move through.

The business now produces revenue three times that of the Snowy Scheme, as it was in the old Snowy Mountains Hydroelectric Authority days. The business is now threefold the value of the Snowy Scheme at corporatisation. In a simple way, the extent of change since corporatisation of the Snowy Mountains Hydroelectric Authority—and in those days the authority was very much Cooma-centric—the fact is we now employ more people in Melbourne than we do in Cooma. That has been quite a significant change in the way the company operates and is structured.

The reality is that when the national electricity market was created back in the mid-1990s, the Snowy Mountains Hydroelectric Authority was isolated, effectively, from the national electricity market. It was only brought into the national electricity market, in effect, by the creation of an entity called Snowy Hydro Trading Pty Ltd. Those two entities moved, to some extent quite uncomfortably, up the point of corporatisation when they became one entity, Snowy Hydro Limited.

Since corporatisation in June 2002 we have been operating on a fully commercial basis. We have been profit driven; we have been growth focused; we have had a very strong customer orientation; we have been—obsessed is probably a little too strong—heavily oriented towards meeting market needs, both in terms of water and electricity. We have had external debt structure, not guaranteed by governments. We have been paying very attractive dividends to our three shareholders, and we have been able, in that context, to achieve superior performance.

Questions were asked of Dr Dodd. I would like to make the point that we have been operating with no governments' guarantees. Back at corporatisation time, that matter was debated. I am drawing on my memory, but that was 8, 9 or 10 years ago. There was a view that none of the three governments wished to provide government guarantees because of the complexity of the situation where there are three governments with different equity positions but with one-third vote each. That set up a very difficult situation to provide guarantees, and the three governments agreed that that would not be the case and therefore we went forward and had external borrowings. In essence, we were set up as a purely commercial business back in 2002.

Why did we promote the initial public offering [IPO] last year? In my view, having been through the corporatisation process that was largely recognised as maybe not an inevitability but certainly a highly likely outcome and the company was set up such that shareholdings could change in the future. I and others, and my colleagues beside me, were all recruited on the basis that this business would move out of government ownership into the private sector. So it just seemed inevitable and appropriate that we promote the opportunity for the company to have access to equity markets through an IPO, in the context of, as Dr Dodd mentioned this morning, a fast-moving electricity market.

There is no doubt it is highly competitive, both as a market and as an industry sector, and I would argue that if we do not keep pace, clearly we lose shareholder value. We certainly need to access equity funds, and we will revisit that no doubt in some questions. If we are going to grow capacity to service the national electricity market, we have to continue to invest. I have mentioned in another place that the national electricity market, on the numbers provided by the National Electricity Market Management Company [NEMMCO], indicates the growth in the market in the order of about 1,100 megawatts per annum. If we are going to retain our relative position—not even increase it—in the electricity market, we are going to have to increase our capabilities by about 300 megawatts every two to three years.

As you well know, we are in a national park and there is little we can do to expand our capability and our capacity because of that constraint. So the only way we are going to keep pace with the growth in the market and retain a market share is to invest outside what is termed the traditional scheme assets. The NEM needs us to do that. The way the NEM is evolving, our role is important—arguably, critical—and as the market does expand, if we are going to remain in the same role as a critical supplier to the market, we are going to have to increase our capability. We will get onto the discussion about a gas peaking plant as a way of doing that.

But also, not only does the NEM need us to continue to be successful but so do the irrigators. While we do not supply directly to the irrigators, as we have discussed, we supply into dams controlled by the MDBC, in the case of the Hume, and into Blowering, controlled by New South Wales water agencies. We are able to do deals with the irrigators, and the more successful we are as a business the more we have flexibility to do those arrangements to supply them with some sort of certainty, particularly in times of drought. We have certainly seen them avail themselves of those arrangements over the last four years, I think with a great deal of success.

We are facing difficult times now. We are, arguably, in a one-in-30-years dry sequence, and over the next 18 months I think we are going to have—we are already having—quite considerable contact with the irrigators. For this business to be able to deliver the sorts of assurances and flexibilities that the irrigators require, it has to remain commercially successful and continue in the way it has, and continue to grow in the market and remain commercially successful in a growing market.

I would suggest that Snowy Hydro Limited is now playing the role intended of it by virtue of its asset design and its special capabilities. This is really an interesting aspect, because when the scheme was designed nobody could possibly envisage what was going to evolve in the form of the national electricity market. We are beginning to play a role that was hitherto unrecognised but that is now becoming absolutely vital to the future of the national electricity market and, I would argue, to the future of irrigators. But it is only a beginning. We have started on a new life, I believe, for Snowy Hydro Limited and the scheme in being able to meet a whole bunch of needs in the national electricity market and in the water markets of the irrigators that were not previously envisaged, and could not have been. The business has to be, and is, a financial derivatives-based insurance company of sorts. This might sound controversial, but it is the reality now.

We are managing price risk in the national electricity market and we are managing supply at risk for the irrigators on the Murray and the Murrumbidgee, and we are doing this very successfully. But it is a major change from anything that could have been imagined under the Snowy Mountains Hydroelectric Authority design and operating brief. In fact, looking at it now we generate electricity only 14 per cent of the time. Our role as an insurance company to, in effect, irrigators and the national electricity market has moved far beyond that envisaged by the Snowy Mountains Hydro Electric Authority. A couple of points that need to be emphasised each time: we do not own water. We do not put electricity before water. We do not hold back water; we cannot. We have, for some years, been maximising profits since corporatisation by successfully balancing electricity needs with water release obligations. I believe it is time to free up the Snowy Hydro Scheme's capabilities to meet modern needs, and to have these capabilities made more and for ever relevant by building other capabilities around the core Snowy scheme assets. That is a very important concept.

The core assets are well protected from unsustainable commercial exploitation. The operations of our generation and storage assets, the water arrangements and the Kosciusko National Park arrangements are all prescribed and well protected by Acts, legally binding and enforceable

agreements, licences, et cetera. I think Dr Dodd mentioned it this morning, but who owns our shares will not change the now well-established commercial drivers that work for the NEM, the irrigators and our shareholders. I think we have demonstrated that very successfully since corporatisation in 2002. Finally, this company is now a large business whose activities do not sit comfortably with Government—and I point out governments, plural—ownership. Its risk profile, its market sector, its location, its regulatory framework and regulatory agencies all contribute to this conclusion. Its partial ownership by the New South Wales Government, which also owns our competitors and our customers, and controls our regulators, is at the core of why the relationship between the company and governments is now, and increasingly, problematic.

We promoted the IPO because it was the best and, arguably, the only solution to equity-raising capability in the future, and we believed it provided an improved government structure. In our view the IPO remains the best and simplest option. As a result of the failed IPO Snowy Hydro has become, in my view, even more politicised needing separation from governments. However, I make a positive observation because, since the failure of the IPO, local community leaders, particularly in Cooma and increasingly in Jindabyne, and business people are emerging to support Snowy Hydro in its need for growth and equity. With all stakeholders in mind I hope that this committee, along with our and other submissions, can make a way forward that enables continued success of the company and that we find ways to support its growth and the work it is already doing very successfully in both the NEM and in relation to the irrigators. I am happy to answer any questions.

The Hon. TONY CATANZARITI: I have three questions, and Dr Dodd answered a few of them. Given that the three governments withdrew from the sale of Snowy Hydro, what direction will Snowy Hydro now take to ensure the long-term future viability of the company? I realise that the push is still there for privatisation when I ask that.

Mr CHARLTON: We have to be realistic. Governments have taken positions. The governments are our shareholders and, at the end of the day, that is going to impact very seriously on the business. I suppose we have not resolved a clear way forward in our minds because we are waiting for leadership from the shareholders. In the interim we are moving ahead with our modest growth strategy, and that is to continue to build a gas peaking plant. Not only is that commercially viable, but in our view it is also something we must do in acting in the best interests of the company and the shareholders. We have a proposal before New South Wales Government agencies now to build a gas peaking plant in the western suburbs of Sydney. We can talk more about that. That is not only consistent with our overall growth strategy, but, having been through a difficult time last year when we lost in the order of a \$28 million in four hours because of a transmission failure that was outside our control and we had to cover our contracts, we are very much focused on mitigating and reducing risk in the business.

The gas peaking plant we are proposing and the location we are proposing is very much designed to do just that. In my view we have no choice but to continue down the path of building a gas peaking plant, which reduces the risk in the business and continues to enhance the scheme and the business in the national electricity market. To achieve that we are going to be very tight on dividends. To build a second plant we probably would like to have a discussion with governments about a reduction in dividends over the next five or 10 years. But in essence what it means is that if we are going down that path, which is the answer to your question, that is building gas peaking plants, we are looking to build 300 megawatts every two to three years, which involves an investment of about \$250 million over every three years.

The Hon. TONY CATANZARITI: What will governments have to provide to ensure Snowy Hydro's continued profitability and future expansion, particularly in any diversification?

Mr CHARLTON: The way I just answered your question does not include diversification, in our view. That is not the preferred growth scenario. For what I have just explained we would need a fixed ability from governments as its shareholders to reduce the dividend from time to time to enable these investments to take place. To take the path of our preferred growth strategy, which Dr Dodd referred to this morning as vertical integration and expansion, which we believe we should do and must do—it is good for shareholder value—then we certainly need access to equity. It is access to equity rather than access to debt in the form of bonds or whatever. It is straight out access to equity. Governments would need to support and IPO to provide for that.

The Hon. TONY CATANZARITI: Should Snowy Hydro now remain in the hands of three governments or, from Snowy Hydro's perspective, should it be managed by the one identity?

Mr CHARLTON: I think the reality is that three governments probably complex the challenges facing the business by about ninefold. It is a reality that it is probably an unstable partnership in a sense between three governments because they have different objectives, and those objectives change over time. It is very difficult operating a company in a highly competitive and fast-moving environment and trying to respect one's shareholder views, in this case shareholders plural views, sometimes mutually exclusive.

So one is probably better than three—arguably, it is better than three—but I think one is unrealistic, certainly given the discussions that took place during corporatisation. The evidence then was that there was no likelihood of one as opposed to three, as evidenced by the fact that, irrespective of the equity positions of 13 per cent, 29 per cent and 58 per cent, corporatisation was only achieved because there was an agreement to one third, one third, one third. I think it highly unlikely that we could find a situation where there is only one shareholder.

