

Snowy Licence Review
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SUPPLEMENTARY SUBMISSION TO THE 5-YEAR REVIEW OF THE SNOWY WATER LICENCE

The Department of Water & Energy (“**DWE**”) has now made public all submissions to the 5- year review of the *Snowy Water Licence* (“**Review**”).

The principles of procedural fairness apply to the Review. DWE has therefore agreed, as part of the Review process and prior to the Review Panel coming to any conclusions as to the Review outcomes, to give Snowy Hydro Limited (“**Snowy Hydro**”) the opportunity to put before the Review Panel its responses to those matters raised in submissions made by third parties (“**Submissions**”) that are within the scope of the Review.

This is Snowy Hydro’s supplementary submission (“**Supplementary Submission**”). It sets out Snowy Hydro’s responses to Submissions that are within the scope of the Review.

1. INTRODUCTION

1.1 The Key Issues Raised in Third Party Submissions

There are three key issues that are raised in many if not most of the Submissions:

- (1) The lack of publicly available information about the Snowy water management regime and in particular the environmental flow regime established by the three Governments;
- (2) the continuation of some environmental flows over the Mowamba Weir; and
- (3) misconceptions about ownership of water stored in the Snowy Scheme.

In the first section of this Supplementary Submission, Snowy Hydro addresses these three key issues.

1.2 Alleged Historical Breaches of the *Snowy Water Licence*

Many of the Submissions also contain allegations of historical breaches of the *Snowy Water Licence* by Snowy Hydro. In **Annexure One** to this Supplementary Submission, Snowy Hydro has listed those allegations and, for each, demonstrated that Snowy Hydro has in fact complied with the *Snowy Water Licence*.

1.3 Other Recommendations

In **Annexure Two** to this Supplementary Submission, Snowy Hydro responds to a number of recommendations made in the Submissions that were based on misconceived assumptions due to a lack of understanding of the environmental flow regime.

2. THE LACK OF PUBLICLY AVAILABLE INFORMATION ABOUT THE SNOWY WATER MANAGEMENT REGIME AND IN PARTICULAR THE ENVIRONMENTAL FLOW REGIME ESTABLISHED BY THE THREE GOVERNMENTS

2.1 Introduction

Taken as a whole it is starkly evident from the Submissions that the publicly available information about the Snowy water management regime and, in particular, the environmental flow regime is grossly inadequate. In addition to a perceived lack of simple factual data, this vacuum of publicly available information has contributed to a clear lack of understanding about how those regimes operate and, particularly, about what entities have accountability and responsibility for implementing each element of those regimes.

The Snowy water management and environmental flow regimes are established by a series of inter-Governmental agreements and statutory provisions, most of which were entered into or enacted as a pre-condition to the corporatisation of the Snowy Scheme in 2002. Snowy Hydro is a party to few, if any, of these agreements.

Moreover the *Snowy Water Licence* is but an output of those regimes. Relevantly the *Snowy Water Licence* only imposes obligations on the operator of the Snowy Scheme, being Snowy Hydro.

Snowy Hydro acknowledges that there is complexity in the comprehensive suite of inter-Governmental agreements and statutory provisions that create the Snowy environmental flow regime and that it may be unrealistic to expect the community to have a full and detailed understanding of that regime. Snowy Hydro strongly feels, however, that it must be recognised by the Governments and the NSW Government in particular that it is critical for the success of the increased flows initiative for a broad understanding of the regime to be developed amongst all stakeholders.

Snowy Hydro urges DWE to urgently develop a communications programme to ensure that all stakeholders are actively informed and have easy access to appropriate summary information about the Snowy water management regime and, in particular, the environmental flow regime including the accountabilities and responsibilities of the various parties for implementing each element of those regimes.

It follows from this recommendation that the role of Snowy Hydro in the overall provision of public information is to make available to the public each year an account of its compliance with the obligations imposed on it under the *Snowy Water Licence*. As noted above, Snowy Hydro's role in the Snowy water management regime and, in particular, the environmental flow regime is only to comply with its obligations under the *Snowy Water Licence*.

