



# National Irrigators' Council

Level 2, NFF House, 14-16 Brisbane Ave  
Barton ACT 2600  
Ph. 02 6273 3637

Ph: 02 6273 3637  
ABN: 92133308326

adjudication@acc.gov.au

## **NIC comment on ACCC collective bargaining class exemption discussion paper**

The National Irrigators' Council (NIC) appreciates the opportunity to provide a brief submission on the proposed collective bargaining class exemption outlined in the ACCC's [discussion paper dated 23 August 2018](#).

The NIC is the national peak body for irrigators in Australia. Our membership covers Irrigation Infrastructure Operators, regional irrigator representative groups, commodity peak bodies with observer members including companies involved in irrigated agricultural production.

Irrigated agricultural production was worth \$15.5 billion to the Australian economy in 2016-17 and it covers a large number of key products for Australian and export food and fibre consumption (see graph at attachment A).

NIC broadly supports the proposal to put in place a collective bargaining class exemption for small businesses in the agricultural sector. Our support focuses on two key areas:

- Capacity for primary producers to collectively bargain with processors; and
- Capacity for primary producers and related businesses (IIOs, processors etc) to collectively bargain for energy supply

We have no comment to make on exemptions outside the agriculture and energy sectors.

In offering support we feel it will be necessary to differentiate between particular sectors and would suggest that perhaps criteria based on size or turnover (only) might not appropriately tailor the exemption.

NIC understands that exemptions are currently case-by-case basis for processors and energy suppliers. NIC feels there is value in extending a broader exemption in both areas.

Primary producers supplying processors often find themselves with little market power and it would be worthwhile enabling the potential for collective bargaining. Dairy, wine and sugar are sectors that appear to have had imbalances in the past between large processors and individual growers.

NIC is aware that the ACCC has looked in detail at this relationship in the past, and currently with the inquiry into wine grapes. From this work, the ACCC may be in a position to design an exemption that might be applicable across commodities.

At this stage, NIC does not have a strong view on the size threshold. Perhaps, rather than an individual participant threshold there should be a collective threshold, reflecting some proportionate relationship to the size of the market or the target company.

NIC recognises that the peak commodity groups are closer to the grower / processor relationship than we are and we would be influenced by their views on the needs of particular sectors.

The potential for collective agreements with energy suppliers is an area NIC strongly supports extending exemptions.

In doing so we question whether it is necessary to restrict the participants in a collective agreement to being either small businesses or businesses even in a particular sector. Given the market power of large energy companies, it seems reasonable to allow a wider range of businesses to be involved in a collective agreement.

Primary producers might find their bargaining power much greater if they are able to be a part of a group involving processors or other industrial users in a region. This implies consideration to allowing in collective bargaining by more than just small business when it comes to energy supply agreements.

NIC can see the potential for a collective bargaining exemption being useful even it was only applicable to agricultural business, for example negotiating a particular tariff for irrigated agriculture (recognising the different usage profile of water pumping as opposed to cooling loads).

In determining the profile of the businesses able to be involved, we do need to recognise that Australian agriculture is undergoing consolidation with a range of businesses involved from family farms, family based corporate operations through to ASX listed agricultural companies. In a complex negotiation with an electricity supplier, the expertise and resources available to those large primary producers could be engaged to the benefit of the smaller participants in a group.

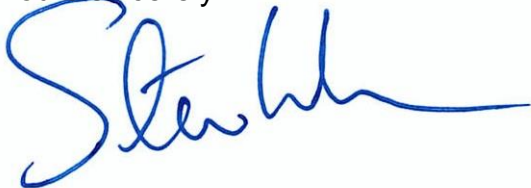
Many of our members are customer owned Irrigation Infrastructure Operators and many would not fit a small business definition. However, NIC would strongly argue that they should be able to take advantage of a broad exemption for negotiating collective agreements in the energy sector.

Outside these two areas we do point out that there is potential for negative impacts on primary producers if a general exemption allows suppliers to farmers to make collective agreements. We acknowledge that if an exemption is made it can go both ways but would be concerned if the exemption allowed, for example, a lessening of

competition in the supply of some product to primary producers, for example seed, fertilizers, machinery, fuel, harvesting and transport. This would need to be an area monitored by the ACCC to ensure the exemption meets its objectives.

NIC's comment on the paper is brief at this stage. We would be keen to be involved as the discussion proceeds via further written submission or through our involvement in the ACCC agriculture consultative committee.

Yours sincerely



**Steve Whan**

CEO

18 September 2018

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## Irrigators grow Australia's food and fibre

% of Australian production (by value) from irrigation  
(ABS 'gross value of irrigated agricultural production' 2016-17.)