The Hon. PATRICIA FORSYTHE: We hear a lot about the national energy market. Can you sum up what the national energy market has meant for customers, particularly in terms of the price of electricity and particularly where that now places Australia within other economically developed countries?

Mr CHARLTON: I wish I had had time to prepare that answer. The essence is our electricity is relatively cheap. Our market and participants in it are relatively pure and competitive. I do not think there is any doubt that this is such an open market now and such a fast moving market that it is very efficient, even in an economic sense. I think also the quality assets—and I compare that to other countries that I know—the market is quite different from around the world. There are no direct comparisons. And I think it works particularly well. I think that is evidenced by the fact that there is active investment in some States and there are reasonably good price signals now. You ask three economists and you will get four different answers on that, but I think there are pretty good price signals. We are able to respond to those at the moment and I think that is very important.

Dr Dodd alluded to vertical integration continuing. That is inevitable, irrespective of what theoretical views might be taken. I have no doubt we will see seven or eight major players in some time in the future, fully vertically integrated players, and that will provide a lot of competition to the market. There will be other lesser, in a sense, integrated players but that will also in their own market segments be providing a heap of competition. So with some areas of potential improvement I think the market is a very strong one and I think the community is getting good outcomes from that market.

The Hon. PATRICIA FORSYTHE: Can we tease out a bit further the concept of vertical integration? In particular, why is it that the structure now within the national energy market has moved in this direction and why is it so important for Snowy Hydro, within that context, to be part of a vertical integrated model?

Mr CHARLTON: Let me try to deal with the first one first in a fairly short period of time. The reality is that markets look for their own opportunities and they find them. Remember that most of the participants in the electricity market nationally—maybe not most but certainly an influential number—are private sector companies. They are therefore looking to return greater returns to their shareholders. They are looking therefore to grow and they have seen vertical integration as being the most likely and most readily available path of growth with least risk. The reality is that vertical integration reduces risk inside any one business. Where we are a supplier for example to Energy Australia of hedge products, and conversely Energy Australia is a receiver and dependent on us for hedge products, we both have a certain amount of risk that we apportion between ourselves based on the price we offer and the price they pay for financial risk management products, financial contracts.

If you bring those together then there are efficiencies gained by bringing the two together, and that is in essence what vertical integration is about. As a result, the beta, the risk of the combined entity is lower than the risk of the two separate entities, and that is usually reflected in the share price appreciate and therefore value to the shareholders. So the simple drivers are corporate finance at one

level and risk management at another, and efficiencies and synergies in operating systems at a lower level.

The Hon. PATRICIA FORSYTHE: This is not strictly in our terms of reference but when we were in Cooma—and I am delighted to hear that there are businesses now in Cooma and Jindabyne working positively with Snowy Hydro on the way forward—you personally got some criticism from some of the people who appeared before us, not the least because you apparently appeared on *Business Sunday* though were not prepared or able to talk to them in some consultations locally. Can you give us the background to that? Why were you able to appear on *Business Sunday*? How did that come about? I hope the local community may have its mind put at rest about the issues.

Mr CHARLTON: There is a long answer and a short answer; let me try the short answer first.

The Hon. MELINDA PAVEY: No, we want the long answer.

Mr CHARLTON: From the time the IPO was declared we were under a protocol established by the steering committee of the three governments. That steering committee—the long and the short of the—said, "You don't say anything that we don't approve, and if you want to say anything you put it up basically in writing and we will have a process"—a protocol as it was referred to—"to control who says what". The message was loud and clear: We don't want you out there making statements on where the company is going and what the business is and what the issues are surrounding the IPO. There was justification for that position. This was always going to be a tricky IPO. It was always going to have some discomfort between the shareholders and ourselves with respect to the preparation of the prospectus. Clearly, under the Corporations Act rules, once there is commitment to a float, to avoid any risk of drip feeding some section of the shareholding community at the detriment of another, then the rules are that you do not say anything unless you say it in the prospectus, which had not of course come out.

The other challenge was if I were to say anything I would then have to make sure that was in the prospectus, and when we were not in control of the prospectus that could prove very difficult to achieve. So all of our legal advice, in addition to the advice given to ask by the steering committee and the interposing of Third Person—their public relations people between us and the steering committee—was to say nothing. Our lawyers, particularly in relation to the international lawyers, the American lawyers, even insisted that we take basic information off our web site. So we were well and truly shut down. That is the short answer.

As for *Business Sunday*, that happened as one of the only requests from Third Person to appear and explain ourselves, but the thing was tightly scripted and it was not really us. We were just there to respond under very close direction from Third Person. I personally found it quite frustrating that we could not get out there and talk, but I think this was a call of the steering committee and it had some merit behind it, given the complexity of ASIC rules and the difficulty of putting together a prospectus when there were three shareholders and the company and a bunch of other things.

I tried to get the message out in a positive and productive way, given all the things I have just said. I took some risks because I believed there was a need to communicate better to the local community than was happening. I forwarded a letter to Roger Norton, the Mayor of Cooma, and as it turned out subsequently to Adrian Piccoli for a meeting to be held out at Griffith. Roger Norton was holding a public meeting in Cooma. That was something that we were advised we should not attend. But having said that, I wanted Roger Norton to be informed. I wanted the community to be informed. I had already attended a public meeting there about two or three months earlier and I thought I had answered most of the questions, but clearly issues were coming forward or in fact being revisited; they were the same issues that I had in fact answered.

We wrote to Roger Norton and we delivered a letter that was quite expansive on the issues that we knew of and we anticipated. He has since declined to admit that he received a letter. I find that very difficult to believe from the point of view that we contacted him in advance, and we have documented that. He advised us what fax to send it to, which we did. We followed up with other addresses so we had three or four copies arrive. In fact, I spoke to him the day after the public meeting

and he said, "Sorry, I didn't get a chance" and his words were "The meeting didn't go the way I expected".

So our attempts to communicate behind the scenes were frustrated for one reason or another. That was disappointing. It has certainly turned out to be a point of anger in the local community that there was information there and in fact it was not provided to them. That situation arose with the newspaper, too, because we provided quite a lot of information to the local newspaper, again walking on the edge of what we were advised to do and not to do. That information was never printed. So there was an impenetrable wall for us to communicate to the local people, certainly once we reached April.

The Hon. PATRICIA FORSYTHE: Can I just clarify when you said "*Business Sunday*" you said "Third Person". Are you saying that one of the shareholding ministers suggested a way forward might have been to speak --

Mr CHARLTON: No, Third Person should be in capitals. It was the name of the public relations company. They were between us and the steering committee controlling the public relations.

The Hon. MELINDA PAVEY: As I understand it, Minister Della Bosca and even the Premier and the local member as parliamentarians were not bound by corporate governance as you were. Is that correct? Can you expand on that?

Mr CHARLTON: That is my understanding. It is as simple as that. They were protected from the ASIC laws or the Corporations Act laws in a way that we were exposed.

Mr HARRIS: The Corporations Act only applies to incorporated entities. We were the only incorporated entity in the process so they were not restricted at all by that law.

The Hon. MELINDA PAVEY: Can I just follow up on another issue in relation to Cooma council? It has been put to me by a couple of councillors at Cooma that you addressed a council meeting a few months before, and they were under the clear impression that you said that the company was carrying no debt and that became a concern to them when they read that there was debt with Snowy Hydro. Can you perhaps try to explain how that misunderstanding happened?

Mr CHARLTON: I cannot. I clearly—and the two of those individuals know very well our accounts. We do have debt; it is shown there very clearly. I could only speculate that the confusion was that we could raise no more debt rather than raise no debt because we did have somewhere in excess of \$900 million at that time, and that is a public number. I certainly did say that we could not raise additional debt, except maybe up to \$50 million were my words at the time—additional \$50 million—and that may have been what was misheard. The reasoning, as Dr Dodd referred to this morning, is that we have to maintain our triple B plus ratio, Standard and Poor's rating, and to do that we have a debt to equity ratio and that limits our borrowings, including bonds. So we are right up there now. As I said at that meeting back in January or February, maybe we could have gone another \$50 million, but certainly we had debt. I cannot explain that misunderstanding.

The Hon. MELINDA PAVEY: Another misunderstanding or another great concern to the local community, which I actually raised in the Legislative Council during question time, was the issue of land at Jindabyne. There was a lot of concern in the community at the time that there was this belief that any future expansion of Jindabyne was limited because Snowy Hydro owned all the land that could be part of any future land release.

There was a clear implication in the community that selling off Snowy Hydro would mean selling off a lot of land. For example, much of the land that surrounds the lake at Jindabyne could be very valuable to a private company that wanted to come in and take over. Therefore, the future of Jindabyne would be solely in the hands of anybody. That was the concern—whether it was an international conglomerate that did not understand or care about Jindabyne—and it played out very strongly in the Jindabyne community.

Mr CHARLTON: Yes. I will pass to David in a minute, but there are couple of general comments here. This question really goes to the heart of the scaremongering—to put the nicest possible spin on what was happening. The reality is that over the years the Snowy Mountains

Hydroelectric Authority have sat on a huge amount of land around Jindabyne. When I arrived almost within the first week I received representations from the council in Jindabyne, saying, "Look, this is retarding our growth; can you do something about it?" At the same time I got representations of, "Please don't do anything about it because our house prices will go down as you release land." So it was a bit of a no-win situation, with house owners versus the council.

We worked through that—I think, in hindsight, pretty well—and we released quite a lot of land progressively and slowly. We had developers under the guidance of, and in consultation with, the local council to assist the growth of Jindabyne. I found it very surprising, knowing that the council officers believed we were doing well and most of the councillors did too, to hear that one or two councillors thought we were not doing the right thing when in fact they had been party to those decisions. In addition to that, the question of controlling land around Jindabyne Lake became quite emotive and bordering on hysterical, in that we were going to develop the land—or whoever owned us in the future, forgetting the fact that it was going to be mums and dads rather than corporations—and deny access to Jindabyne Lake for recreation purposes. We only have use of—David will correct me if I am wrong—between the low-water and the high-water mark, and that does not make for good investment in high-rise and home units. This was really quite silly stuff and we did answer it—we answered it in many ways.