As noted in Snowy Hydro's initial submission, Snowy Hydro has in fact been publishing data on the Internet on its performance against daily environmental release targets for over 12 months, which demonstrates consistent compliance with the nominated targets.

As part of an overall communications programme, however, Snowy Hydro recognises that it would be of significant benefit for further information on Snowy Hydro's compliance with the *Snowy Water Licence* to be made publicly available. Snowy Hydro is therefore willing to agree to an amendment to the *Snowy Water Licence* in the form set out in **Annexure Three** to this Submission which requires Snowy Hydro to publicly report annually on compliance matters relating to environmental flow and western river releases relative to targeted volumes.

3. **THE CONTINUATION OF SOME ENVIRONMENTAL FLOWS OVER THE MOWAMBA WEIR**

The second key issue that was raised in Submissions was a desire on the part of some third parties to continue some environmental flows over the Mowamba Weir based on a view that releasing Snowy River Increased Flows only from Jindabyne Dam is not as beneficial for the Snowy River and the environmental objectives of the environmental flow regime as "unregulated" releases over the Mowamba Weir. In fact, many submissions asserted that the recommissioning of the Mowamba Aqueduct was in breach of the *Snowy Water Licence*. This compliance issue was addressed in some detail in Snowy Hydro's first submission.

By contrast, however, members of the irrigation community are concerned that the removal of the Mowamba aqueduct would lead to uncontrolled flows to the Snowy River and impact on the reliability of releases to the Western Rivers, and therefore to water users in the Murray and Murrumbidgee Rivers.

It is for the Governments, if they wish, to investigate the relative environmental benefits of, on the one hand, providing Snowy River Increased Flows via a mix of "unregulated" flows over the Mowamba Weir and regulated releases from Jindabyne Dam and on the other hand, providing Snowy River Increased Flows only via regulated releases from Jindabyne Dam. The Governments would surely be advised in this regard by the Snowy Scientific Committee.

The outcome of any such investigation, however, is not the sole determinant of whether a change to the status quo arrangements is feasible and should be made. It is in this context that Snowy Hydro is concerned to ensure that all of the factors relevant to the feasibility of a change in status quo arrangements are properly considered and addressed.

The factors that are relevant to whether a change to the status quo arrangements should be made are as follows:

- (1) Any release of Snowy River Increased flows from Mowamba Weir will reduce the amount of renewable energy generated by Snowy Hydro's mini- hydro at Jindabyne Dam;
- (2) The operational capabilities of Jindabyne Dam and Mowamba Weir are vastly different. Snowy Hydro simply cannot "manage" the timing or volume of flows over Mowamba Weir to any where near the extent it can manage the availability of water in Jindabyne Dam for release and the volume and timing of any releases. The operational feasibility of any change needs to be carefully considered and determined;
- (3) Snowy Hydro has, at the direction of the Governments, spent some \$100 million

to modify Jindabyne Dam to make that structure capable of delivering various volumes of environmental flows including flushing flows. The greater the volume of Snowy River Increased Flows released over the Mowamba Weir, the more redundant the modifications to Jindabyne Dam become giving rise to obvious criticism that large sums of public money have been wasted; and

- (4) Any investigation of environmental benefits of any changed regime must be based on scientific evidence of the benefits and not on anecdotal evidence, supposition and mere political assertion;
- (5) If the owners of the water in the Snowy Scheme (western river downstream users including the environment) are not to be prejudiced by a change to the status quo arrangements, the 1:1 ratio between the volume of the Snowy River Annual Allocation allocated to the Snowy River Increased Flows and the volume actually released into the Snowy River must be maintained. This 1:1 ratio is the key element of the environmental flow regime established under the SWIOWD and by definition any breach of this 1:1 ratio will prejudice the security of downstream water users' rights (irrigators and the environment).

