

SUBMISSION TO the 5-YEAR REVIEW OF THE
SNOWY WATER LICENCE

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Submission to the 5-Year Review of the Snowy Water Licence

Gippsland Environment Group Inc. welcomes the opportunity to comment on the 5-year review of the Snowy Water Licence. It must be noted however, that contrary to the relevant legislation, considerable constraints and limitations have been imposed by the NSW Department of Water and Energy and the Water Administration Ministerial Corporation on the review of the Licence. These constraints include the restricted scope of the review, non-compliance with due process of the review and inadequate reports provided to inform public submissions.

Restricted scope of the first Five-year Review.

The Information for Public Submissions states that: *The scope of this first five year review is limited to the provisions of the licence relating to the initial release of water to the Snowy River for environmental reasons.*

*The review **will NOT** address the following:*

- *The adequacy of the **volumes** of the environmental flow releases.*

However neither the NSW Snowy Hydro Corporatisation Act nor the Snowy Water Licence makes any such restrictions on the scope of the review.

The specific wording of the relevant documents as relates to the review is simply as follows: the NSW Snowy Hydro Act 1997, no 99, section 25, Review of Licence, states that the Water Administration Ministerial Corporation is, after the first five years, to review the *provisions of the licence relating to the initial release of water to the Snowy River for environmental reasons*. The Snowy Water Licence clause 10.1 states that the NSW Water Administration Ministerial Corporation *must on the fifth anniversary of the Corporatisation date (28 June 2002): review the provisions of this Licence relating to Snowy River Increased Flows*.

The very basis of the Heads of Agreement 2000, the Snowy Water Inquiry Outcomes Implementation Deed 2002, and the NSW Snowy Hydro Corporatisation Act 1997 (in effect, 28 June 2002) was to increase the Snowy River flows from less than 1% MANF to 28% MANF below Jindabyne Dam by post-2012 with timelines and flow targets all identified to restore the Snowy River from its severely degraded state. A review of the initial environmental releases WITHOUT addressing the adequacy of the volumes of the first five years of environmental flow releases contradicts the letter and the spirit of this legislation.

Non-compliance with due process of the Review.

The Snowy Scientific Committee was legislated to play a pivotal role in the first 5-year review of the Snowy Water Licence.

The establishment of the Snowy Scientific Committee was legislated for more than five years ago by the NSW Snowy Hydro Corporatisation Act, (in effect June 2002) under section 57(1). Its role is identified as:

57 (3)The principal functions of the Committee are as follows:

- (a) to advise the NSW Water Administration Ministerial Corporation each year on the regime for the release of water for environmental reasons under the snowy water licence,*
- (b) to advise that Corporation from time to time on the adequacy of those releases and the programs for management and restoration of the catchments (and the Snowy River and other rivers and streams) receiving water from those releases, including the arrangements for consultation, monitoring and on-going research about those programs.*
- (4) The Committee is to produce every year a public state of the environment report on the catchments (and the Snowy and other rivers and streams) affected by the Snowy Mountains Hydro-electric Scheme. ...*

However, as of 30 Jan 2008, the Snowy Scientific Committee has still not been formally announced and obviously has not produced any of the required public annual reports nor provided the required advice on environmental releases to the NSW Water Administration Ministerial Corporation for the past five years as legislated.

The Snowy Water Licence is governed by Part 5 of the Snowy Hydro Corporatisation Act. (Other relevant legislation/documents includes the Snowy Heads of Agreement: The Agreed Outcome from the Snowy Water Inquiry, and the Snowy Water Inquiry Outcomes Implementation Deed, relevant state water legislation and the Annual Water Operating plan prepared under the Act.)

The NSW Snowy Hydro Corporatisation Act, part 5, section 27 **Public Consultation on review or variation of the Licence**, outlines due process for the review of the licence. This process requires, under section 27 (2,b), the public exhibition of each state of the environment report of the Snowy Scientific Committee (under section 57, 4), to inform public submissions to the review.