The Hon. MELINDA PAVEY: Are you saying that the land you own is land where the water goes?

Mr HARRIS: Yes. A number of comments were made in the Cooma public hearings about Jindabyne land and I suspect some of those people may not have been up on the fact that a year to a year and a half ago we sold 65 hectares of land within the Jindabyne area. So to suggest that Jindabyne is now landlocked by Snowy Hydro owned land is simply not correct. We do own a substantial amount of land to the west of the town. That is zoned for grazing only. It is known as the environmental protection zone.

The Hon. MELINDA PAVEY: When did that zoning come in, David?

Mr HARRIS: The general manager of Snowy River Shire Council gave that date during the Cooma hearing. I am sorry, I cannot remember what that was off the top of my head.

The Hon. MELINDA PAVEY: So it was in the last few years.

Mr HARRIS: No, I think it might have been in the late 1980s but I am not sure of that off the top of my head.

The Hon. PATRICIA FORSYTHE: Their LEP dates to about the mid 1980s.

Mr CHARLTON: Yes, I think that is right.

Mr HARRIS: So the council have zoned that land not for development. That is the vast bulk of the land that we still own in Jindabyne. We do own some land to the south-eastern corner of Jindabyne. That is what we call "operational" land. As Terry mentioned, that is land within the maximum probable flood level of Jindabyne dam and no more. So obviously that is subject to inundation and not suitable for development. We only own one parcel of land within the development zone in Jindabyne and one-third of that is zoned open space, under which development is prohibited. The other two-thirds is zoned mixed residential, which can only be developed for residential purposes. As I said, almost all of our land is zoned 7 environmental protection under the Snowy River local environmental plan. So we—or any other landholder—are simply unable to develop that land while that council-imposed planning control applies.

The Hon. GREG DONNELLY: Mr Charlton, it has been submitted today in evidence to this hearing by you and by others that the nature of the electricity market in Australia is very dynamic and "fast moving"—I think that term has been used a few times. As an outsider looking in who knows nothing about the electricity industry, I think the average person might scratch their head and say, "Listen, it's hard to believe the electricity industry could be fast moving given the nature of it." It is such a huge industry—people think of big power-generating plants and big infrastructure projects. In

evidence given to us the key point emphasised has been the move towards vertical integration—namely, companies looking to secure a customer base through buying into the retail aspect of it, which is the market; and also building plants like gas-fired peaking plants. Obviously, in the Snowy context both of these things have been up for consideration—in fact, some investment has been made. I wonder, with your detailed knowledge of the business and the electricity market in Australia, can you give some further examples to help us understand how it is fast moving and how it is changing beyond this issue of vertical integration so that we have a broader understanding of what you mean by "fast moving"?

Mr CHARLTON: Let me try to answer that by saying what I mean, and I think what others mean, by "fast moving". Just look at the newspapers today—which I have not done, so let us say yesterday. What we see in there is things going on between Alinta and AGL. Assets are changing hands. That is happening. Queensland are selling their electricity retail businesses and their gas retail businesses. TXU or TRU—whatever you want to recognise it as; it is now called TRU—which is owned by China Light and Power is contemplating a public listing, an IPO. There were two or three other things that I saw in the paper yesterday. Transfield is buying into Loy Yang. Every day players are changing. Our problem is that those changes are good changes and they make those companies—each of them—better, stronger or whatever, and we are not participating. It is not just now. I watched the corporatisation process that went on for seven or eight years and during that time there were fundamental changes taking place that, again, the companies that became Snowy Hydro Ltd were locked out of because we could not play in that game.

There is a lot happening around us. It is sensible. We have seen Southern Hydro acquired by AGL. Loy Yang has been a major change. So much is happening. In terms of business, this has been in the last two or three years. To me, that is fast moving. I expect that we are going to see quite a lot of changes in the future. I do not want to hypothesise on where those changes might be, except to say that this is a dynamic market and it is going to end up with seven or eight vertically integrated players, a handful of support players who compete with those vertically integrated players in particular market segments, and a range of other support start-ups that will move in and out of the market. I have come from a couple of other totally unrelated industry segments and this is by far the most aggressive and fast moving. It is big bucks too.

Ms SYLVIA HALE: Returning to the *Business Sunday* issue, you said that it was tightly scripted. Does that mean you were given the questions beforehand?

Mr CHARLTON: No. It means I had two lawyers standing there watching me answer every question, which was just fantastic.

Ms SYLVIA HALE: But that would be after the event, would it not?

Mr CHARLTON: No.

Ms SYLVIA HALE: You may have already committed the indiscretion, as it were.

Mr CHARLTON: I was there. I was given a fairly stern direction from lawyers about what I could or could not say before I sat down with Ali Moore. While the answers were not scripted, the occasion was fairly tightly controlled because of the very significant risk of me saying something that then obliged, or in fact bound, the shareholders to put that information into a prospectus, and they may not wish to do that—or, worse still, they may not have been able to agree to do that because remember we had three shareholders. So it was not tightly scripted as to words but it was certainly tightly scripted as to occasion.

Ms SYLVIA HALE: So you knew the questions that were likely to be asked.

Mr CHARLTON: No, no. I wish I had because I would not have said a couple of things I did say. But I am sure you people understand that. I slightly overstepped the mark by suggesting it was a good company with a good future. Interestingly, that was out of bounds.

Ms SYLVIA HALE: I was interested in your failure to deny that the compensation that might be payable by the governments to Snowy Hydro to raise the environmental flows to 28 per cent

could be in the vicinity of \$400 million. I would have thought that you would have denied that had you thought that that was a wildly fanciful figure.

Mr CHARLTON: Let me pick up on that. I did correct that, if I remember correctly, but I did not deny it because it was not my number. I said I believed in excess of \$100 million.

Ms SYLVIA HALE: You said you had been quoted that figure. Then she put \$400 million.

Mr CHARLTON: That was not my number and therefore I said that in my view it was in excess of \$100 million. But that is really like "how long is a piece of string" because it depends on a lot of assumptions at the time—whatever time that happens to be—should ever 28 per cent be flowing down the Snowy River.

Ms SYLVIA HALE: Sure.

CHAIR: To clarify, those two lawyers being paid by which part of the shareholding team?

Mr CHARLTON: One by us and I think Baker and McKenzie were there. They were paid by the three shareholders.

CHAIR: Were they paid by the three or by New South Wales?

Mr CHARLTON: No. They were advising the three shareholders.

The Hon. MELINDA PAVEY: Mr Charlton, I want to pick up on the issue of 28 per cent environmental flows for the Snowy River. You addressed a Rotary meeting in Cooma recently and a person who attended the meeting came back to me and said that you were unable to answer the question in relation to compensation for the Snowy River release if it went to 28 per cent. Are you in a position to be able to answer a question like that, which is really about government policy?

Mr HARRIS: How much compensation would be payable is not something that we can answer now for a couple of reasons—and Stephen might add to this. One is because, given the current level of water savings achieved by Water For Rivers, you would have to say that any target of 21 per cent is a few years off. So what will be the value at a future point in time of additional water? The second thing is, from our point of view, there are a whole lot of questions about how that water is accounted for, when is it to be released, how is it to be released and all those sorts of things. In the absence of those details, all we are really able to do is what Terry did when he gave a ballpark figure. To put any more definition around that is very difficult at this point.

Mr CHARLTON: I think it is fair to say I did not say that I could not answer it. I think I tried to say that it was an unanswerable question at this stage because of the point we made—it depends when, it depends how. It is substantially down the track and, therefore, it is one of those issues that needs to evolve between us and the shareholders before that will happen. There are a lot of things to happen that are under the control of the shareholders at this stage, such as savings in the Western rivers.

Mr MIKKELSEN: One point I would like to make, in some ways it does not matter how much it costs because it is a value transfer whichever way you go. If Snowy Hydro was still government-owned at that stage and you went from 21 to 28 per cent and there was not compensation, then the current shareholders of Snowy Hydro, the taxpayers, have also lost that amount of money. The actual quantum of evaluation is difficult because it is the future value of money. You can change your inflation and interest rate assumptions and it will move wildly. There is the value of capacity and the value of energy in the future. Again, if you assume a compounding 2 per cent growth in capacity versus a compounding 4 per cent growth in capacity, the difference in the valuation in 5, 10 years' time would be enormous. My last point, which I will repeat, either way it is a value transfer. It does not matter who owns Snowy Hydro there is a value transfer because that is water that cannot be used to generate electricity or sell contracts against.

Ms SYLVIA HALE: So long as Snowy Hydro remains in public ownership that compensation would be paid to Snowy Hydro. Snowy Hydro would then return it to the shareholders,

the Governments, or the people of New South Wales and Victoria, in the form of dividends or it would use it to invest in further capacity, which would also result in enhanced dividends. Ultimately it would be a round robin, as it were, between the Governments and Snowy Hydro. If Snowy Hydro had been privatised the compensation, whether it was \$100 million or \$400 million, would have gone to a select few private shareholders.

Mr CHARLTON: Yes, but remember it is genuine compensation because water down the Snowy River does not go down the western rivers. It is true, it is compensation. Whether it be to individual investors—200,000, 300,000 or 400,000 of them—or whether it be to investors in the form of government representing taxpayers, all of us, I do not think makes a difference. I certainly do not regard, and I do not know that you are suggesting it, the taxpayers as any less important than the 300,000 or 400,000 shareholders that would replace them. They both deserve compensation if value is taken out of their investment.

Ms SYLVIA HALE: It depends what you see as the role of government and whether its role is to use the money for general public benefit rather than individuals using it for private benefit. That is not the point at the moment. You seemed to suggest earlier, and I hope I am not misinterpreting your remarks, that the continued public ownership of Snowy Hydro was an impediment to the company's growth.

Mr CHARLTON: Yes, clearly it is.

Ms SYLVIA HALE: Mr Catanzariti asked you a question if only one of the three governments was the shareholder whether that would eliminate the problems. You said yes, but that was never going to come about because the three Governments could never agree to it. You further said that even though the worth of their capital investments in Snowy Hydro was very different, they each had a parity of shareholding votes. Does that not suggest that each of the Governments perceived a public interest in retaining their shareholding—for example, Victoria wanted a guarantee that it had a continual flow of water and its water supplies would not be hijacked? If the three Governments on those occasions believed there was a public interest in returns to their shareholders, at what stage did that public interest dissipate or disappear? Surely their concerns would be as real today as they were eight or nine years ago?

