# More evidence for why an inquiry is needed into HIE's mismanagement of Cairngorm Mountain

## Description

Administrator's report shows HIE spent £450k to buy troubled business

**Funicular closure was final nail in the coffin**

By Gavin Musgrove
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HIGHLANDS and Islands Enterprise paid out nearly £450,000 to save Cairngorm Mountain and retain the 70 jobs at the resort, it has emerged.

Details of the sale are revealed in documents just lodged by the administrator Campbell Dallas with Companies House.

They also show Cairngorm Mountain Ltd had already come close to going bust before entering administration at the end of November, last year.

Directors had sought further funding from Highlands and Islands Enterprise in the lead-up to bale out the operation but without success.

HIE paid £140,000 upfront to meet the wage bill for November and on-going trading costs to December 14 when it bought the business as Cairngorm Mountain (Scotland) Ltd. The total cost was £447,540.

The statement of administrator's proposals said CML's seasonal challenges came to a head in the 2016/17 winter season when the resort experienced its worst lack of snow in 30 to 40 years "putting significant financial pressure on the business".

The report states: "If not for the strength and trading diversity of the NAIL group of companies, and close relationship with HSBC, the company would not have survived this period."

But the closure of the funicular in late September, 2018, on safety grounds was the decisive blow resulting in a "sudden 90 per cent loss in revenue".

It continues: "Without its primary source of revenue the business quickly became unsustainable.

"The directors sought funding from HIE as the landlord and ultimate owner of the railway as the shareholder was not in a position to provide any further funding until the situation with the railway was resolved."

In the absence of further funding, administrators were appointed to handle the sale of the business and assets. They entered into an exclusivity agreement with HIE immediately after taking over.

HIE also acquired the Cairngorm Mountain name meaning that the winding up of the previous business is under CML Realisations Ltd.

At the time of administration, 24

**"Without its primary source of revenue the business quickly became unsustainable.**
Administrator's report

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**Community control 'a must' for resort**

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debts were due to the company amounting to £98,484. There was £14,308 cash and £50,738 in the bank.

There will be sufficient funds available to allow some repayments to unsecured creditors but details are not listed nor the money owed.

But a Freedom of Information Request has revealed HIE is still owned nearly £119,000.

The report states: "The timing and level of dividend is uncertain at this stage as it remains subject to future realisations from the remaining pre-administration debtors, the costs and expenses of the administration and adjudication on unsecured creditor claims."

An HIE spokesman said: "HIE will submit a claim to the administrator for outstanding debts due by CML when it went into administration. The total is £118,374.62, made up of rent arrears and insurance arrears."

The administrator wants nearly £95,000 plus VAT in fees. Its spokesman said: "The joint administrators will not be adding to the information or commenting on the contents of the document."

The business that went bust was formed in 1966 as the Cairngorm Chairlift Company Ltd.

The company's shares were bought by Natural Assets Investments Ltd in June 2014 and a 25-year operating lease was agreed.

Alan Brattey, Save the Ciste spokesman, said: "No diversification whatsoever took place in almost four years and six months when the mountain business was in the hands of a private business.

"Complete reliance on the funicular railway has led the business into the present ongoing crisis and this disaster is fully down to HIE's failed strategy.

"It's time now for the Scottish Government to remove HIE from any direct involvement in owning and/or operating the hill business."

Mike Gale, Aviemore Business Association chairman, said: "We expressed our concerns to HIE in two meetings about how the business had no money and both times they said they were in a strong financial position and yet here we are. Community control is a must."



The excellent report in the Strathy last week deserves wider circulation.

The Report in the Strathy last week was based on the proposals for winding up the former Cairngorm Mountain Ltd (CML) which the Administrator has lodged at Companies House (see here). This post takes a further look at what it reveals about the mismanagement of Cairngorm Mountain over the last five years.

## Background note

First, a brief explanation. The Administrators's proposals document is primarily for the benefit of the creditors – the people and organisations owed money – of CML. This was the company which operated Cairngorm Mountain and which Highlands and Islands Enterprise sold to Natural Assets Investment Ltd (NAIL) in 2014. CML was "operated" by "Natural Retreats" for four years before it became insolvent and entered into administration on 29th November 2018. The Administrators then sold CML back to HIE on 14th December. The money from the sale, together with some other assets, will be used to pay the Adminstrators fees and the remainder distributed between the creditors listed in the document.

The name of the "rump" company, while it is being wound up, has been changed to CML Realisations Ltd. This is to enable HIE to use the name CML for their new subsidiary which now operates Cairngorm Mountain.