4. MISCONCEPTIONS ABOUT OWNERSHIP OF WATER STORED IN THE SNOWY SCHEME

A number of Submissions seem to assume that Snowy Hydro owns some of the water in the Snowy Scheme, in particular Above Target Water. This is incorrect. Snowy Hydro does not own any of the water in the Snowy Scheme. Snowy Hydro merely has the right to collect, store, divert and use this water for generation purposes.

The misconception about ownership of water has lead to the following misinformed recommendations in some of the Submissions:

- (1) The *Snowy Water Licence* should be amended to cancel the outstanding amount of the Mowamba Borrow. The outstanding amount of water in the Mowamba Borrow was not borrowed from Snowy Hydro but rather from water users on the western rivers (including irrigators and the environment). Cancellation of the outstanding amount in the Mowamba Borrow without that amount being offset through verified water savings and reduction in Required Annual Releases will, by definition, compulsorily acquire without compensation water from the downstream water users on the western rivers;
- (2) Snowy Hydro should have used Above Target Water/Snowy Hydro's own water rather than environmental water to achieve flushing of sediments during construction of Jindabyne works. As Snowy Hydro does not own any water in the Snowy Scheme, any release of water down the Snowy River that is not Snowy River Increased Flows releases will prejudice the rights of downstream water users on the Western Rivers;
- (3) Snowy Hydro has pre-released 868GL of Below Target Water up to July 2007 for considerable financial benefit to the company and this has jeopardised future Snowy River Increased Flow releases that have been offset by taxpayer water savings; Snowy Hydro is diverting taxpayer funded water savings to irrigators contrary to the SWIOWD.

This pre-release of Required Annual Release is entirely unrelated to

Environmental Flows to the Snowy River. The pre-release of Required Annual Release has never impacted and will never impact on the Environmental Flow releases. Therefore there is no way that taxpayer funded water savings could be diverted to irrigators.

Should you wish to discuss these matters further please do not hesitate to contact me.

Yours faithfully

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Executive Officer, Regulatory Strategy, Legal and Water

ANNEXURE ONE: ALLEGATIONS OF HISTORICAL BREACHES OF THE SNOWY WATER LICENCE AND DEMONSTRATION OF COMPLIANCE BY SNOWY HYDRO

The table below sets out the allegations made in Submissions of historical breaches of the *Snowy Water Licence* by Snowy Hydro and Snowy Hydro's explanation of how it has complied with the *Snowy Water Licence* in that instance.

Snowy Hydro has complied with all provisions of the *Snowy Water Licence* since Corporatisation. Snowy Hydro notes that both the NSW Department of Water & Energy (the licensor under the *Snowy Water Licence*) and the Murray- Darling Basin Commission have confirmed this.

ALLEGATION IN A SUBMISSION OF HISTORICAL FAILURE BY SNOWY HYDRO TO COMPLY WITH THE SNOWY WATER LICENCE	HAS SNOWY HYDRO IN FACT COMPLIED WITH THE SNOWY WATER LICENCE?	EXPLANATION
Snowy Hydro breached clause 6.3 of Part Two of Schedule Three to the <i>Snowy Water Licence</i> by not completing the Jindabyne Dam outlet works by the third anniversary of the Corporatisation Date, and continues to breach the <i>Snowy Water Licence</i> by the ongoing failure by Snowy Hydro to remove the coffer dam.	Complied	<p>Clause 6.1 must be read in conjunction with clause 6.3 of Part Two of Schedule Three to the <i>Snowy Water Licence</i>.</p> <p>See explanation in Section 11 of Snowy Hydro's submission regarding the delay of construction of the outlet works. Given this delay the provisions of clause 6.3 were triggered and Snowy Hydro complied with those provisions.</p> <p>The delay in completing the outlet works did not impact on the Snowy River Increased Flows Releases.</p> <p>The coffer dam is not part of the Jindabyne Dam outlet works. It is part of works for a new Auxiliary Spillway which was required for dam safety reasons and is nothing to do with the <i>Snowy Water Licence</i> or Snowy River Increased Flows.</p>
Possible breach of the <i>Snowy Water Licence</i> in that the SWIOLD requires minimum levels for Lake Jindabyne (to achieve flushing flows if required) that could not have been met during	Complied	To date Jindabyne Dam has not been operated below its historical Minimum Operating Level and the storage levels of Jindabyne Dam have not impacted on Snowy River Increased Flows releases.