The NSW Department of Water and Energy and the Water Administration Ministerial Corporation have thus NOT complied with the due process of the 5-year Review as required by section 57 and section 27 of the Snowy Hydro Corporatisation Act.

This is despite assurances received from Mark Duffy, Director-General Department of Water and Energy that: *The Review of the Snowy Water Licence will cover the outcomes and effectiveness of the initial five years of environmental releases to the Snowy River. This will be a public review and will include input from the Snowy Scientific Committee.* (Letter dated 12 Dec 2007)

Limitations of the scientific reports provided to inform public submissions to the review.

In place of annual state of environment reports from an independent Snowy Scientific Committee, the NSW Department of Water and Energy has provided limited and inadequate reports from their own department.

The environmental flow response data provided includes:

1. Background information on the Snowy River Benchmarking and Environmental Flow Response Monitoring. This is an overview of the initial project aims and monitoring design
2. Presentation on Environmental Flow Response, entitled *Snowy River environmental flow response monitoring and modelling, Oct 2007*. This is a basic summary update on the above doc with data to 2005.
3. *Snowy River Flow Response Monitoring: Assessment of the first stage environmental releases to the Snowy River, 2000-2005*. In the words of the report's authors: "This simple summary documents the major findings of the program to date, for each of the major river attributes, typical for the: three years **before** (2000-2002), and three years **after** (2003-2005) the implementation of the first stage of incremental environmental flow releases to the Snowy River." (my emphasis). This 18 page document is markedly less detailed than the previous 87 page report: *Snowy River Benchmarking and Environmental Flow Response Monitoring Project, Summary Progress Report on Available Data from 1999-2001, for Environment Australia*, T. Rose and R. Bevitt, 2003. The summary *Assessment* document also references further reports that are presently unpublished.
4. Snowy Recovery Program Flow Response Reports 2007. Two additional reports and their summary versions are provided here. However only the report on the *Response of aquatic macroinvertebrates to the first environmental flow regime in the Snowy River*, is a report on the response following initial environmental releases. The other report is simply a report on *Hydraulic modeling of a fish barrier - Pinch Falls, Snowy River*.

The data assessed in all the reports above only refers to information up to 2005 NOT 2007. Therefore this current review of the Snowy Water Licence is in fact a review of the scientific data for the first three years of environmental flow releases NOT the first five years.

Secondly a number of further reports are referenced but identified as still in preparation so therefore are NOT available to inform public submissions. Furthermore there are number discrepancies between data provided to inform public submissions and other information previously provided by either the Minister or the Department.

For instance, the *Presentation on Environmental Flow Response* doc gives different figures to such documents as the *Fact Sheet no 2 Snowy River Recovery, Snowy River Flow response Monitoring project* Nov 2004, ISSN No 1449-8030 that refers to target volumes and equivalent per cents of the increased flows. This *Presentation* doc also provides numbered reference to Mean Annual Natural Flow (MANF) in the chart on p3 but provides no explanation.

The *Assessment of the First Stage Environmental Releases to the Snowy River, 2000-2005* doc table 4, gives a pie chart of Proportion of Mean Annual Natural Flow for the Snowy River at Dalgety, post SMS, pre- and post environmental Flow Regime. However no figure in gigalitres is given for MANF at Dalgety and it is not clear whether proportion of the MANF referred to is in fact MANF for the Snowy at Dalgety or as measured at Jindabyne, if the later then the figures are inaccurate as they would include all the catchment between Jindabyne Dam and Dalgety. Despite requesting clarification from the Department, to date no response has been received.

The limited reports provided by Department of Water and Energy are less than adequate to provide a fair and just review of the first five years of initial flow releases for environmental reasons.

Also of concern is the fact that there are discrepancies in the Summary figures for the 05/06 and 06/07 Jindabyne Environmental releases provided in the Information for Public Submissions, Appendix B, *Summary of Snowy Hydro environmental entitlements and releases*, and a similar *Summary* provided 30 July 2006 from Minister for Natural Resources Ian McDonald. There are also discrepancies in the figures in Appendix B for Jindabyne and Mowamba Base Passing Flows versus the *Summary* data provided by Minister for Water Phil Koperburgh in 22 July 2007.

