

# BLOWERING WATER STORAGE WORKS AGREEMENT.

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No. 95 of 1963.

An Act relating to an Agreement between the Commonwealth and the State of New South Wales with respect to Water Storage Works at Blowering.

[Assented to 1st November, 1963.]

[Date of Commencement, 29th November, 1963.]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Blowering Water Storage Works Agreement Act 1963*. Short title.

2. In this Act, unless the contrary intention appears— Definitions.

“the agreement” means the agreement between the Commonwealth of Australia and the State of New South Wales set out in the Schedule to this Act;

“the Authority” means the Snowy Mountains Hydro-electric Authority referred to in the *Snowy Mountains Hydro-electric Power Act 1949–1958*.

3. The agreement is approved. Approval of agreement.

Financial assistance.

4. The payments (including advances) by the Commonwealth to the State of New South Wales provided for by the agreement may be made, by way of financial assistance to that State on the terms and conditions contained in the agreement, out of the Consolidated Revenue Fund, which is appropriated accordingly.

Snowy Mountains Hydro-electric Authority to carry out agreement.

5. The Authority shall do all matters and things that the agreement provides shall be done by the Authority, including the keeping of accounts as provided by sub-clause (1.) of clause fifteen of the agreement and the making of any refund as provided by sub-clause (3.) of clause sixteen of the agreement.

Application of Snowy Mountains Hydro-electric Power Act.

6. The *Snowy Mountains Hydro-electric Power Act* 1949-1958 (other than sections thirty-one and thirty-three) applies to and in relation to the matters and things to be done by the Authority as referred to in the last preceding section.

Auditor-General to furnish audit report to State.

7. The Auditor-General for the Commonwealth shall give effect to sub-clauses (2.) and (3.) of clause fifteen of the agreement.

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## THE SCHEDULE.

### Section 2.

AN AGREEMENT made this thirteenth day of August One thousand nine hundred and sixty-three BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this agreement called "the Commonwealth") of the one part and THE STATE OF NEW SOUTH WALES (in this agreement called "the State") of the other part:

WHEREAS the agreement (in this agreement called "the Snowy Mountains Agreement") made on the eighteenth day of September One thousand nine hundred and fifty-seven between the Commonwealth, the State and the State of Victoria and scheduled to the *Snowy Mountains Hydro-electric Power Act* 1949-1958 of the Commonwealth contained a provision, namely clause 6, reading as follows:—

"6.—(1) The State of New South Wales shall for the purpose of regulating waters of the Tumut River and the waters diverted thereto from the Eucumbene, Tooma or Murrumbidgee River catchments—

(a) as soon as is practicable construct, or cause to be constructed, storage works on the Tumut River at Blowering or at such other site on that river, and of such capacity, as that State determines;

(b) at all times maintain and keep those works in good order and condition.

(2) The Authority shall have the right to install at this storage a generating station of such capacity as it may determine.

(3) If requested by the Authority before the State commences the construction of the said storage works so to do, the State shall, in the construction of works under this clause, make provision for the installation by the Authority of a generating station pursuant to the last preceding sub-clause.

(4) The Authority shall contribute such proportion of the cost of the works to be constructed under this clause as is agreed upon, after the site and capacity of the storage works and the capacity of the generating station referred to in this clause have been determined, by the Commonwealth and the State of New South Wales."

AND WHEREAS the Snowy Mountains Hydro-electric Authority (in this agreement called "the Authority") being the corporation referred to under that name in the *Snowy Mountains Hydro-electric Power Act* 1949-1958 of the Commonwealth, the

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*Snowy Mountains Hydro-electric Agreements Act*, 1958 of the State, and the *Snowy Mountains Hydro-electric Agreements Act* 1958 of the State of Victoria may, under sub-section (2.) of section 16 of the *Snowy Mountains Hydro-electric Power Act* 1949-1958 of the Commonwealth, have, perform or exercise a capacity, function, power, authority or duty conferred or imposed upon it by an Act of the Parliament of the State of New South Wales or the State of Victoria:

AND WHEREAS the State desires to arrange for the construction of the said storage works on the Tumut River at Blowering (which storage works are in this agreement called "the Blowering storage works") at a site and of a capacity determined by the State and referred to in this agreement:

AND WHEREAS the Authority proposes to request the State to make provision for the installation by the Authority of a generating station of a capacity to be determined by the Authority, which the State is required to do under the said clause 6 of the Snowy Mountains Agreement:

AND WHEREAS the State has requested the Authority to undertake the design and construction of part of the Blowering storage works at the cost of the State, to which the Commonwealth is agreeable:

AND WHEREAS the State has sought financial assistance from the Commonwealth towards the cost of designing and constructing the Blowering storage works:

AND WHEREAS the Government of the Commonwealth has agreed to submit to its Parliament legislation providing under section 96 of the Constitution of the Commonwealth for a grant of financial assistance to the State in the manner, to the extent, and on the terms and conditions contained in this agreement:

AND WHEREAS this agreement is conditional on the State passing legislation to authorize and empower the Authority to carry out this agreement:

NOW IT IS HEREBY AGREED by and between the parties to the agreement as follows:—

PART I.—GENERAL.

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| 1. The Government of the Commonwealth will, as soon as practicable after the date of this agreement, submit to its Parliament legislation approving this agreement and providing under section 96 of the Constitution of the Commonwealth for a grant of financial assistance to the State in the manner, to the extent and on the terms and conditions contained in this agreement.                                                                                                                                            | Approval of agreement by Commonwealth. |
| 2. The Government of the State will, as soon as practicable after the date of this agreement, submit to its Parliament legislation approving this agreement, authorizing and empowering the Authority to carry out this agreement, and repealing or amending section 4 of the <i>Blowering Dam Act</i> , 1951 of the State so as to enable this agreement to be carried out.                                                                                                                                                    | Approval of agreement by State.        |
| 3. Except as hereinbefore provided, this agreement shall have no force or effect and shall not be binding on the parties unless and until it is approved by the Parliaments of the Commonwealth and of the State and until the legislation referred to in clauses 1 and 2 of the agreement has been passed and it shall commence and come into full force and effect when it is approved by the Parliaments of the Commonwealth and of the State and the legislation referred to in clauses 1 and 2 of the agreement is passed. | Commencement of agreement.             |
| 4. The Commonwealth will secure the performance by the Authority of its obligations arising pursuant to this agreement.                                                                                                                                                                                                                                                                                                                                                                                                         | Performance by Authority.              |

PART II.—CONSTRUCTION OF THE BLOWERING STORAGE AND GENERATING STATION WORKS.

5.—(1.) The Blowering storage works shall be the works required to regulate the Tumut River and the waters diverted thereto from the Eucumbene, Tooma and Murrumbidgee River catchments in accordance with clause 6 of the Snowy Mountains Agreement.

(2.) The Blowering storage works shall provide a storage of an approximate capacity of 1,300,000 acre-feet of water and shall be constructed at Blowering about 11 miles upstream from the town of Tumut.

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(3.) The Blowering storage works shall consist of and include—

- (a) a dam across the Tumut River of a height sufficient to store about 1,300,000 acre-feet of water, together with incidental works associated therewith;
- (b) a spillway and outlet works, together with incidental works associated therewith;
- (c) re-location of existing roads, together with structures incidental thereto, and re-location or re-establishment of other existing services, including transmission lines and telephone lines;
- (d) silt dams and weirs on the Tumut River and tributaries upstream of the storage to prevent siltation within the reservoir, and works necessary for the protection of the foreshores of the storage, if field investigations show these dams, weirs and works to be necessary and if they are carried out within the period referred to in clause 11 of this agreement;
- (e) the acquisition of the land required for the construction of the dam, spillway, outlet works, and incidental works, and for ultimate inundation, and for the re-location of existing roads, together with structures incidental thereto, and services, including transmission lines and telephone lines, and for the silt dams and weirs and for works necessary for the protection of the foreshores.

(4.) The generating station and any other works associated with the generating station (in this agreement collectively called "the generating station") to be installed in association with the Blowering storage works will be of a capacity to be determined by the Authority.

Design of storage works.

6. The Authority will, under the authority and power conferred by the legislation of the State as aforesaid, design that part of the Blowering storage works referred to in paragraphs (a) and (b) of sub-clause (3.) of clause 5 of this agreement (which part is in this agreement collectively referred to as "the dam").

Construction of dam.

7.—(1.) The Authority will, as agent for the State, and under the authority and power conferred by the legislation of the State previously referred to, construct or cause to be constructed the dam.