## The cost to the public purse

Last month Parkswatch outlined some of the likely costs (see here) of HIE's decision to outsource Cairngorm Mountain. The Administrator's document helps fill in some of the gaps.

> A total sale consideration of £447,540 was received a
> on 14 December 2018.



HIE sold CML to NAIL for just £231,239 in 2014 so has bought it back for almost double the price it sold it for. That alone deserves a public inquiry.

When HIE sold CML they agreed to pay £1.7m for delapidation works – ie the cost of returning the infrastructure at Cairngorm into a fit state for the new operator. HIE's 25 year lease with CML then required it to maintain all those assets. That was fair enough except the evidence shows that during the four years that NAIL owned CML, they failed to do this. HIE's new company, Cairngorm Mountain Scotland Ltd, have already had to start picking up the costs as is shown by HIE's announcement yesterday of new "safety upgrades" (see here). That is spin for describing CML's l failure to maintain infrastructure properly. What the total cost of all these maintenance failures, including the car park and the Day Lodge, will be remains to be seen.

A second element of the cost equation is the value of the assets belonging to CML, as opposed to those owned by HIE but operated by CML (buildings and lift infrastructure). On the face of it the assets owned by CML have increased in the four years since HIE sold CML and both HIE's sale and repurchase were for knockdown prices:

## 20 PURCHASE OF SUBSIDIARY UNDERTAKINGS

On 11 June 2014 the company purchased the entire issued share capital of CairnGorm Mountain Ltd. for a total consideration of £231,239. This has been accounted for using the acquisition method of accounting.

| | Book value | Fair value adjustment | Fair value |
|---|---|---|---|
| | £ | £ | £ |
| Net assets acquired: | | | |
| Tangible fixed assets | 471,958 | - | 471,958 |
| Stocks | 37,125 | - | 37,125 |
| Debtors | 193,574 | - | 193,574 |
| Cash at bank and in hand | 238,212 | - | 238,212 |
| Creditors | (439,915) | - | (439,915) |
| Pension asset | 114,000 | (60,271) | 53,729 |
| | 614,954 | (60,271) | 554,683 |
| Negative goodwill | | | (323,444) |
| | | | 231,239 |
| Discharged by: | | | |
| Cash consideration | | | 291,510 |
| Balance to be re-paid included in other debtors | | | (60,271) |
| | | | 231,239 |



Extract from NAIL accounts showing that HIE sold the company for less than half its book value

# In

## CML Realisations Limit
## Estimated Statemen



ASSETS
Kassbohrer Pisten Bully
Kassbohrer
Surplus c/d

Plant & Machinery
Stock
Book Debts
VAT Refund
Cash at Bank
Cash in hand / floats
Surplus b/d

LIABILITIES
PREFERENTIAL CREDITORS:-

Extract from Statement of Affairs in the Administrator's proposals

According to this, HIE appears to have bought back CML for a bargain price as the estimated value of its assets (£859,738)  are almost twice what it paid (£447, 540).

The first word of caution is that this Statement of Affairs comes from the Directors of CML and as the Administrator makes clear has NOT been audited. The second is that the last accounts of CML ( till December 2017) showed the value of plant and machinery as £614,055 so, if the Statement of Affairs is to believed, NAIL would have had to invest well over £400k (before depreciation) in new plant and machinery in the last 18 months.  Maybe they did, maybe they didn't (the snow making machines wre bought by HIE).  To work this out properly,  HIE should be required to provide a full list of assets belonging to CML at the time it was sold compared to the assets it has bought back and the cost of making up any shortfall.

Other information from the Administrator's Proposals about  the costs to be picked up by the public purse includes:

- The £140k, referred to in the Strathy article,  which HIE paid upfront to meet the costs of staff wages and arrears during the period the company was in administration
- £20,240 owed to Highland Council
- The hole in the pension fund:



5. A claim has been received from the Pension F
has not been included in the directors' Statem

The document omits, however, the £118,374 of  insurance and rent arrears owed to HIE (see here)

## Wider costs

Besides the costs to the public sector, the bulk of which is being picked up by HIE, the Administrator's document lists 154 creditors (apart from HIE) who appear to be owed (its illegible) around £650k.  A significant proportion of these debts (c£150k) is owed to "Natural Retreats" related companies (see below) but the rest will have implications for the future operation of Cairngorm and the Speyside economy.