The inconsistencies in the data and the lack of complete and thorough scientific reports for the first **five** years of environmental releases undermines the integrity of this first five year review.

I wish to address the following licence provisions:

- **Snowy River increased flows generally (Schedule 3, part 2 Snowy Water Licence).**

Snowy Water Licence Schedule 3, Part 2,

5 Environmental Objectives for Snowy River Increased Flows

5.1 The objectives of the Snowy River Increased Flows is to improve the habitat for a diverse range of plant and animal species through a combination of:

- (1) improving the temperature regime of river water*
- (2) achieving channel maintenance and flushing flows within rivers*
- (3) restoring connectivity within rivers for migratory species and for dispersion*
- (4) improving triggers for fish spawning; and*
- (5) improving the aesthetics of currently degraded riverine environments.*

From the basic information in the reports, provided as information for public submissions, it is evident that continued low base flows, lack of high spring flows and constancy of flows has provided very little improvement to the river on number of parameters as follows:

River discharge (river flow) – over the past five years has only increased marginally.

The data for regulated Snowy River Increased flows including 9gigalitres Base Passing Flow as a percentage of Mean Annual Natural Flow pre-Jindabyne Dam is not given anywhere in the reports provided. However, for the first three years of environmental releases, Snowy River flow as a proportion of MANF at Dalgety, was a mere 3.4% MANF, according to the *Assessment of the first stage environmental releases to the Snowy river, 2000-2005* Fig 4, p.8.

This Figure 4 is misleading however, because it is a measure of flows at Dalgety, not as regulated environmental release volumes so it includes all the inflows from the catchment above Dalgety weir. It does not give an accurate picture of the Snowy River environmental releases as a percent of MANF.

When the figures for the annual environmental allocations for the first five years on environmental releases to the Snowy River (including base passing flow) as given in Appendix B (Information for Public Submissions) are worked out as proportion of MANF of 1164 GL (at Jindabyne Dam based on 55 yrs flow data at DNR guage 222501A), it is even more evident that river discharge has only improved slightly.

According to Appendix B, Water for Rivers had accumulated only 67 gigalitres by 2007/08, which is shared 2:1 Snowy and Murray. This allocation was reduced due to drought to 49.5 GL, with 33 GL for the Snowy, (in total 3.5% MANF).

However even if the full allocation to the Snowy had been made in 07/08 it would still have only amounted to 44.6 GL plus 9 GL BPF= 53.6 GL (or 6.2% MANF)!

Habitat – Localised changes in channel shape were identified, *but typically no significant response could be attributable to the new flow regime*. Wetted habitat area had increased at some sites below Jindabyne dam, *but flows greater than the initial release are required to significantly change channel shape and sediment size*.

(Assessment doc. p3)

Water Quality – There was no significant change in mean, maximum or minimum water temperature at Dalgety. *There was a highly significant negative relationship between mean daily flow and water temperature which suggests that larger environmental flow releases (EFR) would reduce stream water temperatures*. (Ibid)

Water plants – Low flows since the completion of the Scheme had resulted in vegetation colonizing the river channel. Exotic species were also likely encouraged by the lack of flow variability. Water plant analysis in the first three years of EFR indicate that there has been no significant changes in vegetation. (Ibid)