(2.) The whole or any part of the construction of the dam may be carried out under a contract or contracts with a contractor or contractors in accordance with the Authority's established procedures, under which contract or contracts the Authority will be expressed to contract as agent for the State, and the Authority will administer and supervise those contracts and make all payments in respect of them on behalf of the State.

(3.) The Authority will ensure that the works are constructed efficiently and in accordance with sound engineering and financial practices, but those works and all acts and operations in carrying out those works shall be at the sole cost and risk of the State.

(4.) Each contract entered into by the Authority under this clause shall be drawn so as to enable the State to proceed directly against the contractor in respect of any breach of the contract or any defective work or negligence on the part of the contractor or his sub-contractors or employees.

State to have final decision in major matters.

8.—(1) In the event of any difference of opinion between the Authority and the nominated Department as to any major matter of design or construction of the dam the State shall have the final decision.

(2.) The State shall have the final decision on the acceptance of tenders for the dam.

Work to be carried out by the State.

9.—(1.) The State will carry out the works referred to in paragraphs (c), (d) and (e) of sub-clause (3.) of clause 5 of this agreement.

(2.) The State shall ensure that the works to be carried out by it are carried out efficiently and in conformity with sound engineering and financial practices.

State to acquire land.

10. The State will acquire an estate in fee simple in all lands other than Crown lands required for the Blowering storage works, the land to be inundated, and the generating station, and will grant the Authority free use of such portion of those lands as the Authority considers necessary for the purposes of this agreement.

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11. The State and the Authority will discharge their respective obligations and responsibilities under this agreement in such a manner as to permit the design and construction of the Blowering storage works to proceed in accordance with a programme agreed between them so that those works will be in service within six years from the date of this agreement, unless otherwise agreed between the parties to this agreement.

Programme  
of work.

12.—(1.) The State will supply to the Authority all design and construction data in relation to the construction of the dam available to the State at the date of this agreement.

Consultation.

(2.) The Authority will from time to time consult with the State Department nominated for the purpose by the State (in this agreement called "the nominated Department") on major matters of design and construction of the dam, and will keep that Department informed on technical aspects of design and construction including test results and provide "works as executed" drawings.

(3.) The Authority will ensure that officers of the nominated Department are afforded opportunities to observe the various phases of construction of the dam.

13. The State will, for the duration of the construction of the dam and the generating station, if requested by the Authority so to do, make available to the Authority and its employees, and to the Authority's contractors and their employees, as determined by the Authority, all existing accommodation and other facilities owned by the State at or in the vicinity of the Blowering storage, except so far as they are required by the State for other works.

State to make  
available  
existing  
facilities at  
Blowering.

14.—(1.) The State will pay to the Authority all expenditure incurred by the Authority in designing, and constructing or causing to be constructed, the dam.

Payment of  
expenditure  
by State.

(2.) This expenditure will include a due allowance for the salaries and wages of the Authority and its employees, and for general and overhead charges computed in accordance with the present practices and procedures of the Authority, and will include all payments to contractors engaged by the Authority in connexion with the construction of the dam and any amounts paid by the Authority as compensation or damages in respect of or arising from the construction of the dam.

15.—(1.) The Authority will keep separate accounts of its expenditure in connexion with the design and construction of the dam, applying for that purpose its present practices and procedures for the allocation of general and overhead charges.

Separate  
accounts to  
be kept by  
Authority.

(2.) The accounts so kept will once at least in each year be subject to audit by the Auditor-General of the Commonwealth, who shall certify the amount of the expenditure incurred by the Authority in respect of each financial year in connexion with the design and construction of the dam, and payable by the State in accordance with clause 14 of this agreement.

(3.) A report on the audits carried out under the last preceding sub-clause and on the certificates referred to in that sub-clause in respect of each financial year shall be furnished by the Auditor-General of the Commonwealth to the State as soon as possible after the completion of the financial year.

16.—(1.) The State will maintain a cash advance to the Authority on the imprest system of an amount sufficient to meet the expenditure incurred by the Authority from time to time in respect of the construction and design of the dam.

Working  
advance  
by State.

(2.) The expenditure so incurred by the Authority shall be reimbursed to the Authority by the State monthly.

(3.) The unexpended balance, if any, of the amount of the cash advance at the date of the handing over of the dam to the State shall be refunded by the Authority to the State.

17. The State will assume all liability and responsibility for the Blowering storage works and for their maintenance and operation.