Mr CHARLTON: As I say, I am not inclined to speculate on what three shareholders are thinking at any point in time. I do not think I am qualified to answer that. I will say that I believe that the three shareholding Governments in working up to the IPO diligently attempted to resolve the concerns that they might have had in the form of finessing any outstanding issues in those agreements. The three shareholders were working down that track and we were assisting. I believe their concerns would have been adequately and appropriately resolved prior to the eventual listing. That is one of the reasons there were some issues that caused delays in the process that had to be resolved between the three shareholders. But we were not part of that and I do not think it is appropriate for me to go too far down that track. I just do not know.

Ms SYLVIA HALE: You just said you believe that privatisation is patently an impediment to the company's growth.

The Hon. GREG DONNELLY: That is verballing the witness.

CHAIR: Prohibition against private ownership.

Mr CHARLTON: I did not use the word "never". I just thought it would not be likely, or whatever words I used, that one Government shareholder would not take over where three are now.

Ms SYLVIA HALE: Obviously you believe that privatisation is the desirable course and you appear to subscribe to that view quite strongly.

Mr CHARLTON: I subscribe to the view that a listing of the company to give access to equity in the future is fundamentally important to the growth of Snowy Hydro Limited and the relevance of the Snowy scheme as we know it.

Ms SYLVIA HALE: You say that is not the same as a privatisation of Snowy?

Mr CHARLTON: I think that privatisation introduces the emotion of a whole bunch of other stuff. I am not talking about privatisation, which includes a sale to Macquarie Bank, AGL or Oregon. I am talking about a listing on the stock exchange, an IPO. In other words, giving us access to equity for the future. I keep coming back to the basic reason for this. It is all about we cannot increase our borrowings because of the triple B plus rating and protection requirements. The Governments have said, I think quite fairly and legitimately, "We like the business but we are not prepared to put equity into it." It is in a market that is growing and therefore needs equity for expansion, otherwise we fall behind the other participants in the industry. Therefore, we have to have access to equity. It can only come from the Governments being prepared to put in additional equity, which they are not prepared to do, or we go out to the equity markets to raise capital, which is what we wanted to do.

Ms SYLVIA HALE: But the Governments will not go guarantor for that?

Mr CHARLTON: I am speaking what is right in my view for the company.

Ms SYLVIA HALE: Do you say in that context that it is not privatisation that you support so much as capital-raising?

Mr CHARLTON: I am saying we need access to equity and there are two ways of doing it. One is to list it.

Ms SYLVIA HALE: I am looking for the actual phrase used to describe that.

The Hon. AMANDA FAZIO: While you are looking, may I ask a question?

CHAIR: We will come back to your point, Ms Hale.

The Hon. AMANDA FAZIO: Mr Charlton, in response to questions by Mrs Pavey you have covered most of the items in our terms of reference, including water regulation and access to land. I want to get on the public record from Snowy Hydro comments about items in paragraph (f) of the terms of reference, which are the removal of disused hydro infrastructure from national parks and any heritage issues related to the capital assets of Snowy Hydro. Would you provide us with information on those two issues?

Mr CHARLTON: In relation to your first question about the removal of infrastructure, can you tell me more about what you are pursuing there? Are you talking about former scheme sites?

The Hon. AMANDA FAZIO: Yes. We heard evidence at our hearing in Cooma from the National Parks and Wildlife Service about an agreement to clear up disused infrastructure. I want comments from Snowy Hydro on the public record about that issue.

Mr CHARLTON: I will pass that to David in a minute. Back at corporatisation we agreed with the shareholders and the National Parks that there was in fact material left on what we call former scheme sites in the national parks either due to tunnelling or construction activities that collectively we did not want left in the national parks. Our preference was to accept liability and responsibility to remove that material. The National Parks did not want that, for a bunch of reasons. We paid them \$25 million—which has now been all paid progressively over the years since corporatisation—for them to do that work. I believe they have spent of that \$25 million somewhere just over \$2 million. We have some concerns about that because we would have liked to have had that done much quicker. There was also another \$7 million that we paid for minor scheme site work. All of that is totally consistent with wanting to repair the damage that was done, in a sense, to the visual amenity and some environmental damage that was done way, way, way back when standards were not as strict as they are today.

Mr HARRIS: Terry has fully addressed the issue of former scheme sites prior to corporatisation. The other part of the issue you raise is disused infrastructure going forward, that is, during the term of the Snowy Park lease. There are provisions in that Snowy Park lease that require us to remove infrastructure that in the future we decide no longer to use and we are required to remediate

the site of that removed infrastructure. I think it might also be important to add on the record that Victoria had a concern during the IPO process about our ability to decommission assets from the perspective that clearly they were concerned that if we decommission some of our water assets they may not get as much water flowing to Victoria out of the scheme. That matter was resolved between New South Wales, Victoria and Snowy Hydro as part of what I would describe minor amendments to the Snowy water licence to disable us from decommissioning any assets that would have any effect on our ability to collect, divert, store and release water to protect Victoria's water interests.

CHAIR: What is the status of the environmental management plan that you had to prepare? Is it publicly available or available to the Committee?

Mr HARRIS: I believe, Mr Chairman, the draft chapters have been provided to the Committee by the New South Wales Government.

CHAIR: We have not received that from the Government. What is the status of that document? Is it available?

Mr HARRIS: Certainly Snowy Hydro would have no objection at all of providing it to the Committee. I would have thought, but it is a matter for DEC [Department of Environment and Conservation], that those documents would have been publicly available. I am sorry, I am getting confused. In fact, there was an FOI [freedom of information] request recently of DEC and DEC did release those draft chapters under FOI. Certainly we will provide those to the Committee promptly.

CHAIR: Thank you.

The Hon. MELINDA PAVEY: In relation to heritage issues, there is a desire at Adaminaby for an equipment museum and in Jindabyne for a better showcase of Snowy Hydro and its enormous contribution to the region. Have you had any discussions with the relevant groups? Concerns have been raised that the important heritage aspects of Snowy Hydro would be lost to future generations through privatisation.

Mr CHARLTON: I am sure you will appreciate we get quite a lot of requests for support from museums, et cetera. That one at Adaminaby in particular, we supplied in kind a range of equipment. We also said that we would favourably consider further support of that if they could come up with a business plan that gave it any chance of being a commercial success. That is yet to be supplied and proven.

We are cautious, I suppose, in handing out large amounts of money to these types of activities if we do not think they are going to proceed, and that is one of them that is still subject to discussion. Certainly we have invested—I think the Committee has seen—\$1½ million in an education centre in Cooma and we regard that as the flagship of protecting the history and the knowledge management of the scheme. We have done a range of other things in terms of auditory history being preserved on tapes and on other things. So we are very mindful to that and I think we have been very active supports of that.

CHAIR: You said you are very careful that you do not waste money. One of the gaps in our knowledge, after having gone through various reports and evidence, is that community funding for a range of issues has been cut by Snowy Hydro. Is that factual? Is that the case?

Mr CHARLTON: No, it is not and I think I know where that was coming from. We, routinely almost, say when we get requests for support for activities that we prioritise them and that is good corporate governance and we always review what our situation is in relation to that. We do not clearly support everything that we are asked to support but we do try to support things that have an ability to be autonomous and to grow value for the community and for the company. I think there were two points of concern. One was netball courts in Cooma—

CHAIR: That is correct.

Mr CHARLTON: There is no issue there. I thought we had actually paid the final amounts for that but I could be wrong but there is no issue in terms of supporting it. If we have promised it we

will support it. The other one was Jounama Dam over on the Tumut side. As recently as yesterday I was asked why had we cancelled that. Well, that person asking that question obviously had not read their papers over on the Tumut side for the past two or three months because we are progressing with that. The civil works are being done. I saw a quite lengthy article about it a fortnight ago about what was happening there so there is no issue there either.

CHAIR: Any problem with the helicopter service?

Mr CHARLTON: Absolutely, categorically no. In fact, because there were rumours being put around that we were going to dump the helicopter service—that is something that is pretty close to my heart—

CHAIR: That is one of the reasons why I am asking you to make a statement on it.

Mr CHARLTON: Absolutely. At the gala ball we announced a continuation of the sponsorship at \$1.2 million over the next three years. So there is no issue there. In fact, we are announcing a changed delivery on that helicopter and we will be doing a song and dance around the regions over the next three or four weeks—the middle of September.

Ms SYLVIA HALE: In relation to Jounama you can understand community concern when in June when the IPO collapsed you suspended work on that. A media release of 2 August announced that you are going to proceed with it. Obviously that would have caused some consternation.

Mr CHARLTON: Yes. Let me pick you up on that one because the reason we reviewed that was not related to the IPO, it was related to the financial justification of it. The financial justification of that depended on the value of renewable energy certificates that took a very substantial dive during the middle of the year. Again, under our board expectations of me, and under my disciplines of management, we review investments if they are not fully committed, and such an important element in the financial justification where to change, which it did, we took time out to review that. But I also spoke well before that press release to the local mayor and explained the situation and said I believe we can still get it across the line, but bear with us because good financial governance of the business requires that we revisit that and reaffirm it with the board.

Ms SYLVIA HALE: It is interesting you should say that because in your media release you say "After the collapse of the initial IPO of Snowy Hydro all business activities and new initiatives are being reviewed, and this includes the viability of the Jounama Dam project. However, this was not the main reason for construction work being suspended. The work stopped on the project due to the higher than expected water levels in the State water controlled Blowering Reservoir".

Mr CHARLTON: Yes, that was the stoppage of the work, unrelated to the revisiting of the investment.

Ms SYLVIA HALE: Did you draw a distinction between recapitalisation and privatisation? You said your focus was on recapitalisation rather than on privatisation?

Mr CHARLTON: In effect, yes. I was concerned about making us available, having us accessing capital markets. Recapitalisation is a slightly different issue again but my emphasis is on putting the company in a position where it can raise equity in the future.

Ms SYLVIA HALE: When you emailed Craig Ingram on 2 December and said there is no question of privatisation of Snowy Hydro Ltd that was that what you thought was the position?