Water Bugs – The aquatic macroinvertebrate assemblages of the upper Snowy have shown no discernible difference since environmental flows began. This is identified as due to the fact that *the very small changes to the flow regime after decommissioning Mowamba Aqueduct were not sufficient to increase habitat diversity*. Total macroinvertebrate abundance may have increased due to increased riffle habitat. However, *there is unlikely to be a change in the upper Snowy macroinvertebrate assemblage composition until base flows are increased and high flow events are an integral part of the environmental flow regime*. (Ibid p. 4) The macroinvertebrate fauna of the upper Snowy, reference sites and control sites remained distinct throughout the study period autumn 2000 to autumn 2005 according to the *Response of Aquatic Macroinvertebrates to the first Environmental Flow Regime in the Snowy River* report (p.i) due to ongoing flow alterations in the Snowy River. *The continued reduction in habitat diversity and area, and constancy of hydraulic habitats caused by Jindabyne dam, despite the small increases in flows, are likely to be the principal mechanisms responsible for the upper Snowy River macroinvertebrate assemblages remaining dissimilar to the reference site assemblages. ... The macroinvertebrate fauna of the midland and lowland macro-reaches of the Snowy River are likely to exhibit significant compositional changes related to EFR only after the re-instatement of large spring flows*. (Ibid)

Fish – Fish passage. Reductions in flows post –Scheme have made it difficult for fish to move along the river beyond barriers such as Stone Bridge Falls, Corrowong Falls, Snowy Falls and Pinch Falls, which are only traversable in high flow events. Fish passage discharge was identified as occurring at Pinch Falls but in greatly reduced frequency from an average of 4.6 per year to less than one per year, and during one period since 1967 of four years in which no sufficiently large flow event occurred at all. (Ibid p5)

I note that: *Significant change in the fish assemblage of the Snowy River is not expected until releases reach 21% MANF or flow induced fish barriers are drowned out*. (Presentation on Environmental Flow Response, Fish)

There is anecdotal evidence that the Snowy River Bass, *Macquarie novemaculeata*, prior to construction of the Snowy Scheme, migrated annually as far upstream as Paupong on the Monaro and possibly further.

The Snowy River Bass re-stocking program (Native Fish Recruitment Project), a joint initiative of DPI, DSE, the Marine and Freshwater Institute and the local Orbost Angling community, was initiated in Victoria in 2005. Since then the program has repeatedly failed to release any Bass fingerlings and the Snowy River Bass is at risk of local extinction due to the decreased fertility of aging female stock. Low river flows have impacted on this species in a number of ways and no successful spawning has taken place for more than 20 years. Other native fish species such as Grayling (listed under the EPBC Act) are also at risk.

It is evident from the scientific data that the environmental objectives for the Snowy River as outlined in Snowy Water Licence, Schedule 3, Part 2, (5.1) have so far not been achieved, due to the continued low base flows and lack of high spring flows during the first five years of environmental releases.

It is imperative therefore that future environmental releases are not compromised in any way.

Schedule 3, Part 2, Snowy River Increased Flows Generally

6 Licensee to construct an outlet at Jindabyne Dam

6.1 By no later than the third anniversary of the Corporatisation date, the Licensee must construct an outlet at Jindabyne dam that is capable of releasing water from above the thermocline.

6.2 The outlet constructed by the Licensee under clause 6.1 of this Schedule Three must be of sufficient size to enable a flow rate of at least 5 GL per day in addition to the capacity of the spillway gates. (3,000m³/s)

However, Snowy Hydro Ltd did not construct this outlet within three years, in fact the new outlet was trailed more than 18 months later.

It would appear that the Snowy Water Licence has been interpreted flexibly to the advantage of Snowy Hydro Ltd but to the disadvantage of Snowy River environmental outcomes.

On 28 August 2002 Mowamba aqueduct was de-commissioned to provide the first environmental flows to the Snowy. However, the Aqueduct was re-commissioned by Snowy Hydro Ltd on 31 Jan 2006, (well before the new outlet at Jindabyne was completed).

As a consequence the Snowy River lost its surrogate natural headwater, to the serious detriment of both the Snowy River ecology and the Mowamba river downstream of Mowamba weir. The Mowamba River had provided the Snowy with essential flow variability vital for river health. Flow variability replenishes and creates habitat, triggers spawning, moves and replenishes nutrients and detritus, maintains riparian zones and, importantly for the Snowy, provided longitudinal connectivity. All of which are consistent with the stated environmental objectives of the Snowy Water Licence.