ALLEGATION IN A SUBMISSION OF HISTORICAL FAILURE BY SNOWY HYDRO TO COMPLY WITH THE SNOWY WATER LICENCE	HAS SNOWY HYDRO IN FACT COMPLIED WITH THE SNOWY WATER LICENCE?	EXPLANATION
<p>2006-07 Water Year.</p> <p>Transfers of water from Jindabyne Dam were arguably below the well tried and baseline drought or minimum storage levels further exacerbating the lack of environmental flows to the Snowy River.</p>		<p>Neither the SWIOLD nor the <i>Snowy Water Licence</i> require minimum storage levels for Jindabyne Dam, rather both state that if the Ministerial Corporation gives Snowy Hydro a notice to include in its AWOP the strategy for achieving Flushing Flows, this is to include the mechanism by which Snowy Hydro must accumulate sufficient water in Lake Jindabyne to enable it to make the Flushing Flow.</p> <p>Snowy Hydro has never received such a notice from the Ministerial Corporation. Therefore there has never been a requirement to include a strategy for achieving a Flushing Flow in an AWOP.</p>
<p>The Ministerial Corporation and the Licensee have failed to meet targeted flow regimes for the Snowy River - including under the definitions of the montane rivers.</p>	Complied	<p>The responsibility for implementation of the environmental flows framework in the SWIOLD is set out in paragraph 6 of Snowy Hydro's submission to the 5-year Review.</p> <p>The provisions of the <i>Snowy Water Licence</i> dealing with the montane rivers are not within the scope of the 5-year Review of the <i>Snowy Water Licence</i>.</p>
<p>Snowy Hydro has turned off the flows to the Mowamba River in breach of clause 8.1 of Part Three of Schedule Three to the SWL and has used clause 7.2 of Part Two of Schedule Three as a justification.</p>	Complied	<p>Clause 7.2 of Part Two of Schedule Three to the <i>Snowy Water Licence</i> states that Snowy Hydro must make Snowy River Increased Flows:</p> <ol style="list-style-type: none"> 1. until the third anniversary of the Corporatisation Date: from the Mowamba River and Cobbon Creek; and 2. after the later of the third anniversary of the

ALLEGATION IN A SUBMISSION OF HISTORICAL FAILURE BY SNOWY HYDRO TO COMPLY WITH THE SNOWY WATER LICENCE	HAS SNOWY HYDRO IN FACT COMPLIED WITH THE SNOWY WATER LICENCE?	EXPLANATION
		<p>Corporatisation Date and the date of commissioning of the outlet works at Jindabyne Dam: from Jindabyne Dam.</p> <p>Clause 8.1 of Part Three of Schedule Three to the <i>Snowy Water Licence</i> says that “Subject to the other provisions of this Schedule Three, 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”.</p> <p>Therefore this clause 8.1 is subject to the other provisions of Schedule Three including clause 7.2 of Part Two of Schedule Three. Clause 7.2 is not a justification. It is a requirement of the <i>Snowy Water Licence</i> which overrides clause 8.1.</p> <p>Snowy Hydro has complied with this Clause 7.2 and with clause 8.1 of Schedule Three.</p>
SHL was in clear breach of clause 6.3 of Part Two of Schedule Three of the SWL by releasing SRIFs from Jindabyne Dam before the outlet works were finished instead of from Mowamba. Snowy Hydro was “illegally discharging high flows into an area where active earthworks were being constructed”.	Complied	<p>Snowy River Increased Flows were capable of being released from Jindabyne Dam from 30 January 2006 when the Mowamba Aqueduct was reconnected at the new spillway works. The WCLC agreed that Snowy Hydro should release Snowy River Increased Flows from Jindabyne Dam from this date once the Mowamba Aqueduct had been reconnected. Snowy Hydro was therefore not in breach of clause 6.3 of Part Two of Schedule Three.</p>
It was a requirement in the Snowy Water Licence that fish ladders be constructed at Jindabyne	Complied	<p>There was no requirement under the Snowy Water Licence that fish ladders be constructed at Jindabyne Dam. Clause</p>