State to  
assume all  
liability  
for works.

**PART III.—USE OF BLOWERING WATER FOR IRRIGATION.**

18. The State undertakes that—

(a) within six months after the date of completion of the Blowering storage works, it will make available for application a minimum of 70 large irrigation farms within the Coleambally Irrigation Area or other Irrigation Areas within the Murrumbidgee Valley, if sufficient water is then stored in those storage works to ensure that the farms can be developed with safety;

State to  
make full  
use for  
irrigation of  
water stored.

- (b) it will, after the date of completion of the Blowering storage works, make available within the Coleambally Irrigation Area such number of horticultural farms as may, having regard to the demand for this type of farm, be found practicable and desirable; and
- (c) subject to paragraphs (a) and (b) of this clause, it will, within ten years from the date of completion of the Blowering storage works, unless otherwise agreed between the parties to this agreement, by progressively making available further large area farms in the Coleambally Irrigation Area or other Irrigation Areas within the Murrumbidgee Valley or by other means, have fully utilised all the additional water to be provided by the construction of those works.

PART IV.—FINANCIAL ASSISTANCE.

**Financial assistance.**

19.—(1.) Subject to compliance by the State with the provisions of this agreement, other than clause 18 thereof, the Commonwealth will in accordance with and subject to the provisions of this agreement provide financial assistance to the State towards meeting the cost incurred by the State after the date of this agreement of the design, construction and carrying out of the Blowering storage works (which cost is in this agreement referred to as “the cost incurred by the State”).

(2.) The cost incurred by the State shall be deemed to include the amounts paid by the State to the Authority in accordance with clause 14 of this agreement.

**Payments by Commonwealth.**

20.—(1.) The Commonwealth will, at the request of the State from time to time, and subject to the provisions of this agreement, make payments to the State in pursuance of the last preceding clause of amounts equal to one-half of the cost incurred by the State.

(2.) The Commonwealth may, at the request of the State and at such times as the Treasurer of the Commonwealth thinks fit, make advances of such amounts as the Treasurer thinks fit to the State on account of amounts that may become payable to the State under the last preceding sub-clause.

(3.) An amount advanced by the Commonwealth under the last preceding sub-clause may be deducted by the Commonwealth from amounts to be paid subsequently under sub-clause (1.) of this clause, or, if there are no further amounts to be paid under the last-mentioned sub-clause, shall be refunded by the State to the Commonwealth at the request of the Treasurer of the Commonwealth.

(4.) The State will furnish to the Treasurer of the Commonwealth such documents and other evidence in support of each request by the State for a payment to it by the Commonwealth under sub-clause (1.) or sub-clause (2.) of this clause as the Treasurer may from time to time reasonably request, whether the request by the Treasurer is made before or after the Commonwealth has made a payment pursuant to the request by the State.

**Use of advances.**

21. The State will not use or apply any payment made to it by the Commonwealth under this agreement except for the purpose of meeting or reimbursing the cost incurred by the State.

**Interest.**

22.—(1.) The State will pay to the Commonwealth interest on so much of a payment made to the State by the Commonwealth as is for the time being not repaid calculated from the date on which the payment was made at the rate provided in this clause.

(2.) The first payment of interest accrued on a payment made to the State by the Commonwealth will be made six calendar months after the date on which the payment was made and thereafter interest accrued on that payment will be paid at half-yearly intervals.

(3.) The rate at which interest is payable by the State under this clause in respect of each Commonwealth payment shall be the rate payable on the long term loan last raised by the Commonwealth in Australia for public subscription prior to the date upon which the payment was made.

**Repayments by the State.**

23.—(1.) Subject to sub-clauses (2.) and (3.) of this clause, the State will repay to the Commonwealth each payment made by the Commonwealth under this agreement by twenty equal consecutive half-yearly repayments, the first repayment in respect of a Commonwealth payment to be made on the expiry of ten years from the date on which the Commonwealth payment was made and subsequent repayments to be made at half-yearly intervals thereafter until the final repayment has been made.

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(2.) The Treasurer of the Commonwealth and the Treasurer of the State may at any time arrange for any payments made by the Commonwealth under this agreement and not repaid by the State to be consolidated, and repayment of, and payment of interest on, those payments shall thereafter be made by the State to the Commonwealth in accordance with the arrangement so made instead of on the dates ascertained in accordance with sub-clause (1.) of this clause and clause 22 of this agreement.