While the £447,450 HIE paid to rescue CML will be added to the cash already taken by the administrator to settle with creditors, a large chunk will go on the Adminstrator's mouth watering fees (£277 an hour):

Attached at Appendix III is a schedule that summarises the time that has been spent in dealing with the administration up to 18 January 2019. The joint administrators' post-administration time costs amount to £80,596.10, exclusive of VAT. The joint administrators and their staff have spent 290.6 hours dealing with affairs of the Company in the period from 29 November 2018 to 18 January 2019, at an average hourly rate of £277.34, together with disbursements of £2,035.16 plus VAT.

In addition, the joint administrators and their staff incurred pre-administration time costs and disbursements amounting to £12,113.90 and £66.15 respectively, both amounts exclusive of VAT. A total of 32.6 hours were spent dealing with the events leading up to the appointment, at an average hourly rate of £371.59.

While far from familiar with most of the companies listed as creditors, they appear to fall into three main groups:

- General suppliers, including local suppliers (food, office equipment, fuel etc). Many of these are owed relatively small sums although its too soon to ascertain the impact on the organisations concerned.
- Contractors, including those involved in developing HIE's new vision for Cairngorm (plans for the Ptarmigan etc). These sums vary from the large (£126,386 to Graham and Sibbald who are surveyors and property consultants) to the smaller (£4 438 to ADAC Structures whose very professional reports campaigners have used to expose the failures of maintenance at Cairngorm Mountain).
- Suppliers of ski infrastructure and equipment, with £48,116 being owed to Garaventa, £6, 809 to Techno Alpin (the snow making machine manufacturers) and £25,950 to Ski Data Scandinavia.



HIE has already stated it will NOT meet any money owing to creditors. It will be interesting to see what the knock on implications are for Cairngorm. Some companies may refuse to provide equipment or services in future, given what has happened, but others may decide to get their money back by hiking their prices – again with consequences for the public purse.

The central issue, however, is that all these creditors have been betrayed. In September 2018 the Directors of CML signed off the accounts that declared it a going concern for another year (even though the funicular had already broken down) with a guarantee from its ultimate owner David Michael Gorton. Because of this guarantee, the legitimate expectation of all these companies would have been that they should get paid, despite the parlous financial position at Cairngorm and NAIL whose net liabilities stood at £35,642,655.

I wrote to HIE before Xmas asking them to help hold to account the Company Directors for their statement that CML was a Going Concern. I have not had a response. Creditors, however, can take up this matter with the Administrator who has a legal responsibility to ensure that Company Directors have acted within the law:

# 8 OTHER INFORMATION TO ASSIST CI

## 8.1 Directors Conduct

As part of the joint administrators' statu
the directors in the three years prior to a
be a shadow or de facto director in relat
Company and the cause of the failure
Insolvency Service.



As part of the joint administrators' inv
matters, the following:

- Statutory compliance issues
- Misfeasance or breach of duty
- Transactions at an undervalue

The Creditors should now do so as HIE, it appears, have too much dirty washing to provide a lead on this.

### The outsourcing debacle

> Turning to more recent history, in June 2014 the Co
> Natural Assets Investments Limited ("NAIL"), follov
> Highlands & Islands Enterprise ("HIE"). The C
> operating lease with HIE (owners of the Cairngorm E
>
> The following information has been provided by NA
>
> "A detailed business plan was created as part of the
> changing the seasonal nature of the business a
> snowsports season, subject to extreme weather vari
> during the summer period which traditionally
> Cairngorms National Park, Aviemore and surround
> this plan were to be funded by a £4m loan from HIE.



This extract from the Adminstrator's report provides most of what you need to know to understand what has gone wrong at Cairngorm.

- HIE sold CML to NAIL, a company which was already effectively bankrupt (and only certified as a Going Concern because of guarantees from its ultimate owner the hedge fund manager David Michael Gorton).
- HIE knew this at the time because, as part of the tender process they agreed to provide a £4m loan to cover the cost of NAIL's – or was it Natural Retreats? – business plan. This is highly irregular. The tender documents say nothing I can see about a £4m loan being on the table for potential tenderers. Was this offer also made to them? Imagine what the local community could have done with that sort of financial assistance?
- Having sold CML and then entered a 25 year lease with the new owners, HIE had no bargaining chips left at Cairngorm. Had it tried to terminate its lease with CML, CML could have simply threatened to flog off the assets and HIE would have faced similar costs to what it has just had to pay to buy back CML. The arrangement meant "Natural Retreats" had HIE over a barrel. This

helps explain why HIE failed to enforce the terms of its lease, despite numerous breaches. That in turn has led to the further rundown of assets at Cairngorm.