ALLEGATION IN A SUBMISSION OF HISTORICAL FAILURE BY SNOWY HYDRO TO COMPLY WITH THE SNOWY WATER LICENCE	HAS SNOWY HYDRO IN FACT COMPLIED WITH THE SNOWY WATER LICENCE?	EXPLANATION
Dam. This appears to have been completely forgotten.		<p>6.4 of Part Two of Schedule Three of the Snowy Water Licence sets out arrangements for cost recovery for the construction of fish ladders if they were required under Law as part of the construction of Jindabyne Dam.</p> <p>NSW Fisheries were involved in the assessment and approval of the new outlet works but did not, through the integrated development process, impose on Snowy Hydro the requirement to install fish ladders at Jindabyne Dam.</p>
Need evidence of compliance by Snowy Hydro with flushing flows requirements.	Complied	<p>Flushing Flows are set out in clause 15 of Part Four of Schedule Three to the Snowy Water Licence. Clause 15 applies only with respect to Water Years where the volume of the Snowy River Annual Allocation allocated to the Snowy River Increased Flows exceeds 100 GL.</p> <p>Since the Corporatisation Date, the volume of the Snowy River Annual Allocation allocated to the Snowy River Increased Flows has never exceeded 100 GL.</p>

ANNEXURE TWO: RECOMMENDATIONS MADE IN SUBMISSIONS THAT WERE BASED ON MISCONCEIVED ASSUMPTIONS

RECOMMENDATION BASED ON MISCONCEIVED ASSUMPTIONS	CORRECTION OF MISCONCEIVED ASSUMPTIONS
<p>Carryover of SRIF entitlement</p> <p>The Snowy River Increased Flow annual allocation was reduced in the 07/08 water year from 44.6GL to 33 GL due to drought. The 08/09 allocation will also be reduced. Some irrigators have been able to carryover allocations of high security to the following year. SWL should be amended so that the 07/08 shortfall of SRIF allocation is carried over to the next year's allocation.</p>	<p>Verified water savings and Environmental Entitlements are in the form of nominal entitlements, not allocations. If during a Water Year the allocations made in respect of those entitlements are low (i.e. due to drought), the allocation volume will be less than the entitlement volume. This was the case in the 07/08 Water Year where although the entitlement achieved from Verified Water Savings and apportioned to the Snowy River was 44.7GL, the allocation announced by the Ministerial Corporation was 33GL.</p> <p>In the same way, irrigators hold entitlements, against which annual allocations are announced by DWE. In times of drought, allocations may be less than entitlements. Some irrigators are entitled under the Water Sharing Plans for their irrigation districts to carryover a percentage of their unused entitlement in one Water Year to the next Water Year. However, it is the unused entitlement that is carried over, not the difference between their allocation and their entitlement.</p>
<p>Flow Variability</p> <p>Snowy Hydro has run the river as a flat line without any diurnal or natural variability unlike the natural variability of Mowamba releases. Flat lining of releases is not an environmental flow.</p> <p>Since construction of the turbine of Jindabyne, Snowy Hydro has released some variability but this seems to be more related to the</p>	<p>The <i>Snowy Water Licence</i> prescribes that Snowy Hydro must target equal daily releases during each month unless the Ministerial Corporation notifies Snowy Hydro of a different daily release profile in advance of the relevant month. Such a notification has only been given once by the Ministerial Corporation - for the months of September and October 2006.</p> <p>Any variability in the timing of releases from Jindabyne Dam has nothing to do with the spot price of electricity in the National Electricity</p>

