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Committee Secretary
Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House

CANBERRA ACT 2600

via electronic mail: ec.sen@aph.gov.au

2 September 2015

Dear Committee,

RE: Water Amendment Bill 2015 - NSWIC Supplementary Submission

The NSW Irrigators' Council (NSWIC) would like to thank the Senate Standing Committee on Environment and Communications once again for the opportunity to attend the public hearing on the *Water Amendment Bill 2015* on Monday (24th August) and speak to our submission. The Council would like to provide the Committee with a supplementary submission relating to Senator Urquhart's remarks about the evidence provided by the Department of the Environment regarding NSWIC's submission.

In relation to the Department of Environment's response to our submission regarding s.85B of the *Water Amendment Bill 2015*, NSWIC is satisfied with the response by the Department.

In relation to the Department of Environment's response to our submission on s.85C(2), NSWIC disagrees with the Department's response and would like to point out that the comment made by Mr Slatyer does not align with our understanding of the commitment to cap environmental water purchases by the Federal Government under the Water Act 2007 (Cth) and the Basin Plan 2012.

NSWIC is of the view that the cap on environmental water purchases by the Federal Government should be enshrined in legislation without a sunset clause. While NSWIC acknowledges that the Federal Parliament is free to reconsider any piece of federal legislation at a future point in time, it should be a decision by the Government of the day whether the cap on water purchases under the Water Act 2007 (Cth) should be amended. In case s.85C(2) is retained in the *Water Amendment Bill 2015*, the cap on environmental water purchases by the Federal Government would lapse at the review point of the Basin Plan in 2022 as Mr Parker outlined and hence it would remove the commitment to provide certainty, clarity and assurance to irrigators and Basin communities about the total quantity of environmental water recovery by the Federal Government under the Water Act 2007 (Cth). NSWIC believes that such a sunset clause is inadequate, in particular since the Basin Plan will only commence its implementation in 2019 and will not be fully

implemented by 2024. As such, should the Bill be passed and signed into law, then the commitment to capping environmental water purchases at 1500GL would cease to have effect before the Basin Plan is fully implemented. NSWIC stresses that this is not our understanding about the long term commitment about a hard cap on environmental water purchases that was made to NSWIC via a letter in 2012 by the then Leader of the Opposition Tony Abbott. NSWIC submits that this long term commitment must be enshrined in the Water Act 2007 (Cth) and it should be up to the Government of the day in 2022 to move an amendment to this cap if it so wishes.

Furthermore, NSWIC would like to point out that the Department of Environment did not comment on our concerns raised in relation to s.85C(4)(d) of the Water Amendment Bill 2015. NSWIC believes that this section would further exclude the Commonwealth Environmental Water Holder (CEWH) from being bound by the 1500GL cap on environmental water purchases. As we outlined in our original submission to the Committee, NSWIC is of the view that s.85C(4)(d) of the *Water Amendment Bill 2015* does appear to incorporate greater exclusion from the 1500GL water purchase limit than just trade. Part 6, Division 1, s109(1) of the current Water Act 2007 (Cth) requires the CEWH to follow directions from the relevant Minister to a) purchase, dispose of and otherwise deal in water and water access rights; and it also instructs the CEWH b) to enter into contracts (including option contracts) for the purposes of such purchasing, disposal and other dealing. The exclusion of all of Part 6 of the Water Act 2007 (Cth) to fall under the 1500GL water purchase cap leaves too much scope for further removal of productive water from Basin communities. NSWIC submits that the Water Amendment Bill 2015 should be specific in that only restrictions on trade are excluded from the 1500GL cap as the explanatory document to the Water Amendment Bill 2015 outlines.

In conclusion, NSWIC would like to reiterate that, despite our concerns regarding s85C(2) and s85C(4)(d), the Council and its members strongly support the cap on environmental water purchases to provide certainty to Basin communities and to minimise the social and economic impacts of water recovery for the environment. We urge the committee to recommend the passage of the bill and we will continue to urge the Senate to support the bill.

Yours Sincerely,

Stefanie Schulte
Policy Manager

NSW Irrigators' Council