These disastrous arrangements were set up by Charlotte Wright, who is now HIE's Chief Executive. What's more they were fully approved by HIE's Board:

## 2.2 Cairngorm Mountain updat

*Susan Smith joined the meeting.*

The Director of Business and Secto
the key work areas between HIE a
new operator of Cairngorm Mount
Board's approval of Natural Retreats
on 11 June 2014, a series of agree
including agreement between HIE a
purchase of shares in the previo
approval of a loan up to a maximum
expenditure of £1.7m on dilapidatio
enhancement. A suite of legal doc
been agreed between HIE and the
established to ensure effective gov
Risk and Assurance Committee.



The Board welcomed the updatd a
other HIE staff involved in achievir
economy.

Extract from Minute of HIE Board Meeting which took place on 10/07/14 obtained by FOI

So what was the legal basis for the HIE Board appointing Natural Retreats through the tender process but then selling CML to a separate company which, it appears, had not been subject to any due diligence procedures or party to the tender process?

The HIE Board appear fully implicated in what has gone wrong at Cairngorm and are therefore, unless there is political intervention, extremely unlikely to hold their Chief Executive to account.

## Relationships between CML, the NAIL group of companies and "Natural Retreats"

As stated above, a significant number of the creditors listed by the Adminstrator come from companies associated with NAIL and "Natural Retreats". Had the Directors of CML settled debts to those companies before those owing to others, they would of course opened themselves up to legal action. What is surprising therefore is not that money is owed to related companies, but the sheer extent of the transactions.

How, for example, did CML come to owe these sums to other companies owned by NAIL: NA Lews Castle £220.02; Yorkshire Dales Ltd £2,454 or £382 to Natural Outfitters who operated a shop at the Day Lodge?



Why did CML owe £3,243 to Natural Retreats US and £19,165 to the new Natural Retreats UK (a completely separate company to the former Natural Retreats UK which was set up AFTER the old Natural Retreats UK changed its name to the UK Great Travel Company). Was this for software or some similar service?

Interestingly, £85,462 is recorded "NR Manag Fee" and appears to refer to the management fees paid by CML to "Natural Retreats"/the UK Great Travel Company. That has been secret up till now but from the records it appears that CML was paying £41,527 each period. That's basically £500k a year. HIE has always said that this was a matter for CML and the Natural Retreats – confirming that they had no contract with Natural Retreats – but it begs the question just how HIE decided outsourcing Cairngorm would provide good value.

Then there is the £12,555 which is recorded as owing to Gibson Lawson McKee. This appears to be the Gibbon Lawson and McKee in which NAIL purchased a shareholding back in 2012-13 but sold in 2016:

During the year ended 31 March 2013, the company acquired a 33% shareholding in Gibbon Lawson McKee Limited. Whilst the shareholding would represent an associated undertaking, the financial statements do not include the appropriate share of the results and reserves of this undertaking as it is not considered material to these consolidated financial statements and would be of no value to its members.

The picture is of a tangled web of financial interests and transactions. There may be nothing unlawful in any of it but there is enough to suggest that HIE should have been asking some difficult questions and it would be in the public interest now to do so.

### What needs to happen?

Clearly, something has gone very wrong at Cairngorm and the Administrator's proposals adds to the evidence for this and what the final cost to the public purse of HIE's disastrous outsourcing is likely to be. The HIE Chief Executive and Board appear to bear significant responsibility for what has gone wrong and because of this are unlikely to ever come clean. Fergus Ewing, the Cabinet Secretary responsible, has also given no public acknowledgement as yet of the need to take action. It is for that reason therefore that I and others have been calling on MSPs to initiate an independent inquiry into what has gone wrong (I am pleased to say that some are responding).

Such an inquiry is needed to understand the full costs of the debacle, learn lessons and to hold those responsible to account. Its also essential to prepare the ground for a fresh start at Cairngorm, with the land transferred from HIE's ownership and the facilities operated by the local community (and any other interests they wish to involve). Without an accurate list of assets, schedule of delapidations etc it will be impossible to cost a new plan at Cairngorm and any new community venture will be set up to fail.

While the staff at Cairngorm will be most relieved that HIE has, rightly, come to their rescue, every penny spent on rescuing Cairngorm is likely to be a penny less available for future investment. For that reason alone HIE should as a matter of urgency ask the Company Regulator to pursue the former Directors of CML for signing off the company as a going concern in September.



**Category**

1. Cairngorms

**Tags**

1. CNPA
2. Freedom of Information
3. HIE
4. Local communities
5. Scottish Government

**Date Created**
February 14, 2019
**Author**
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