Mr CHARLTON: Precisely on 2 December.

Ms SYLVIA HALE: On 1 December, Mr Malcolm Kerr from the Opposition in the lower House said "Given the Victorian Government he has confirmed he has approached it with a secret plan to privatises the Snowy Mountains Hydro-Electric Scheme, and given he appointed pro-privatisation Bob Hogg to the Snowy Mountain Hydro board, when will he come clean with the people of New South Wales about the details of his Snowy Mountains Hydro-Electric Scheme fire

sale". I understand you are saying that privatisation was only considered when Victoria refused to go ahead with the recapitalisation proposal?

Mr CHARLTON: No, I think you are confusing privatisation with equity raising. I think the issue was—just to revisit and stretch the memory back to October, November and December last year—our original proposal was to put up what you might call a recapitalisation. In other words, the three shareholders would move forward and list additional shares on the market. That would have the effect of reducing their shareholding back from 100 per cent collectively to say, 50 per cent collectively. That still left governments in the business, and from my point of view that met my needs to raise equity for the company, and it did not change the fact that the company was still essentially majority owned by governments. That is what we meant by the recapitalisation.

CHAIR: It was the governments' wish to move to full privatisation?

Mr CHARLTON: That was the next step that actually then introduced a complication in the sense that because the three of them could not do what I was promoting as the recapitalisation because the three of them could not agree on that, then there was another stage in between that where two governments—Victoria and New South Wales—were seeking out opportunities for them to move ahead.

Ms SYLVIA HALE: Was that not the Commonwealth and the New South Wales governments.

Mr CHARLTON: Sorry, Commonwealth and New South Wales to move ahead to raise equity for us but in a slightly different form. Then that evolved early in the New Year when Victoria came on board and then it became an IPO, a far less complicated outcome which provided us with equity. So there was an iterative stage, depending on who was in and who was not in, that went from our original suggestion that the three stay in, and additional equity be raised, the recapitalisation through to where the three of them decided to go ahead and do a full IPO.

Ms SYLVIA HALE: That recapitalisation, which the board in October 2005 made a proposal that that was the way to proceed, required the unanimous support of all governments and it was the Victorian Government that refused to agree to that proposal?

Mr CHARLTON: Yes, we certainly proposed it as three governments. There is a whole bunch of issues related to the shareholders' agreement that complicated that. The very simple solution was the three of them jointly and in the same proportions come down from 100 per cent to 60 per cent, and that 40 per cent be new shares issued on the market to mums and dads to give us access to that additional equity that we wanted.

CHAIR: In the light of the fact that privatisation has been ruled out by the three governments is it your opinion that the recapitalisation process could now be advanced again?

Mr CHARLTON: That is really a matter for the shareholders as to what they see as the obligations that they have committed to. It would still mean that the three governments continue to own Snowy Hydro Ltd.

CHAIR: Yes, majority shareholding.

Mr CHARLTON: So it satisfies that test. If they came down to 60, 50 or 40 per cent, it does not really matter, that is met and additional equity is raised by us and that satisfies our test.

Ms SYLVIA HALE: The political reality is it is highly unlikely to occur given that both New South Wales and Victorian governments have indicated that any proposal would have to come back to Parliament and the same thing would apply to the Commonwealth.

CHAIR: Yes, but that does not rule it out.

Mr CHARLTON: That is a shareholder matter and in all these things shareholders are quite free to discuss these things without reference to us.

CHAIR: I am looking at options.

Mr CHARLTON: I think from a business, Snowy Hydro's point of view, as it was then, it still remains an option today.

CHAIR: Your submission is very helpful and clear but I wish it had contained a list of acronyms. What is a SRA?

Mr MIKKELSEN: It is a settlement residue option, which is a way to manage interregional price risk in electricity.

Mr CHARLTON: It is one of the financial instruments that is effected to hedge our risk across transmission boundaries.

Ms SYLVIA HALE: On page 6 you say "each shareholder government will be entitled to appoint a nominee director referred to as an appointed director and all three shareholders to appoint other directors referred to as elected directors." Who is the nominee director?

Mr CHARLTON: Right now?

Ms SYLVIA HALE: Yes.

Mr CHARLTON: We do not have one. The situation since the IPO is that we have a new board and that new board was set up at the very last minute to position for the IPO. We still have that board in place today and the three shareholders to my knowledge have not taken a decision to have nominee directors. They may but they have not at this stage.

Ms SYLVIA HALE: All the other directors are elected directors?

Mr CHARLTON: All of the directors are, in fact, elected directors but effectively there with unanimous election from the three shareholders.

Mr HARRIS: I think we need to add something there. The company is not a party to the shareholders' agreement so the company does not recognise that distinction. To the best of our knowledge, but we may not necessarily know what arrangements the shareholders have come to agree in relation to directors.

Ms SYLVIA HALE: Would you take the following questions on notice? What was the immediately available volume of power after taking into account all constraints such as maximum available generating capacity, irrigation requirements et cetera, on a month-by-month basis for the 36 months prior to 30 June 2006? What was the total volume of all insurance contracts written on a month-by-month basis for the 36 months prior to 30 June 2006?

Mr CHARLTON: We will take those on notice, but I suspect that we will respond that at least one is commercial in confidence. I am not sure we can answer the first question and I am not sure where this takes us.

The Hon. AMANDA FAZIO: How do these questions relate to the terms of reference? I cannot see that they relate to any of the terms of reference.

Ms SYLVIA HALE: The inquiry is looking at the continued public ownership of Snowy Hydro.

The Hon. AMANDA FAZIO: We know that.

Ms SYLVIA HALE: Part of Snowy Hydro's business plan is the management of risk. In assessing that management of risk, it is important to be able to say to what degree of risk it was exposed at a particular time and how much power or how many goods were on the shelf to meet that risk. That is a common way of estimating risk. For example, the Australian Wheat Board can go into

the futures market because it knows it has grain to meet its contracts. Presumably Snowy Hydro is in a similar position because it knows it can generate power. However, is the risk commercially feasible? That is what I am asking.

The Hon. AMANDA FAZIO: Now that Ms Hale has clarified the reason for the question, it is clearly outside of terms of reference because the only possible relevant term of reference is section (b), which refers to future capital expenditure requirements. Simply asking for past figures on risk, volumes and capacity to produce electricity clearly does not relate to capital expenditure requirements.

Ms SYLVIA HALE: That is not the sole purpose of the inquiry, to look at its future capital requirements—

The Hon. AMANDA FAZIO: Have a look at the terms of reference.

Ms SYLVIA HALE: —because the Government—

The Hon. AMANDA FAZIO: Have a look at the terms of reference and tell me which one it relates to.

Ms SYLVIA HALE: Any other related matter. The Government argued in wanting to privatise Snowy Hydro that it was being subjected to unacceptable risk. I am anxious to find out how unacceptable that risk was.

The Hon. AMANDA FAZIO: That would have been a relevant question for the inquiry we have aborted.

Ms SYLVIA HALE: On page 12 of the Government's submission of 4 July it said, and it considered it relevant to the inquiry:

...given its inability to access additional equity, the growth strategy results in a reduction in dividends and an increase in the risks that existing shareholders are exposed to via the company's acquisitions and investments.

The Government thought it was a relevant consider and so do I.

The Hon. AMANDA FAZIO: You are not asking the same question.

CHAIR: I think we will let the question stand, and you know how to answer that in the appropriate manner.

The Hon. AMANDA FAZIO: A one-word answer would be appropriate.

Ms SYLVIA HALE: I am sure there is no need to ask this question, but the sake of completeness: How do you account for your profits earned on forward contracts? Are they taken into account as the profits are realised? I assume they are.

Mr MIKKELSEN: The account for them under ASB 139, which is the accounting standard relevant to it. Under that accounting standard we have to mark those to market every reporting period. We must also report the fair value movement in those outstanding derivatives. Those that mature during the year are accounted for on a cash basis as they mature.

Ms SYLVIA HALE: That is interesting.

Mr MIKKELSEN: That is a very prescriptive accounting standard that all electricity companies follow.

Ms SYLVIA HALE: In relation to the Snowy Hydro water licence, exactly when will the Jindabyne Dam outlet referred to section 6.2, part 2, schedule 3 of the Snowy water licence be commissioned?

Mr CHARLTON: It is.

Ms SYLVIA HALE: On what date?

Mr HARRIS: It was completed in June. We have not commissioned that because of an intervening event that has prohibited our using the plunge pool area.

Ms SYLVIA HALE: Is that the Dalgety siltation plume?

Mr HARRIS: Yes, the siltation problem.

Mr CHARLTON: Which it was not.

Ms SYLVIA HALE: You might want to explain that. I was told it had been commissioned, but now you are saying it has not been.

Mr HARRIS: It has been completed, not commissioned

Ms SYLVIA HALE: When will it be commissioned?

Mr HARRIS: There are two ways for water to be released out of those works: One is through a submerged discharge valve, which is already used.

Ms SYLVIA HALE: That was the one that caused the siltation problem.

Mr HARRIS: No. That water is released into the plunge pool. The second way we can release water through those works is through cone discharge valves. Those cone discharge valves, which are for higher volumes of flow, have not yet been commissioned because we were to commence commissioning—calibrating would be another way to describe it—when the plunge pool was in service. Of course, as we removed the last wall the event to which you referred occurred.

Ms SYLVIA HALE: When will the calibration be finished and when will it be operating?

Mr HARRIS: There are two ongoing issues that we are dealing with, particularly the local council and the EPA, in relation to the pollution event. There are high levels of turbidity in the plunge pool and our expert advice—and the EPA certainly would agree—is that we cannot start commissioning those valves while that turbid water is still in the plunge pool.

Ms SYLVIA HALE: Can you make an informed estimate of when that will happen? How long do you anticipate it will take to sort out the problems? Are you looking at weeks, months, years?

Mr CHARLTON: We are dependent upon what happens in the discussions with the EPA at this stage. We will not be acting until all that is clarified and, if necessary, we obtain indemnities if there is need to do that. That could be weeks away. However, the environmental flows are already happening in the river and have been happening since January/February.

Ms SYLVIA HALE: From whom would you obtain the indemnities?

