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Submission

Environment and Communications Legislation Committee

Inquiry into the Water Amendment Bill 2015

150730

Introduction

The NSW Irrigators' Council (NSWIC) represents more than 12,000 water access licence holders across NSW. These licence holders access regulated, unregulated and groundwater systems. Our Members include valley water user associations, food and fibre producers, irrigation corporations and commodity groups from the rice, cotton, dairy horticultural industries.

This submission represents the views of the Members of NSWIC with respect to the Senate Environment and Communications Legislation Committee's *Inquiry into the Water Amendment Bill 2015*. However, each Member reserves the right to independent policy on issues that directly relate to their areas of operation, or expertise, or any other issues that they may deem relevant.

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General Comments

NSWIC has long anticipated the introduction of a legislation that would limit the amount of surface water purchases under the Water Act 2007 (Cth) and any subordinate legislation to 1500 GL. We have emphasised the need for such a cap on multiple occasions in our discussions with State and Federal Government Ministers.

A cap on surface water purchases under the Water Act will provide clarity, certainty and assurance to irrigators and Basin communities that the Federal Government is serious about its commitment to prioritise infrastructure funding and also acknowledges the social and economic impacts that the removal of large quantities of productive water from the Basin have caused in Basin communities.

The introduction of this Bill is a first step in fulfilling the Coalition's pre-election commitment on capping water purchases at 1500GL. As the Leader of the Opposition Tony Abbott stated in a letter to NSWIC in 2012, the Coalition would (if elected) move a Bill that would cap the total amount of buybacks at 1500 GL and ensure that the funds which were appropriated under the legislation to be expended on on-farm infrastructure works and not buybacks. Since this communication between the Coalition and NSWIC, the Council has continuously advocated for a legislated cap on water purchases to provide assurance to irrigators and Basin communities and limit the impacts of the buyback program.

As it is currently written, the Water Act places too much emphasis on simply "adding water" to enhance environmental outcomes instead of focusing on more effective approaches to achieving the objectives of the Act. With the additional knowledge that has been accumulated since the Water Act was first drafted, NSWIC stresses the need for a more holistic approach to water management and a focus on 'sophisticated approaches' to enhancing environmental outcomes. A cap on water purchases provides the right incentive to explore more efficient approaches to environmental watering and protects communities from unnecessary hardship of the removal of productive water out of productive agriculture, rather than the preferred investment in infrastructure and on-farm efficiencies that mitigate the removal of water from irrigation.

To reiterate our support for the 1500GL cap legislation, we have also written to the Parliamentary Secretary to the Minister for the Environment Bob Baldwin on two occasions to advise on our position on the 1500GL CAP on water purchases¹.

In our first letter, NSWIC welcomed the Parliamentary Secretary's restatement of the Government's commitment to legislate the 1500GL cap on water purchases under the Murray-Darling Basin Plan. In addition, we stated that the NSW Government had indicated to us that it is focussed on not supporting any further buybacks of water by the Commonwealth until a full assessment of the impact of the 1950GL of water already recovered is conducted and feasibility of its delivery fully assessed. We re-emphasise this point as we share the concerns of the NSW Government and our constituents over the impact of buybacks on regional communities, the effectiveness of environmental watering, and whether the current 1950GL (let alone the full 2750GL of water to be recovered for the environment) can be successfully deployed into the river system without significant third party impacts.

¹ Both letters are appended to this submission

In the second letter, NSWIC congratulated the Parliamentary Secretary to the Minister of the Environment and the Government on the introduction of the Water Act Amendment Bill 2015 to establish a cap of 1500GL on direct purchases of water by the Commonwealth. The Council emphasised that the Coalition has fulfilled its commitment to introduce this legislation and we continued to urge the Opposition to vote for the Bill. NSWIC has also urged the NSW State Government to support the Bill at the Ministerial Council and promote bipartisan support for the Amendment Bill in line with to the bipartisan support for the Basin Plan.

It is crucial that the Water Amendment Bill 2015 has bipartisan support and that irrigators and regional communities are provided with certainty over the quantity of productive water that will be recovered by the Commonwealth via direct purchases.

Water for the Environment Special Account

NSWIC has continued to raise the issue of the water recovery under the Water for the Environment Special Account. In our submissions to the House Standing Committee on Regional Australia - *Inquiry into the Water Amendment (Water for the Environment Special Account) Bill 2012* - and in our response to the 2014 statutory review of the Water Act 2007 (Cth) in which we have outlined that NSWIC supports the original wording of Part 2AA s86AA(3)(b) of the Water Amendment (Water for the Environment Special Account) Bill 2012 as it was introduced to the House of Representatives on 31 October 2012. Section 86AA(3)(b) originally stated that;

"The objective of this Part is to be achieved by:

(b) increasing the volume of the Basin Water resource that is available for environmental use by up to 450 gigalitres. (emphasis added).

Between the first introduction of the Bill and its subsequent adoption, the wording of Part 2AA was changed significantly. It now requires the Federal Government to recover 450GL of water regardless of whether or not it enhances environmental outcomes. This amended form of words which establishes the 450GL target as an absolute is concerning and in NSWIC's view conflicts with the objectives of the Water Act and the 'Water for the Environment Special Account' objectives.

NSWIC recommends an amendment to the Water Act which would reintroduce the original wording of the Amendment Bill:

'Insert into Part 2AA section 86AA(3)(b) 'up to'

Such an amendment will not only reflect the original intent of this Part of the Act but also provide the Federal Government with flexibility to only recover additional 'up water' if enhanced environmental outcomes can be achieved, without unmitigated 3rd party impacts, including further damage to the economic and social fabric of Basin communities.

Specific Comments

NSWIC would like to make the following specific comments to the Water Amendment Bill 2015.

Section 85B

Despite the attempt to simplify the terminology, NSWIC believes it is important that the wording of section 85B reflect that this limit on water purchased only relates to surface water.

NSWIC's recommendation:

Amend s 85B to include 'surface' before water purchased.

Section 85C(2)

NSWIC is concerned that the cap on surface water purchases only spans a time period until the review of the Basin Plan 2012. Contrary to second reading speech by the Parliamentary Secretary to the Minister for the Environment Bob Baldwin, such a sunset clause does not provide the certainty and assurance to irrigators and Basin communities that this limit will be a hard cap which will permanently be enshrined into the Water Act 2007 (Cth) and the Basin Plan 2012. It is NSWIC's understanding that the Coalition's commitment to cap water purchases was to introduce a permanent cap on water purchases into the Water Act and the water recovery strategy. The risk of a potential reversal to this commitment after the Basin Plan is reviewed in 2024 is a real risk for irrigators and Basin communities, in particular since the recent climate predictions that point towards the onset of an El Nino event.

NSWIC's recommendation:

Remove s 85C(2)

Section 85C(4)

NSWIC is apprehensive about s85C(4) of the Water Amendment Bill 2015, in particular subsection (b). We are alarmed that subsection (b) could enable further recovery of water beyond 1500GL cap through pressure on the Basin States to purchase water on behalf of the Commonwealth. NSWIC is concerned that this provides wrong incentives for the Basin States who might be tempted to either create further licences such as The Living Murray (TLM licence) or might enter the permanent entitlement market to recover water to offset any shortfalls.

Should s85C(4)(b) only relate to entitlements being transferred back to the Commonwealth through infrastructure rationalization and reconfiguration as indicated in the Explanatory Document, NSWIC recommends the wording to be more specific within the Water Amendment Bill to ensure that it only captures those instances.

ENDS.