

Submission to Senate Inquiry

COMMONWEALTH WATER ACT

AMENDMENT BILL

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Andrew Gregson
Chief Executive Officer

Introduction

NSW Irrigators' Council (NSWIC) represents more than 12,000 irrigation farmers across NSW. These irrigators are on regulated, unregulated and groundwater systems. Our members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton, dairy and horticultural industries.

In making this submission, NSWIC is putting the views of its members. However, each member reserves the right to make independent submissions on issues that directly relate to their areas of operation, or expertise, or any other issues that they may deem relevant.

Endorsement of the National Irrigators Council

Members of the Committee should note that the submissions made by the NSWIC have been endorsed by the National Irrigators Council.

The National Irrigators Council is the peak body for irrigators in Australia.

Detail

Irrigators are greatly concerned at the format of "consultation" taking place in key areas of change. Timeframes that are being allowed are grossly insufficient for consideration, discussion and revision of submissions. This is compounded by the overwhelming range of issues that the sector currently faces. Aside from this Inquiry into the *Water Act Amendment Bill* and the Lower Lakes / Coorong Inquiry earlier this year, the industry is currently dealing with;

- ACCC Water Market Rules;
- ACCC Termination Fees;
- ACCC Water Planning and Management;
- ACCC Water Charging Rules;
- ACCC Bulk Water Charges;
- Productivity Commission Drought Support Review; and
- Emissions Trading Scheme Green Paper

This is solely at a Commonwealth level and does not take into account the work surrounding State issues.

If governments wish to claim that they have consulted with industry, they must take into account the resource levels of peak bodies and provide timeframes which allow those peak bodies to seek input from large and diverse membership bases.

That said, NSWIC does not wish to see the passage of this legislation delayed. In keeping with the above, it is important that work on the Basin Plan can commence as

soon as possible so that adequate consultation timeframes can be adhered to in that process.

Individual Issues

1. Separation of Climate Change from New Knowledge

New Section 75(1A)

This section potentially precludes irrigators from having matters of climate change be classified as new knowledge (by reference to the NWI) for the purposes of risk assignment.

From the early discussions with respect to the NWI right through the consultation with respect to the *Water Act 2007*, irrigators have made the point that the definition of what is climate change and what is new knowledge has not been determined. This determination will have significant implications for irrigators with respect to compensation.

NSWIC is greatly concerned that this new section will influence that determination. No consultation with industry has been evident in adding this section to the Bill. Irrigators submit that it serves no clear purpose and has the potential to seriously erode rights to compensation and should be excluded from the Bill.

2. Definition of Critical Human Needs

New Section 86 A to J

Section 86A(2) defines Critical Human Needs (CHN) in such a wide fashion as to render it effectively meaningless. In the past, this definition has allowed industries including abattoirs, feed lots and mines to access water under CHN, which clearly they are not.

NSWIC and NIC have maintained that CHN should be limited to drinking, sanitation and health only.

The Bill will entrench a definition of CHN that is ludicrous.

Further, implementation of Tiers 2 and 3 (or, importantly, the preparation for such implementation) will have impacts of irrigation reliability. This is a policy change and therefore should be compensable pursuant to the NWI risk assignment principles. This should be specified in the Bill.

3. South Australian Carry Over

The Agreement

Section 91

This new Section codifies the COAG Agreement for South Australian access to upstream storages for both CHN and private carryover. For CHN, storage must not affect water availability for NSW and VIC but it can affect storage access. Private carryover must not affect either access or availability.

A major concern, however, is that limitation on carryover for SA is not provided. In NSW and VIC, only a maximum of 100% of entitlement can be extracted in any one year. If such a maximum is not enforced on SA, there is significant potential for a breach in the cap on annual extractions, the impact of which will be felt by NSW and VIC irrigators as a drop in reliability.

Suggestions that “availability” would be interpreted to include “reliability”, whilst potentially technically correct, are irrelevant. At the stage of construction of legislation, focus should be on obviating the need for interpretation by specifying that reliability will not be affected.

A simple method of dealing with this issue is to describe – explicitly – the SA carryover provisions as policy change, hence triggering Clause 50 of the National Water Initiative (risk assignment).