



NSWIC
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IRRIGATORS'
COUNCIL

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30 May 2014

Committee Secretary

Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
CANBERRA ACT 2600

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

Dear Committee,

Re: **Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014**

NSW Irrigators' Council welcomes the opportunity to provide a response to the proposed amendments to the Environment Protection and Biodiversity Act 1999 (EPBC Act).

It is our understanding that the *Amendment to the Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014* seeks to allow the Minister of the Environment to accredit State and Territory Governments to approve decisions on large mining and coal seam gas developments that 'trigger the water trigger'. In particular, the Bill seeks to amend section 46(2A) which previously prevented the Commonwealth from entering into a bilateral agreement under which a State or Territory Government could be given the responsibility for approving developments under the 'water trigger'.

We acknowledge that the proposed amendment does not remove the 'water trigger' entirely, however we hold great concerns about its application if it is transferred to the States. The current NSW legislative framework - as it relates to the protection of water resources from any negative impacts from mining and coal seam gas activities - is not adequate. In fact, recent NSW regulatory amendments suggest that coal and coal seam gas resources are likely be considered of higher importance than water resources when assessments of project proposals¹ are made.

Given these circumstances, NSWIC is concerned about the lack of detail around future safeguards and protocols for accrediting and transferring the 'water trigger' to the States, and how the States will manage the 'water trigger' process. Unless an adequate protection framework is put in place that will ensure that the 'water trigger' will be applied by the States in the same manner and under the same conditions as currently apply under the Commonwealth assessment process, we are unable to support the transfer of this function to State management.

In addition, NSWIC questions the timing of the proposed amendments. With the establishment of the bioregional assessment process currently in progress NSWIC contends that any transfer of management of the 'water trigger' function to the States is premature. Therefore, NSWIC

¹ State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

recommends that the current 'water trigger' provision within the *Environment Protection and Biodiversity Act 1999* is maintained by the Commonwealth until such time as the establishment of the bioregional assessment process is completed in 2016.

At that time, NSWIC would be open to reconsidering this issue and would seek the extension of the dialogue to include the establishment of adequate safeguards and protection mechanisms that will ensure that no unintended or perverse outcomes arise from the transferral of the 'water trigger' to the States.

In concluding we are at this stage **opposed** to the amendments and are in support of the Commonwealth retaining the power to assess and approve large mining and coal seam gas developments that have, will have, or is likely to have a significant impact on water resources under the *Environment Protection and Biodiversity Act 1999*.

Sincerely,

Mark McKenzie

Chief Executive Officer
NSW Irrigators' Council