Since Mowamba Aqueduct was re-commissioned the flows from Jindabyne dam and Mowamba weir have been held at a more or less constant level (flat-lined). Such flows have a deleterious effect on habitat availability and condition, food resources, longitudinal and lateral connectivity. This effect is particularly severe upon the Snowy, which since the Jindabyne dam was constructed has had no spring flood.

Recommendation: That Mowamba Aqueduct is permanently de-commissioned immediately to provide the surrogate montane headwaters essential for the long-term environmental recovery of the Snowy River.

- **Other provisions of the Licence that relate to the initial release of water for environmental reasons.**

Default Monthly Release Volumes.

Since Mowamba Aqueduct was de-commissioned the environmental releases from Jindabyne Dam have been held generally constant with only a small spring increase. This in no way replicates the Default Monthly Release Volumes as outlined in the Snowy Water Licence Schedule Three, Part Four, clause 13.3, the intent of which was to mimic natural flows. (Heads of Agreement, 4.2.5). Information provided by Minister Koperburgh's office, 22 July 2007, on the planned Snowy environmental releases for 2007/08 includes a table of the Monthly Release Patterns for Snowy River Environmental Flows in Annexure 18. The spring increased flows are only two to three times the monthly flows identified for the remainder of the year whereas the Monthly Default Releases Volumes table in Snowy Water Licence part four (13.3) designates spring increases of ten to twelve times the January monthly allocation and with much greater variability throughout the year.

Annexure 18 notes that the Monthly releases pattern is based on the Licence default volumes and *adjusted where necessary so that the minimum release is 95 ml/d for Dalgety water supply requirements*. However Dalgety water supply requires a minimum of 75 ml/d, possibly less. (The data provided by the DNR, now Department of Water and Energy gauging station at Dalgety for the period May 2006 to mid Feb 2007 shows clearly that flows were often not much more than 70 to 80 ml/d). The flat-lined low flows released to the river have failed to mimic natural flows with consequent loss of the triggers for species movement and spawning, among other things, provided by the huge spring increases the Snowy experienced prior to the Scheme.

Recommendation: That the Monthly Default Releases Volumes are complied with in order that the environmental objectives of the Snowy Water Licence are not compromised.

Mowamba Borrowings Account

1. The *Summary of Snowy Hydro environmental entitlements and releases* Appendix B in the Information for Public Submissions identifies that in 05/06 1.7 GL of water was released via Mowamba (and debited against Mowamba Borrowings Account) and a further 40 GL was released from Jindabyne. However Mowamba Aqueduct was not re-diverted into Jindabyne Dam until 31 Jan 2006 i.e. after $\frac{3}{4}$ of the way through that water year. In reality therefore much more water than is identified in the *Summary* flowed over Mowamba weir during that water year, in which case any excess should have been allocated as a debit to the Mowamba Borrowings Account to be repaid at a later date.

The Snowy Water Inquiry Outcomes Implementation Deed 19.6 (3) states:

If, during any Water Year occurring after the third anniversary of the Corporatisation Date, the allocation of the Snowy River Annual Allocation under clause 19.5 between the Snowy River Increased Flows and the Mowamba Borrowings Account results in an allocation to the Snowy River

Increased flows of less than 38 GL, the allocation of the Snowy River Annual Allocation as between the Snowy River Increased Flows and the Mowamba Borrowings Account is to be adjusted so that as far as practicable the volume of the Snowy River annual Allocation allocated to the Snowy River Increased Flows is equal to 38 GL.

The Department of Water and Energy, by identifying the 40 GL of flows (2 GL over target) as Jindabyne releases when in fact the majority of this amount was released from Mowamba, by sleight of hand, avoided compliance with the above clause in SWIOID and instead debited the 06/07 Annual Allocation to the Snowy by 2 GL reducing the total amount to 36 GL.