RECOMMENDATION BASED ON MISCONCEIVED ASSUMPTIONS	CORRECTION OF MISCONCEIVED ASSUMPTIONS
<p>"spot" power price than with improving river health.</p>	<p>Market. This variability was explained in section 13.5 of Part Four of Snowy Hydro's submission to this 5-year Review.</p>
<p>It is recommended that Section 13 of Part Four of Schedule Three to the <i>Snowy Water Licence</i> be amended to include a requirement for the provision of daily, weekly, monthly and seasonal flow variability in Environmental Flow Releases.</p>	<p>Clauses 13.1 and 14.1 of Part Four of Schedule Three to the <i>Snowy Water Licence</i> already provide for the ability of the Ministerial Corporation to require Snowy Hydro to target specific monthly and daily volumes for release from Jindabyne Dam. There is no need to amend the <i>Snowy Water Licence</i> to achieve this variability.</p>
<p>Monthly release patterns should be adhered to with no floor of 95 ML/D for Dalgety town supply because Dalgety doesn't need 95 ML/D.</p>	<p>Given the annual volume of the SRIFs for the 2006-07 Water Year, the percentages prescribed in clause 13.3 of Part Four to Schedule Three of the <i>Snowy Water Licence</i> would have resulted, in some months, in daily flow volumes that would have been less than the volume necessary to achieve the passing flow required at Dalgety for the town water supply system to access water in the Snowy River as advised by Snowy River Shire Council.</p> <p>Accordingly, at its meeting on 6 April 2006 the WCLC agreed that the monthly distribution of SRIFs over the 2006-07 Water Year should be as per the default percentages prescribed in the <i>Snowy Water Licence</i>, modified to ensure a floor of 95 ML/d release from Jindabyne Dam across the entire year <u>so that the Dalgety supply system could continue to access water in the Snowy River.</u></p> <p>Snowy Hydro has had no advice to alter this floor and so the arrangement has been carried forward in both the 2007-08 AWOP and the upcoming 2008-09 AWOP.</p>

RECOMMENDATION BASED ON MISCONCEIVED ASSUMPTIONS	CORRECTION OF MISCONCEIVED ASSUMPTIONS
<p>Governance</p> <p>The government must separate departmental responsibilities so that the Minister with responsibility for managing the environmental flows is not also responsible for Snowy Hydro.</p>	<p>The Minister responsible for managing environmental flows is in fact different from the Minister responsible for Snowy Hydro.</p> <p>The Minister responsible for managing the environmental flows is Minister Macdonald. The sole shareholding Minister for Snowy Hydro is Treasurer Costa.</p>
<p>The Ministerial Corporation has failed to establish the properly constructed Water Consultation and Liaison Committee.</p>	<p>The WCLC was in fact established in 2002 on the taking effect of the SWIOLD.</p> <p>As required under the SWIOLD the WCLC comprises representatives from NSW DWE, Victorian Department of Sustainability and the Environment ("DSE"), the Murray Darling Basin Commission, the Commonwealth Department of Industry and Snowy Hydro.</p>
<p>It is suggested that Clause 12.4 of Part Four of Schedule Three to the <i>Snowy Water Licence</i> (the Override Provision) be removed from the Licence.</p>	<p>Clause 12.4 of Part Four of Schedule Three states that:</p> <p><i>"Despite any other provision in this Schedule Three, the Ministerial Corporation and the Licensee may agree to vary the volume of water targeted for release from Jindabyne Dam."</i></p> <p>Clause 12.4 must be read together with the other instruments that comprise the comprehensive package of regulatory and other arrangements that govern the water operations of the Snowy Scheme (including the SWIOLD and the MDB Agreement).</p> <p>Subclauses 4.2(1) and (2) of the <i>Snowy Water Licence</i> provide that the Ministerial Corporation in administering the <i>Snowy Water Licence</i> must act in a manner that is consistent with the provisions of the SWIOLD and not vary the terms of the <i>Snowy Water Licence</i> so as to cause the <i>Snowy Water Licence</i> not to give effect to the SWIOLD. In addition, under subsection 23 (3) of the <i>Snowy Hydro Corporatisation</i></p>