Mr CHARLTON: Probably the Department of Natural Resources [DNR].

Ms SYLVIA HALE: Why DNR?

Mr CHARLTON: That is where our water licence and annual water operating plan resides.

Ms SYLVIA HALE: If as a result of the way in which the plunge pool has been constructed or whatever, a release of silt occurs, how is that DNR's fault?

Mr CHARLTON: It is not. However, if we are directed by the EPA to do things that we believe will cause environmental damage, we will not do that unless we obtain an indemnity. I am not sure who issues it; I guess it would be the New South Wales Government.

Mr HARRIS: By the way, evidence from three experts, which we provided to the EPA on Tuesday, suggests that there is no evidence of environmental damage. In any event, certain officers within the EPA were keen to see a large flushing flow, or what they call a "flood release", of about 1.5 gigalitres a day, which is a hell of a lot of water to the common man. That would qualify as a flushing flow under the Snowy water licence. Under that licence, DNR is responsible for putting in place a safety management plan, because a flow of that volume will significantly disturb the riverbed. There are obviously people who live close to it and recreate on the river, adjoining lands and so on, and under the water licence we have to have that instruction given to us by DNR, and it has the responsibility of preparing a safety management plan. To our knowledge that plan has not been prepared.

Ms SYLVIA HALE: If DNR has not required the flushing flow to date, why is it now possibly requiring it?

The Hon. MELINDA PAVEY: The EPA is.

Mr HARRIS: Certain officers in EPA have prior to today, and obviously we have not discussed it with them this morning, suggested that the way to fix the alleged problem downstream is a large flushing flow. We provided a report to the EPA on Tuesday based on advice from three experts in this area that that is not the appropriate response; in fact, it would cause environmental harm where none exists at the moment. It is in the hands of the EPA as to what it sees as appropriate to deal with the issue.

Ms SYLVIA HALE: If you do not agree, does it mean there will be litigation? How is it resolved? If as a result of your activities at the plunge pool there is a release of silt and the EPA says that the only way to deal with it is to flush it through, and you say that flushing it through could result in your having to provide compensation—

The Hon. MELINDA PAVEY: No.

Mr CHARLTON: No, he did not say that.

Ms SYLVIA HALE: Please go through it.

The Hon. MELINDA PAVEY: The dangers are downstream.

Ms SYLVIA HALE: Ms Pavey says that the danger is downstream and that is the problem you have to deal with.

The Hon. MELINDA PAVEY: May.

Mr CHARLTON: I think we are getting off the track. The EPA has had to do what it has done, and this should never have happened; it is not within our acceptable environmental practices. Having said that, it is now about finding a solution that meets the environmental requirements, our requirements, EPA requirements, DNR requirements and so on. I hope we do not get into conflict. We are all trying to solve a relatively simple problem and acknowledging something should not have happened, but it did. I hope we can collectively find a solution to this without any suggestion of legal action and backing each other against a wall. That is not what this is about. We advised the EPA when this first happened and we ceased the activity. Yes, I do believe they have gone into press far more readily than they should have. However, having said that, we still respect the regulator and, equally importantly, we respect the Snowy River and we want to find a solution. I hope we do not get to the stage of talking about legal action.

CHAIR: I think we have explored that issue. It is not directly related to our terms of reference.

The Hon. MELINDA PAVEY: I want to canvass staff issues. Following the decision by the Government not to proceed with the IPO I have heard it on good authority from a former Snowy Hydro commissioner that one key officer is leaving the corporation. Why is that person leaving? Is it a matter of fear of the future at Snowy Hydro or, as was put to me, a better offer?

Mr CHARLTON: Are we talking about the elephant in the corner?

The Hon. MELINDA PAVEY: Yes.

Mr CHARLTON: Associate Commissioner Vin Good has expressed some views and I think they are best answered by Mr Mikkelsen. We have had a number of resignations in recent times.

Mr MIKKELSEN: I am leaving Snowy Hydro because the IPO was called off. I firmly believed that it was the way forward for Snowy Hydro and I believed that from my career point of view that it was the way forward. When I joined Snowy Hydro I believed firmly that privatisation was the way to go. When it was called off, I took the opportunity to look at other alternatives, and the AGL one came up.

Mr CHARLTON: I very much regret his departure. He has made a major contribution to the evolution of this company since corporatisation

The Hon. MELINDA PAVEY: Is it an issue because the equity will not be raised in the foreseeable future? So it is not necessarily about a much better offer.

Mr MIKKELSEN: Correct. It is about my career and what I thought was good for Snowy Hydro; it is not about personal compensation at all.

Ms SYLVIA HALE: During the hearing at Cooma a number of employees of Snowy Hydro—and I must say, they did not speak to me directly but they spoke to other people who reported their conversations—said that when they had taken employment at Snowy Hydro they had been assured that the company was likely to be privatised. Do you have any knowledge of such offers or such assurances being given?

Mr CHARLTON: I think your question indicates some doubt about that—"assured but likely to be".

Ms SYLVIA HALE: Assured that the company would be privatised.

Mr CHARLTON: I think that is a very important point, because all of us joined Snowy Hydro—or, in my case, Snowy Mountains Hydroelectric Authority; I was the last commissioner—but I only joined because I believed, and was told, that corporatisation would take a year and then the company would be listed in an IPO in the following year.

CHAIR: 2005, is that right?

Mr CHARLTON: I joined in 1999. Clearly, corporatisation took much longer than anybody expected.

The Hon. MELINDA PAVEY: Who told you that?

Mr CHARLTON: My chairman. I was recruited on that basis.

Ms SYLVIA HALE: Who was the chair then?

Mr CHARLTON: Tony Cotton. Let us get back to the facts of the corporatisation agreements. The relevant agreements contemplated that there would be change of shareholding, and this company was set up as a private sector company. It was explicit in terms of the agreements, and implicit in terms of all our discussions, that ultimately Snowy Hydro Limited would not remain in government hands. I came from the private sector. I had absolutely no desire to work for a public sector company.

Ms SYLVIA HALE: In answer to questions on notice the Government was asked: "When was privatisation of Snowy Hydro first envisaged by the Government? Was it before or during the corporatisation process?" The answer given was: "Privatisation was not envisaged by the New South

Wales Government before or during the corporatisation process. By corporatising the Snowy Hydroelectric Authority, the three governments intended to establish the business on a competitively neutral basis. Consistent with this, the water and environmental regulatory arrangements applied to Snowy Mountains Scheme are designed to be effective and enforceable, independent of the ownership structure."

Mr CHARLTON: Absolutely.

Ms SYLVIA HALE: I then asked: "Was privatisation always envisaged as a natural outcome of corporatisation?" The answer given to that question was: "No. The corporatisation of the Hydroelectric Authority was a response by the three governments to improve the management and operation of the Snowy Mountains Scheme and to enable the business to effectively compete."

Mr CHARLTON: Yes. I have not used the word "privatisation", and nor was it used at the time of corporatisation. It was contemplated that this company would be set up as a private sector company and that there would be change of ownership, and those agreements reflected the potential for a change of ownership—in other words, any one of the governments moving out.

Ms SYLVIA HALE: Do you not think this is semantic hair-splitting that you are engaging in? I ask that question because most people understand that if the company is going to move out of government ownership, that in effect is a privatisation.

Mr CHARLTON: Let us go back to the recapitalisation. That would have changed the shareholdings, it would have raised equity, but it would not have been, in my terms, a privatisation.

Ms SYLVIA HALE: Mr Mikkelsen, was that your understanding: that it was recapitalisation that you envisaged would happen, rather than a complete move of Snowy Hydro into private hands?

Mr MIKKELSEN: Mine is about expectations. I mean, you take risks when you join business. I took a risk and formed a view that entities like Snowy Hydro that are involved in competitive markets—ultimately, governments do not like owning them. I took a view that that means that it was highly likely it would be. But that was my personal view.

Ms SYLVIA HALE: Your view was that it was not a question of recapitalisation; it was a question of fundamental change of ownership?

The Hon. AMANDA FAZIO: He just gave his view.

Ms SYLVIA HALE: I want to clarify the matter. Have I misrepresented your opinion?

Mr MIKKELSEN: What I am saying is that I make risk decisions all the time. I had an expectation that whenever you look around the world governments tend not to like companies that are involved in highly competitive markets. I took a risk that it would happen, and it has not.

Ms SYLVIA HALE: That was an expectation that it would move out of government ownership?

Mr MIKKELSEN: It was my expectation.

The Hon. PATRICIA FORSYTHE: Since we are trying to deal with where Snowy Hydro will be in the future, whether it will be in public ownership, given our terms of reference, would you give a forecast? Assuming that the dynamic does not really change, assuming that governments still want to access dividends, and assuming that the community does not change its views about public ownership, where will Snowy Hydro be if it cannot access additional equity? Where will Snowy Hydro be in five years in this national energy market? What is the risk for you?

Mr CHARLTON: It is a very good question, and it is one that I do not know that I can do justice to so quickly. We presented in a briefing the three options: the cash cow option; the middle-of-the-road option, where we would expect governments to reduce their dividends take and we would

continue to grow a gas peaking plant; and the third option, being the normal commercial response, going down the path of vertical integration.

If it is a status quo situation and we see either the first or the second option as being the outcome, the first one being the cash cow option—and that is not something we would support, but that is a shareholder matter—what that means is that the governments collectively take maximum dividends out of us; we do not do any further investments. Remember, these are long-life assets. I am not talking about a one-year or two-year scenario; I am talking about a 10-year scenario where the scheme is the scheme and the business is the scheme, and only the scheme, and we will ultimately find ourselves losing shareholder value.

That will mean that decisions of government in the future will be in a somewhat different frame. I would expect that, one way or another, they either live with that or some other very unsatisfactory solution is found—whatever that might be, and I do not want to speculate because I just do not know—but the governments will have taken out large lumps of dividends and the business will be perceptually moribund, exactly where it is today, in a market that is going to grow past it.

The middle scenario is the one where we continue to invest in gas peaking plant and, from time to time, governments have to therefore reduce their dividend payments. We can stay where we are today and we will continue to maintain our market share, but that scenario means that if vertical integration is going to happen our customer base is exposed. For example, our customer base now includes AGL, Origin, Energy Australia, Country Energy, et cetera.