Secondly the identified 2GL excess over the 05/06 target was debited in full from the Annual Allocation whereas if it had been debited against the Mowamba Borrowings Account could only have been repaid I:I between Snowy Increased Flows and the Mowamba Borrowings Account. (SWIOID 19.5 (1)).

It is imperative that Snowy environmental releases are not further reduced in any way. **Recommendation (a):** That the Licence is amended to be consistent with SWIOID as outlined above and that in future any payback of flows in excess of the targeted environmental releases identified in the Annual Water Operations Plan is not permitted to reduce the Snowy River environmental allocation below 38 GL.

Recommendation (b): That the 2 GL in 05/06 identified as in excess of environmental releases target of 38GL (which in reality was released from Mowamba but identified as Jindabyne releases) be immediately allocated as debit to the Mowamba Borrowings Account and the equivalent amount be released next Water Year 08/09 to the Snowy River to avoid a serious reduction in the very low environmental releases that will be allocated in 08/09. (Reduced allocations at the SA border this year mean further reductions of Snowy river environmental releases next year)

Mowamba Borrowings Account

2. The Summary of Snowy Hydro environmental entitlements and releases provided by Minister McDonald July 2006 identified for 06/07, 42 GL as apportioned to Snowy River Annual Allocation, 36.7 GL was targeted for environmental releases and 4GL was credited to the Mowamba Borrowings Account But this is a difference of 5.3 GL, so why wasn't 5.3 GL credited to the Borrowings account? These figures are at variance with those in the *Summary*, Appendix B information provided for public submissions – in 06/07 the Snowy annual allocation is given as 42 GL and 36 as the Jindabyne environmental target, 36.9 GL as actual releases, and still only 4 GL repaid to MBA. There are other discrepancies between the figure provided by Minister McDonald and those in Appendix B.

The lack of consistency in reporting the balance of Mowamba Borrowings Account and actual environmental releases raises questions about the accuracy of reported environmental flow releases. In light of the continued low environmental releases this is a matter of some concern as the health of the river depends on increasing flows not further reducing them to suit the Water Administration Ministerial Corporation.

Recommendation: that an independent audit be undertaken of Mowamba Borrowings Account accounting details.

Mowamba Borrowings Account

3. The Mowamba Borrowings Account is currently in debit 61.6 GL (Appendix B) Water for Rivers, the joint government authority funded to obtain 212 GL water savings to offset Snowy River Increased flows to 21% by 2012 face an uphill battle to meet their targets due to increased competition between various government funded water initiatives. The Mowamba Borrowings Account debt is equivalent to 5.3% MANF. The various reports provided in the Information for Public Submissions all concur that the low environmental flows released so far have not caused any marked improvement in Snowy River environmental health. Repayment of the Borrowings Account will have a serious negative impact on Snowy River environmental flow allocations for some years to come exacerbating the degraded state of the river.

Recommendation: that the Licence be amended to completely cancel the Mowamba Borrowings Account debt.

Additional Below Target Water pre-released

The notes to Appendix A (Information for public submissions) states that if the Borrowings account *is not repaid, the Snowy Scheme will run out of water earlier in a dry inflow sequence than it would have in terms of being able to maintain western river releases.*

However, the 61.6 GL debt in the Borrowings account is miniscule compared to the 868 GL plus of Below target water SHL has pre-released up to July 2007 for considerable financial benefit contrary to the drought proofing strategy that the Scheme was designed to be operated under. (John Kelly doc ref) –it is these pre-releases above the minimum required when storages were already Below Target Storage levels which has jeopardised the Snowy Water Licence required minimum releases of 2088 GL to the Murray and Murrumbidgee in future.

This practice also jeopardises future Snowy River environmental releases that have been offset by the taxpayer funded water savings.

In effect, Snowy Hydro are relying are diverting taxpayer funded water savings to irrigators contrary to SWIOID clause 15.5. which states that water transferred to Environmental Entitlement must not be re-allocated for consumptive use.

