

10 June 2010

Committee Secretary
Senate Standing Committee on Environment, Communications and the Arts
Parliament House
Canberra ACT 2600

Submitted via Senate online system

Dear Secretary,

SUBMISSION: WATER (CRISIS POWERS AND FLOODWATER DIVERSION) BILL 2010

Thank you for the opportunity to make a submission on the draft *Water (Crisis Powers and Floodwater Diversion) Bill 2010 (the Bill)*.

Snowy Hydro Limited (**Snowy Hydro**) has reviewed the draft Bill and provides the following comments.

As we understand it, the Bill is designed to allow, during periods of crisis, for the water resources of the Murray- Darling Basin to be managed by the Murray- Darling Basin Authority (**Authority**) in a way which balances relevant environmental, extractive and other interests. However, the powers conferred on the Authority by the Bill are extremely broad and largely undefined. As a result those powers may - as currently drafted - be able to be exercised in a far reaching manner and to an extent not necessary to achieve the objectives of the Bill.

Snowy Hydro's principal concern with the draft Bill is that its broad operative provisions create the potential for it to have ill and unintended consequences on the water resources of the Snowy Mountains Hydro-electric Scheme (**Snowy Scheme**).

The water resources of the Snowy Scheme are already subject to a comprehensive inter-governmental regulatory framework that balances Snowy Hydro's role in the National Electricity Market (**NEM**) and the Snowy Scheme's role in providing water security for the Murray and Murrumbidgee valleys. This framework also prescribes the water sharing arrangements between New South Wales and Victoria for the waters released from the Snowy Scheme.

Snowy Hydro is the leading mainland renewable generator and plays a crucial role in providing peak generation capacity for the NEM and risk management products for NEM participants. At the same time the waters released from the Snowy Scheme play a critical role in providing water security for extractive and environmental uses along the upper River Murray and the Murrumbidgee Rivers.

The current sophisticated regulatory framework works well to balance the benefits of the water resources of the Snowy Scheme for water security and electricity generation. However, achieving this outcome took the Commonwealth, New South Wales and Victorian Governments some eight years to review and codify the operating principles and water accounting rules to apply to the Snowy Scheme and its water resources.

These rules and arrangements were finalised in 2002 and are encapsulated in a legally binding framework that includes the Murray- Darling Basin Agreement (Schedule F), the inter- Governmental Snowy Water Inquiry Outcomes Implementation Deed (**SWIOID**) and the *Snowy Water Licence* which forms the cornerstone regulatory instrument.

The importance of maintaining this framework has been recognised by the Commonwealth in section 21(6) of the *Water Act 2007 (Cth)* which explicitly recognises and preserves the primacy of the *Snowy Water Licence*.

In our view, therefore, the draft Bill must be amended to expressly provide that a direction issued under section 17 of the Bill must not be inconsistent with the provisions of the *Snowy Water Licence*. While it is unclear whether the Bill was designed to empower the Authority to act in such a manner, this amendment is necessary to provide clarity for all stakeholders in the Snowy Scheme.

Yours sincerely

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