I am not going to speculate on who might own those businesses into the future, but if a retailer that is a customer of ours today is acquired some time in the future by a business such as an Origin or an AGL, which has aspirations to grow its own internal hedge capability, that is, in the form of gas peaking plant or, in the case of AGL, it already has a hydro facility in the form of Southern Hydro, then we will lose our customer base, and that means a decline in the value again.

Whichever way you look at this, the only variable is the timeframe. If we are not able to access equity, this business will decline. As much as associate commissioners prior to moving into the real world and chief engineers prior to moving into the real world fail to understand this, the reality is, very clearly, that we will decline in importance in a growing market.

CHAIR: May I follow up with a couple of gaps in other evidence and seek your opinion. We heard of the possibility of selling off the trading business while leaving the assets remaining in public ownership. I would like to hear your response to that.

Mr CHARLTON: Again that deserves a longer answer than I can give today. The reality is that we used to have a situation where we had the Snowy Mountains Hydroelectric Authority—the assets, and the people in the assets—and we had Snowy Hydro Trading Pty Ltd, which was the trading and contracting side of the business. For my sins, I was managing director of the trading company and commissioner of the authority, and it was a very uncomfortable fence to sit astride. It is not a good outcome, because the drivers—and remember, the fundamental drivers in this business are our people, and when the people have different success criteria, key performance indicators, which they would have under that simple model, it is taking us back a long way from what we have achieved in recent years.

There is a variant on that which says that the assets remain in government hands—and I think the Committee has raised this issue—and are leased to the company, whatever that happens to be, the people come across to the new company and it operates exactly as it is today. I think with some finessing that can work. That is a real possibility, and I would put that as an alternative up there with the other alternative, the recapitalisation proposal where three governments stay in but they issue new shares.

I think a variant of what you suggest is acceptable and is manageable, provided we can address the issues of people. I know it is a capital-intensive business but, like capital-intensive businesses everywhere, if you do not have people onside, that capital intensiveness can work seriously against you and very quickly.

CHAIR: Completely unrelated to everything else, we had some gaps in the cloud seeding issue and I want to make sure we fill in those gaps. I appreciate that you may not have all the information on hand, and if so please take the question on notice. Who is funding the cloud seeding trial?

Mr CHARLTON: Snowy Hydro Limited, without any detriment to dividend policy.

CHAIR: When is the trial due to end?

Mr CHARLTON: Another three years. It was a six-year trial. But given the disastrous winter we have had this year, I think we are going to be looking to ensure the statistical validity of our results by asking for an extension of that six-year trial period. This year has been an absolute disaster. The ski industry will support that: there is just no snow. Here we are in the middle of August, and I believe that as of yesterday they are not doing snow making any more. We are really having difficulties finding events to do cloud seeding. It is just too dry, and the beautiful, big highs that are sitting over the snowfields are not terribly productive.

We do believe it is working. We are getting seeding signatures. We are getting indications that where we do seed, we are getting increases.

CHAIR: But only on a very limited basis of conducting infrequent seeding operations?

Mr CHARLTON: Yes. And this is complicated because we have to follow a very tight statistical methodology, which says some productive events we do not seed, some productive events we do seed, some unproductive events we seed, some unproductive events we do not seed, so that we get a sound statistical basis. We needed a minimum of six years to do that—a year to set up and five years for the trial—and we have lost a year.

Ms SYLVIA HALE: In your submission at page 43 you say that in preparing the annual water operating plan [AWOP] Snowy Hydro must consider the WCLC comments in good faith. But I understand that there is no legal obligation on it to incorporate those comments into the operating plan, is that correct?

Mr HARRIS: "In good faith", the words of art in a legal sense, do in fact mean that. At the end of the day, that plan is signed off as approved by the Department of Natural Resources, and they have the ability effectively to incorporate those things if they believe from the water consultation liaison committee that they should be incorporated.

Ms SYLVIA HALE: You are saying there is a legal obligation therefore to—?

Mr HARRIS: "In good faith" are words of art in a legal sense that do require us to take them on board.

Ms SYLVIA HALE: You are saying that "in good faith" is, in effect, a legal obligation to proceed with those comments, or at least to give substance to those comments?

Mr HARRIS: No, and that is not what the water licence agreement—

Ms SYLVIA HALE: Why not say, "you must" rather than "in good faith"?

Mr HARRIS: Because that annual water operating plan is an instrument of the DNR, it is not an instrument of Snowy Hydro, nor is it an instrument of the Water Consultation Liaison Committee. There are a number of interests that sit on that Water Consultation Liaison Committee, including the Murray Darling Basin Commission and, through them, the State of South Australia and the State of Victoria. Ultimately, the DNR has to have some discretion as to whether the suggestions made by those other States in that forum should be approved or not. That is DNR's rule.

Ms SYLVIA HALE: To clarify, you are saying that the phrase "in good faith" amounts to a legal obligation to comply with the wishes of the—?

CHAIR: The word is "comply".

Mr HARRIS: No, I am not because those words are used in the context of our considering in good faith. We cannot ignore them.

Ms SYLVIA HALE: You cannot ignore them?

Mr HARRIS: No.

Ms SYLVIA HALE: But it does not mean that you are totally bound by then, does it?

Mr HARRIS: No, it does not.

Ms SYLVIA HALE: You cannot ignore them, you have to consider them, but you do not necessarily have to abide by or comply with them?

Mr HARRIS: Yes. But I make the point again, that is the DNR's plan. Ultimately if they agree with that view they can—

Ms SYLVIA HALE: Page 46 states that the only firm obligation that Snowy Hydro has under the plan is to release minimum agreed amounts of water, for example the 2,088 gegalitres, is that correct?

Mr HARRIS: No, and the environmental flow or requirements as well.

Ms SYLVIA HALE: But, to make it absolutely clear, the pattern and timing of releases identified in the plan need to be met on a best endeavours basis and you do not have to, unless you entered into some sort of prior commercial arrangement with some body or other, guarantee quarterly minimum release volumes?

Mr HARRIS: Does your question relate only to quarterly release volumes?

Ms SYLVIA HALE: My first question relates to the firm obligation to release a minimum amount of water, that is the 2,088 gegalitres. That is the correct position, is it?

Mr HARRIS: That is the annual water licence, as are the environmental flow requirements. The annual water operating plan is an operating document that prescribes how we have to operate the scheme within a year.

Ms SYLVIA HALE: But the basic legal requirement under the licence is that you release 2,088 gegalitres in a year, is that correct?

Mr HARRIS: The water licence contains a number of obligations, and that is merely one of them, that in each year we release what is called the required annual release into each of the Murrumbidgee and Murray rivers—nominally at a total 2,088 gegalitres—but there is a whole annexure to that water licence that relates to environmental flows and they are obligations on us of equivalent nature as obligations as the western river release.

Ms SYLVIA HALE: The 2,088 gegalitres is one of a number of obligations, and that is what must be released by 30 April each year?

Mr HARRIS: Yes.

Ms SYLVIA HALE: But the pattern and timing of releases identified in the plan—the pattern and timing I am now talking about—Snowy Hydro is to do that on a best endeavours basis rather than being strictly required. How they are released or when they are released is not subject to any legal requirement.

Mr HARRIS: What is important here is that we agreed with the Water Consultation Liaison Committee in 2004 that, in our annual water operating plans, which we have subsequently done, we

would include what is now called guaranteed minimum quarterly releases. We guarantee—not best endeavours, we guarantee—that we will release at least that amount in those quarterly numbers. But we also agreed with the Water Consultation Liaison Committee last year, and we have included in the current annual water operating plan, it is a best estimate of our quarterly releases. We do not guarantee that, and we cannot because they are dictated largely by electricity market events.

CHAIR: Ensure that your questions are within the terms of reference. That last question was of interest, but not necessarily within our terms of reference.

Ms SYLVIA HALE: On page 17 of your submission, which addresses the terms of reference of the inquiry, you say that the Snowy scheme's forced outage rate is very low by international standards, reflecting the sound engineering, condition, monitoring and preventative maintenance. Elsewhere in submission there is an independent analysis that says that the whole infrastructure is in very good shape in 2002. Then you give the forced outage rate for the fiscal years ending June 2004, 2005 and 2006. Would you give me the outage rate for the preceding 10 years?

Mr CHARLTON: I am happy to, at some other time. I do not know them offhand. I will get back to you about that.

Ms SYLVIA HALE: You can take it on notice. Returning to chapter 6, you outlined three possible scenarios, the cash cow and the management risk. How did you determine that if the cash cow plan were followed the value of the assets would decline over time to \$1.5 billion? How did you come to that figure?

Mr MIKKELSEN: What we are saying is that over time the company would revert to simply a peak electricity producer and would lose its customer base for its contracts because those customers would be managed internally by vertically integrated companies, and we would return mainly to just a take-out 14, 15 per cent capacity factor and try to get the highest price in the market we could for that. That was our value. I put it all in 2006 dollars to try to make it comparable. That was our basic value at corporatisation.

Ms SYLVIA HALE: You did very detailed costings to arrive at that figure?

Mr MIKKELSEN: "Very detailed" is a very relative term.

Ms SYLVIA HALE: Presumably it was not a figure plucked out of the air?

Mr MIKKELSEN: No, we have models.

Ms SYLVIA HALE: Did you do modelling?

Mr MIKKELSEN: We have 20-year financial models.

Mr CHARLTON: It is a very justifiable figure. Let us just say that it is the way the Snowy Mountains Hydro-Electric Authority ran, and that is a value that is totally consistent as a sanity check with where we were at corporatisation. The business then, before it really started, was valued at about \$1.68 billion. We are showing a figure of over and above that, which we have already achieved. The sanity check on that valuation under the cash cow model is reasonable.

Ms SYLVIA HALE: How long did you think it would take to descend to the \$1.6 billion to \$1.8 billion?

Mr MIKKELSEN: It is all in present value terms. "Present value" by definition means its value today. All you are doing is modelling cash flows over a period.

Ms SYLVIA HALE: Did you say it would be 10 years or 15 years?

Mr MIKKELSEN: Once you get beyond about 13 or 15 years cash flows do not mean much because by the time you present value them they do not present value back too much. It is declining period over 10 years.