Recommendation – a) That the Licence be amended to be consistent with SWIOID clause 15.5 b) That the three shareholder governments of Snowy Hydro Ltd re-assess SHL's practice of pre-releasing Below Target Water above the minimum 2088 GL per annum required to Murray/Murrumbidgee when Storages have been Below Target Storage Levels since the end of 2001/2002 as this practice threatens future environmental releases to the Snowy River.

Flushing flows

In 06/07, there was a so-called over-release of .9 GL (Appendix B notes).

This was water released by Snowy Hydro Ltd as directed by the EPA to clear silt pollution Snowy Hydro had caused in the first place. This .9GL was deducted from the following year's environmental allocation. Under the terms of the Snowy water Licence the three shareholder governments could have jointly agreed with 30 days notice to alter the Annual Water Operations Plan so that this flushing flow was not deducted from Snowy environmental releases. They did not take this course, resulting in a further reduction of an already severely reduced Snowy allocation in 07/08.

Recommendation: that in future the Annual Water Operations Plan is re-adjusted by agreement of the three shareholder governments to ensure water allocated to redress environmental damage caused by SHL is not taken from Snowy River environmental allocation. This would ensure that taxpayer funded savings are actually returned to the river and environmental objectives of the Snowy Water Licence are not further compromised.

Carryover of Snowy River environmental entitlement?

The Snowy River environmental allocation was reduced in the 07/08 water plan from 44.6 GL to 33 GL due to drought. The Snowy River 08/09 proportion of allocation will be further reduced. Some irrigators have been able to carryover allocations of high security to the following year.

Recommendation: That the licence is amended to ensure that the 07/08 shortfall of Snowy environmental allocation that was unreleased water is carried over to next year's allocation.

Additional Mowamba releases above Base Passing Flow.

Snowy Water Licence Clause 8.1, part three, schedule three requires that: the Licensee must operate the Works so as to allow a volume of water to pass the Mowamba river and Cobbon creek aqueducts into the Snowy River in addition to the Base Passing Flow. (BPF Mowamba defined as 0.4 GL Appendix A). This has not taken place.

Recommendation: that the Water Administration Ministerial Corporation take immediate action to redress this failure of compliance.

Override Provisions

SWL Schedule Three, Part four, 12.4 states that *Despite any other provisions in this Schedule Three, the Ministerial Corporation and the Licensee may agree to vary the volume of water targeted for releases from Jindabyne Dam.*

This provision has the potential to completely compromise future environmental releases and the environmental objectives as defined in of the Heads of Agreement and the Snowy Water Inquiry Outcomes Implementation Deed.

Recommendation: that the Snowy Water Licence is amended to remove this provision.

In conclusion, it must be noted that the recommendations discussed above, and more, would have been within the terms of reference of the Snowy Scientific Committee to advise upon. Without the involvement of the Snowy Scientific Committee the review as currently undertaken by the NSW Water Administration Ministerial to date cannot be considered a fair and just review. The Snowy Water Licence has been interpreted by the NSW Water Administration Ministerial Corporation for maximum benefit of Snowy Hydro Ltd rather than with the intent of achieving the best environmental outcomes for the Snowy River. The unjustifiable constraints imposed on this review including the attempted restriction on the scope of the review to exclude a major aspect of the first five years environmental releases, namely the adequacy of the volumes of these releases; the lack of due process; limited and seemingly hastily prepared reports confirms this conclusion.

In light of the above, Gippsland Environment Group would like to make final recommendations to ensure that the best environmental outcomes for the Snowy River are obtained.

Final Recommendations: a) The immediate establishment of the full Snowy Scientific Committee as legislated under the NSW Snowy Hydro Corporatisation Act.

b) That a minimum 6 months extension of time is granted for the review process in order that the Snowy Scientific Committee has input into the review and has sufficient time to assess all the data, including the adequacy of the volumes of the first five years of environmental releases, and can provide an independent public report to inform supplementary public submissions.

Anything less than this makes a mockery of the joint governments legislation on the Snowy River.

Yours sincerely
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