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**SUBMISSION ON PROPOSAL FOR  
NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT**

To: The Chairperson  
Board of Inquiry – Water  
Freepost Board of Inquiry – Water  
Ministry for Environment  
PO Box 10362  
Wellington 6143

**This is a submission** from Irrigation NZ inc. on the Proposed National Policy Statement for Freshwater Management.

**The Irrigation NZ submission** and relief sought is set out in the attached document.

**Irrigation NZ wishes** to be heard in support of its submission.

Signature of Submitter – Dr Terry Heiler  
Chief Executive

A handwritten signature in blue ink, appearing to read "T Heiler", with a long horizontal stroke underneath.

Date: 23<sup>rd</sup> January

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## **Introduction**

1. This submission has been prepared by Irrigation NZ Inc., (INZ) an organisation representing some 3,500 members, mostly irrigation farmers from throughout New Zealand, consultants and researchers, regional councils and involving some 400,000 ha of irrigated land.
2. INZ advocates on behalf of the irrigation industry in general and develops technical material for designers and best practice tools aimed at improving the water use performance of irrigation farmers.
3. The initial drafts of this document were prepared by Dr Terry Heiler, CEO, INZ and reviewed and edited on the advice of the INZ Board of 12 elected members, comprising leading irrigation farmers from around NZ, recognised irrigation experts, irrigation trade representatives and farming sector leaders.
4. The submission has not been canvassed with the full membership for obvious reasons.
5. The submission should be read as a whole. It is in 3 main sections: An Overview of the Operating Environment; Specific Comment on Objectives and Policies; and INZ Conclusions and Recommendations.
6. INZ recognises that some of the matters raised hereunder -- about the uncertainty created by a new policy environment under a changed Government -- are outside the terms of reference of the Board of Inquiry (BOI). They are included in the first section, however, because the situation described has had an influence on the detailed comments made by INZ about the Proposed National Policy Statement (PNPS).

## **General Comments and the Current Political Environment**

### **Need for a National Policy Statement on Freshwater Management (the NPS)**

7. A NPS on freshwater management is long overdue. It was the original intention of the political proponents of the RMA that a NPS would be promulgated soon after the Resource Management Act (RMA) was enacted in 1991, so that the Regional Policy Statements (RPS) required under the provisions of the RMA could be guided by the NPS. This did not happen, and is partly responsible for the current unsatisfactory situation of the freshwater environment described briefly in the preamble to the Proposed NPS (PNPS) document and more fully in the associated section 32 report.

## **Genesis and Current Political Environment**

8. The PNPS has its genesis under the Sustainable Water Programme of Action (SWPOA) under the previous Labour-led Government, which also implemented two National Environmental Standards: (NES) on Measurement of Water Takes and Ecological Flows and Water Levels. The future of SWPOA under the new Government is not clear, and pre-election statements by the now Minister for the Environment, Hon Nick Smith, indicated that the Board of Inquiry process in processing the PNPS would be halted. This has not happened, and submitters have no option but to base their responses to the PNPS as if there had been no change in the governance situation.
9. To further complicate matters, the new Government has initiated a review of the RMA in two stages; stage 1 being a revision of operational modalities and stage 2 a more substantive reform dealing with many of the issues addressed by the PNPS. Stage 1 is underway and stage 2 to be completed by the end 2009. The policy platform of the new Government was described in general terms in the National Party Environmental Policy issued in 2007 – the “blue green document” , which contains proposals for the establishment of an Environmental Protection Agency (EPA), which will clearly impact on status quo freshwater management arrangements and related policy. The establishment of an EPA may require legislative changes to the RMA.
10. As a consequence, this INZ submission deals with freshwater management issues in a wider context than just the specifics of the PNPS, and examines whether the PNPS as it stands is able to achieve its stated purpose: “ to state inter-related and integrated objectives and policies as to the management of Freshwater Resources as a matter of national significance that is relevant to achieving the purpose of the Act”; and to address the two key issues listed in the section 32 evaluation of the PNPS – “increasing demands on freshwater resources and reduced or declining water quality” – and the associated issues of national concern.<sup>1</sup>

### **What Outcomes should we be seeking from the PNPS?**

11. The section 32 review lists the 5 main problems that a PNPS should address:
  - Decline in a number of freshwater quality indicators
  - Lack of integrated management
  - Lack of focus on the uses of freshwater resources
  - Freshwater demand management is not presently sustainable
  - Insufficient information and reporting
12. Whilst agreeing with this assessment, INZ would add the following issues that need to be tackled if these problems are to be solved:

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<sup>1</sup> The 9 associated issues as listed on page 3 of the PNPS section 32 evaluation, ME report 893.