(3.) The State may at any time after giving to the Commonwealth at least one month's notice of its intention so to do repay to the Commonwealth the whole of the unrepaid balance of a Commonwealth payment together with interest accrued thereon to the date of repayment by the State.

24.—(1.) The accounts, books, vouchers, documents and other records of the State relating to the cost incurred by the State shall be subject to audit by the Auditor-General of the State. **Audit.**

(2.) Until such time as the Blowering storage works are completed, all amounts to be paid by the Commonwealth under this agreement are paid, and supporting evidence to the satisfaction of the Treasurer of the Commonwealth in relation to the amounts paid is furnished by the State, a report on the audits and on the financial statements in respect of each financial year shall be furnished by the Auditor-General of the State to the Treasurer of the Commonwealth as soon as possible after the completion of the financial year, indicating inter alia—

- (a) whether the financial statements are based on proper accounts and records and are in agreement with those accounts and records; and
- (b) whether the expenditure of moneys is in accordance with the agreement,

and including reference to such other matters arising out of the audits and financial statements as the Auditor-General of the State considers should be reported to the Treasurer of the Commonwealth.

PART V.—MISCELLANEOUS.

25. The contribution to be made by the Authority to the cost of the Blowering storage works as provided for in clause 6 of the Snowy Mountains Agreement will comprise the additional cost, if any, as agreed between the Authority and the nominated Department, incurred in the construction of such additional works, or such enlargement of works, in connexion with the Blowering storage works as may be required by the Authority in connexion with the installation of the generating station. **Authority's contribution to cost of Blowering storage works.**

26.—(1.) Either party to this agreement may determine this agreement, before any tenders exceeding in the aggregate Two million pounds for any of the works referred to in paragraphs (a) and (b) of sub-clause (3.) of clause 5 of this agreement are accepted, by notice in writing to the other party if the first-mentioned party is of opinion that the cost of the design and construction of the Blowering storage works will so substantially exceed the estimated cost as to be beyond its practicable financial capacity at that time. **Determination of agreement.**

(2.) The estimated cost for purposes of this clause shall be the estimated cost as agreed between the Authority and the nominated Department as soon as practicable after the date of this agreement.

(3.) When a notice of determination has been given under sub-clause (1.) of this clause, all future obligations of the parties under the agreement shall thereupon cease to be binding but without prejudice to—

- (a) the obligations of the State to repay to the Commonwealth moneys paid to it by the Commonwealth under this agreement, together with interest thereon as provided in this agreement;
- (b) the obligation of the State to pay to the Authority any amount payable or which if it were not for the determination of the agreement would otherwise become payable under clause 14 of this agreement;
- (c) the rights and obligations of the State, the Authority or a contractor under or in respect of any contract previously entered into by the Authority on behalf of the State under this agreement; or
- (d) the rights and obligations of the State under sub-clause (3.) of clause 7 or under clause 17 of this agreement.

27. The State will from time to time at the request of the Commonwealth or the Authority furnish to the Commonwealth or the Authority, as the case may be, and the Authority will from time to time at the request of the State furnish to the State, such documents and information as may reasonably be required for the purpose of or in relation to this agreement. **Supply of information.**

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Notices.

28. Any notice, request or other communication to be given or made under this agreement by the Commonwealth or the Treasurer of the Commonwealth to the State shall be deemed to have been sufficiently given or made if it is in writing signed by the Treasurer of the Commonwealth or by any person thereunto authorized in writing by him, and any notice, application or other communication to be given or made by the State to the Commonwealth or to the Treasurer of the Commonwealth shall be deemed to have been sufficiently given or made if it is in writing signed by the Treasurer of the State or any person thereunto authorized in writing by the Treasurer of the State.

IN WITNESS WHEREOF this agreement has been signed on behalf of the parties thereto the day and year first above-written.

SIGNED for and on behalf of the Commonwealth of Australia by the Right Honourable Sir Robert Gordon Menzies, the Prime Minister of the Commonwealth, in the presence of— } ROBERT G. MENZIES

W. H. SPOONER

Minister of State for National Development.

SIGNED for and on behalf of the State of New South Wales by the Honourable John Brophy Renshaw the Acting Premier of the State, in the presence of— } J. B. RENSHAW.

G. M. GRAY