Ms SYLVIA HALE: You thought it would take 10 years and that would be—?

Mr CHARLTON: We are saying that after 10 years it does not matter because the MPV calculation is irrelevant. But the reality is, as I was trying to stress this morning, is that this is a relatively fast-moving market. I am not going to forecast what might happen over the next two years, except to say I know that something will happen somewhere in the electricity market and there will be lots of it. The more we are part of the game the more that cash cow model is allowed to continue, if it does continue, or if it does happen, then the function of what is happening in the market will determine how quickly that deterioration value, opportunity cost in particular, happens.

Ms SYLVIA HALE: You said you are not going to forecast but, obviously, on pages 37 and 38 you have made forecasts.

Mr CHARLTON: We have to make some.

Ms SYLVIA HALE: You said there would be \$1.6 billion and the risk manager would be between \$2.5 billion and \$3 billion. Then you claim \$3.5 billion, \$3 billion and \$3.5 billion for the major player. I am interested to know how you arrived at those estimates.

Mr MIKKELSEN: To state the answer very simply, we used a discounted cash flow model.

Ms SYLVIA HALE: You estimated all of those values over the same timeframe, a 10-year period?

Mr MIKKELSEN: Yes.

Ms SYLVIA HALE: Under the risk manager there would be no need for additional equity?

Mr MIKKELSEN: As we put there, provided there was some flexibility in dividends. When you do their cash flow modelling you have to have a few assumptions constant. One of the assumptions we hold constant is the triple-B plus credit rating, which produces around about a 40 per cent gearing. What you do in the model in the year you are building a gas plant you borrow up to get yourself up to the 40 per cent gearing and you assume anything beyond that you are going to need to reduce dividends, which is why you see the dividend range is wider because in the year you build it you drop your dividends and in between years you are able to raise your dividends up again. But it requires a much more flexible dividend profile.

Ms SYLVIA HALE: What pressure can the shareholders exert on the size of the dividend that is going to be made available to them?

Mr CHARLTON: Normal and good relationships between shareholders and the board, the board takes into account the shareholders in these matters from time to time, but we have a policy that the board signs off on. Under the governance of the company it is ultimately the board's decision on dividend policy. Within the guidelines of maintaining the triple-B plus ratio the board looks at the needs and expectations of the business looking forward and determines, while still protecting the triple-B plus ratio, what it can borrow or pay out in dividends.

Ms SYLVIA HALE: Theoretically, if it decided under the dividend policy it could make no dividends available to any of the shareholders, but could reinvest that money into expansion?

CHAIR: Only with shareholder permission.

Mr CHARLTON: It could, but if the three shareholders found that they did not like that then there would be a subsequent discussion, which might change that.

Ms SYLVIA HALE: How secure are the board appointments? Is that the ultimate section that the governments have, that they could reconstitute the board to get one that was sympathetic?

Mr CHARLTON: Ultimately, in the extreme situation where the three shareholders had a common view and the board was doing something else, yes, they could. But that would be a complete failure of corporate governance. And, as I said, the board listens to the shareholders when they have a common view. That is normal corporate governance. At the end of the day we have to recognise, under our Corporations Act and structure, that the solvency certificates are signed by the board, not by the shareholders. What that means is that the buck stops with the board, but it would be normal practice that the board reflects and listens to shareholders, but also as to keep in mind that it has, in our case as opposed to other governed entities, borrowings of \$900 million. Therefore we have outside pressures to listen to, we have Standard and Poor's to listen to, et cetera.

The Hon. MELINDA PAVEY: During our Cooma inquiry we heard evidence from the National Parks and Wildlife Service. One of the terms of reference is in relation to access to land controlled by Snowy Hydro Limited, particularly Cabramurra. It has been put to me by people in the local snow industry, particularly around Mount Selwyn, that there is enormous potential for recreation by holidaymakers and snow goers, but that has not been possible because of the licensing arrangements with the National Parks and Wildlife Service. Would you like to comment further on whether the new plan of management helps to rectify that, as was put to us by National Parks when we were in Cooma?

Mr CHARLTON: Over the years we have had meetings and discussions with Mount Selwyn because we understand their isolated difficulties and the fact that they do not have on snow accommodation. There are a couple of issues, and they are fully aware of these issues. The first issue is that Cabramurra is not a site where we have a number of houses that nobody lives in. In fact, from time to time we are short of accommodation up there because we do not practise fly in fly out with our people. When we are doing major maintenance, major overhauls, usually that spans difficult troubled times and we have people staying in those accommodations. It is critical to us that we have that and continue with that flexibility, and that is not the basis for which Mount Selwyn could then go ahead and market accommodation in the immediate area. So leaving aside the National Parks, it is just not practical to do that.

The other issue—and this is a particularly important issue—is that we try to encourage families into our business in Cabramurra. We have lots of young people, young kids, up there, and one of the attractions, and one of the retention arguments, is that this is a great place to bring up kids. They have their own ski field. They have a whole bunch of stuff, their own school and what have you. One of the advantages and one of the attractions is that our employees, the parents of those kids, feel very safe and comfortable that those kids can run around without being directly supervised, looked after each other and all that sort of stuff. There is a very strong feeling about avoiding a situation where you have people that you do not know entering into the town, driving through the town, et cetera. So that is an emotional thing that has come across to us very strongly from our people. So from two points of view, firstly, it is not always available and usually not available and, secondly, the security of our children. We are not keen to open it up to tourism.

Mr HARRIS: My understanding is that the revised plan of management now allows us to make an application to have tourism facilities there but of course that is then subject to the planning objectives within that area of the national park.

The Hon. MELINDA PAVEY: Is there any other accommodation or unused infrastructure that Snowy Hydro owns that could be relevant but you have issues with the National Parks and Wildlife Service about access and licensing?

Mr CHARLTON: Not up there, I do not think, no. These are not new issues, and we really would like to be able to help Selwyn because it is struggling for a number of reasons. I think we have a good relationship with them. In fact, we do accommodate situations when they arise for them, but in terms of offering any assets up there as a long-term basis for building tourism and increasing access to Selwyn as an overnight accommodation it is just not practical.

Ms SYLVIA HALE: We were talking before about the board and its composition. What remuneration and other benefits are each of the directors entitled to receive?

Mr CHARLTON: I think that is a shareholder matter. I do not pay the board.

CHAIR: I think that matter would be commercial in confidence.

Mr CHARLTON: That is a shareholder matter from our point of view. It is not something relevant to this.

Ms SYLVIA HALE: It is just that the Government in answer to that question said, "The Government has approved a remuneration cap of \$1.05 million for the board". I was merely wondering how that was divided.

The Hon. GREG DONNELLY: That is a matter for the board.

Mr CHARLTON: It is a shareholder matter.

Ms SYLVIA HALE: So that comes out in the annual reports, does it, the remuneration and the entitlements?

Mr CHARLTON: The total amount.

Ms SYLVIA HALE: Was access to shares in a future privatised Snowy Hydro ever offered as part of a remuneration package to any Snowy Hydro employee?

Mr CHARLTON: Let me come right to that point. I think you are asking whether it was ever offered to myself and the executive team. The answer is no. Was it offered to other employees? Yes, there was an intention to offer shares to give ownership in the outcome and the future success of the company, but this was right across the company. We proposed \$1,000 of value share to all of our employees, and we were proposing additional shares to supervisors and middle management, but that did not apply to the executive team.

Ms SYLVIA HALE: Was there a great differential between the supervisors and the management team to what was offered—

Mr CHARLTON: The differences—and I am not sure that it was ever approved by the shareholders—the proposal that we put up was arrived at by seeking advice on what was market norms, market competitive offers to companies of our nature. So, yes, there was a difference but it reflected market forces. Let me just say that, no matter how successful the float was going to be, they were unlikely to retire as a result of any windfall gains.

Ms SYLVIA HALE: When you acquired Red Energy where was it accessing its power from?

Mr CHARLTON: From us actually. We had a financial hedge with them in perpetuity and that was a very good relationship between them and us. When it was decided by their owners then to sell the business we became the natural owner.

Ms SYLVIA HALE: And you will persist with the name Red Energy, despite—

The Hon. AMANDA FAZIO: Do you want to change it to Green—

Ms SYLVIA HALE: No. I am just asking. It just seems to me that one of Snowy's marketing aspects is its clean, green credentials, as it were.

Mr CHARLTON: Red is working very well for us, and I am not absolutely convinced that there is a big market out there for calling it Green.

Ms SYLVIA HALE: Reverting to the issue about the Mowamba aqueduct, does the Snowy water licence explicitly state, at schedule 3, part two, clause 6.3, that if the outlet is not constructed by the third anniversary of corporatisation—that is, June 2006—then water must be released from Mowamba River and Cobham Creek?

Mr HARRIS: No, it does not. It specifically states that if an outlet is not constructed. In the 2005-06 annual water operating plan, which is the document of DNR, the plan prescribed that we would recommission Mowamba aqueduct, that is, recommence diversions into Jindabyne, at the time when the aqueduct itself, that is, the pipe, is physically reconnected, and that occurred in January of this year.

Mr CHARLTON: Let me just add that we have tried to explain that numerous times to Mr Ingram without success.

Ms SYLVIA HALE: Is Dalgety's water supply back to normal at the moment?

Mr CHARLTON: Dalgety's supply is back to normal, yes. It was never really threatened. The intake down at Dalgety—and we know the design of their water treatment plant—could have easily handled the level of sedimentation in the water passing the water intake. There was no need for Snowy shire council to have turned that off on Friday. In fact, that just exacerbated the situation.

Ms SYLVIA HALE: And they admit that? Do they concede that there was no need for them to turn it off?

Mr CHARLTON: We have not had that conversation but that is fact because we have talked to the designers.

Ms SYLVIA HALE: But you did not raise that when you issued a media release in conjunction with the mayor of Snowy shire.

Mr CHARLTON: No, they were happy with that, otherwise they would not have been party to the press release.

Ms SYLVIA HALE: Do you still intend to put in a supplementary submission? You indicated at the outset that you would do so in response to the submissions received.

Mr CHARLTON: I think we have some questions and answers to formally present back to this Committee, and we will be doing that.

(The witnesses withdrew)

(The Committee adjourned at 12.10 p.m.)