RECOMMENDATION BASED ON MISCONCEIVED ASSUMPTIONS	CORRECTION OF MISCONCEIVED ASSUMPTIONS
	<p><i>Act 1997 (NSW)</i> and subsection 372 (5) of the <i>Water Management Act 2000 (NSW)</i>, the Ministerial Corporation must administer the <i>Snowy Water Licence</i> so as to give effect to the provisions of the SWIOD.</p> <p>The target volumes for Snowy River Increased Flows and the details of the Governments' commitments in relation to environmental flows are set out, in legally binding form, in the SWIOD. The Ministerial Corporation cannot agree to vary the target volumes of Snowy River Increased Flows in a manner inconsistent with the SWIOD, therefore no amendment to the <i>Snowy Water Licence</i> is required.</p>
<p>Spills</p> <p>Increased spills from Jindabyne Dam should be subject to Force Majeure and not counted as a borrow against Snowy River Increased Flows.</p>	<p>Snowy River Increased Flows and accounting for increased spills from Jindabyne Dam are contained in clause 16.1 of Part Four of Schedule Three to the <i>Snowy Water Licence</i>.</p> <p>This provision recognises that if Snowy Hydro is required to operate Jindabyne Dam in a way that it would not otherwise have done in the absence of a notice from the Ministerial Corporation (i.e. keeping the level of Jindabyne Dam high enough for water to be halfway up the spillway so that it can make the required SRIFs) and there is an inflow event that causes a spill, then the additional spill should be accounted as an early release (or a borrow) of Snowy River Increased Flows. The total remaining volume of SRIF releases for that water year would then need to be reduced by the amount pre-released or "borrowed" through the spill.</p> <p>In this way the water rights of users on the western rivers are not prejudiced, and Snowy River Increased Flows are not reduced. They are just released at a different time.</p>

RECOMMENDATION BASED ON MISCONCEIVED ASSUMPTIONS	CORRECTION OF MISCONCEIVED ASSUMPTIONS
<p>Defines Terms</p> <p>Definition of Snowy River to be amended to read:</p> <p><i>“Snowy River means the Snowy River downstream of Guthega Dam”</i></p> <p>This is because Guthega and Island Bend Dams are dams on the Snowy River and should be include in the SWL.</p>	<p>The definition of “Snowy River” in the <i>Snowy Water Licence</i> defines the river into which the Snowy River Increased Flows are to be released (which is downstream from Jindabyne Dam).</p> <p>Guthega and Island Bend Dams are upstream of this release point and for this reason are included in the definition of “Upper Snowy River” in the <i>Snowy Water Licence</i>.</p>
<p>Monitoring</p> <p>The current licence provisions are inadequate to demonstrate that the outlet works are able to release water from above the thermocline, including as a minimum, monthly temperature profiles related to outlet levels and all reduced to Australian Height Datum.</p>	<p>Snowy Hydro has negotiated with DECC for a new clause be inserted into Schedule Three of the <i>Snowy Water Licence</i>. This clause is set out in the suggested variations to the <i>Snowy Water Licence</i> in Snowy Hydro’s submissions.</p>

ANNEXURE THREE: SUGGESTED AMENDMENT TO SNOWY WATER LICENCE

It is suggested that the following clause be inserted into the main body of the *Snowy Water Licence*:

LICENSEE TO REPORT ANNUALLY ON COMPLIANCE WITH THIS LICENCE

4.2 Licensee to report annually

As soon as practicable after the end of each Water Year the Licensee must make publicly available a report on its compliance with this Snowy Water Licence with respect to that Water Year ("**Compliance Report**").

4.3 Contents of Compliance Report

Each Compliance Report must relate to one Water Year and must include:

- (1) A report on the Licensee's compliance with its Snowy River Increased Flow release requirements under **clauses 11, 12, 13, 14, 15 and 16 of Schedule Three**;
- (2) A report on the Licensee's compliance with its Snowy Montane Increased Flows release requirements under **clauses 17, 21, 22, 24, 25, and 26 of Schedule Three**; and
- (3) A report on the Licensee's compliance with its Required Annual Release requirements under **clause 12 of Schedule Four**.