- A greater level of coordination and consistency in application of freshwater management policy across 12 regional councils, 73 territorial local authorities<sup>2</sup>, and across some 7 government agencies, are essential if we are to achieve the objectives of the PNPS and address the problems listed above. This has not happened since the 1991 reforms of the environmental institutions and the fragmentation and inconsistencies between regional councils noted in the section 32 report continue. Integrated management objectives are likely to be confounded by conflicting responsibilities of departments and embedded and different approaches between regional councils. The institutional adequacy of the status quo arrangements to achieve PNPS objectives needs to be subjected to independent review. Institutional changes may be needed apart from the establishment of a new EPA, and appropriate legislative change undertaken if deemed necessary.
- The PNPS identifies the need to consider investment in large scale water infrastructure, but leaves this to regional and district councils to act upon. Experience in recent years has shown clearly that this is very difficult and beyond the resources of local communities and their councils. Optimum investment opportunities often cross regional boundaries. Water storage has the potential to significantly improve environmental quality in areas where allocation limits have been reached and improve resource utilisation efficiency. Central Government has to take a leadership role in promoting infrastructure investment, if the suggestions in the PNPS about the role of water infrastructure are to be more than comfort food words.
- Pressure on the water resources environment from consumptive water use – primarily irrigation – could be reduced if ways could be found to incentivise all water users to take only what is needed in each and every irrigation season. The Primary Sector Water Partnership (PSWP) has initiated a major project to address this objective. The PNPS needs to require that this objective be realised.
- The PNPS mandates land use control as a way to improve water quality. It is not the land use per se that needs to be controlled but the effects of land use activities. Inappropriate viticulture and market gardening can create more serious environmental externalities than appropriate dairy and livestock enterprises.
- No Government to date has successfully had the conversation with our Treaty partner about their role in freshwater management and the PNPS leaves this to regional councils. Central Government represents the Crown, the other Treaty partner, and it needs to meet its responsibilities. This issue has to be solved at a national level or it will confound all regional efforts to realise the laudable objectives of the PNPS.
- Implementation issues in regard to the PNPS have been ignored insofar as capacity and resources are concerned at the regional and district level.

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<sup>2</sup> This includes 16 city councils, 57 district councils and 4 unitary authorities.

This also happened in 1991 when central Government investments in freshwater management were withdrawn and RMA implementation responsibilities sheeted home to rate payer financed regional councils. Non-rate financial contributions are clearly needed and justified to properly resource the implementation of the PNPS. If they are not forthcoming, we will not achieve the objectives of the PNPS.

**Water Resource Management and Water Resource Development – is there a difference?**

13. Yes, and the PNPS deals only with management<sup>3</sup> of the water resource as it occurs without induced controls such as storage, but drifts into development when it tackles the effects of land development on the water resource. When NZ disposed of any central government role in water resource development with the demise of the MWD in the late 1980s, it was expected that the "development" aspects of water resources would be led by the private sector – this was the model applied to other sectors as well, energy for example. It has not worked.
14. Water resource development, in contrast to water resource management, is a long term affair. If long term and appropriate water resource development is not undertaken, water resource management becomes increasingly difficult as demand increases on the natural pattern of water availability. This creates the need for Conservation Orders, resource consent reviews, claw backs, and time and resource hungry litigation. The market is incapable of undertaking long term water resource development, and in all other jurisdictions, some centralised water resource development planning exists. There are no NZ institutions undertaking public good water resource development planning, but plenty involved in management, regulation, monitoring, and environmental advocacy. Unfortunately, the PNPS says nothing about this issue and continues the current approach that assumes that the environmental problems are best addressed by a further set of objectives and policies, facilitation and more rules and regulations under the Act.

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<sup>3</sup> By setting objectives and policies under a NPS and then rules and regulations in regional plans.

## Specific Comments on the PNPS

### General

15. Overall, the document is hard to follow, has conflicting elements, uses terminology without clear definitions, is poorly written, and is unlikely to advance progress in meeting societal needs for use of an abundant natural water resource.

16. *Relief sought.*

*Have the NPS rewritten to reflect the changed policy environment and RMA reform, and delay consideration under the current Terms of Reference.*

### Purpose

17. The Purpose is to set objectives and policies and it does this. But why?

18. *Relief sought. Suggested Change below or similar wording:*

*The purpose of this NPS is to give national direction and guidance to improve freshwater management by setting objectives and policies that reflect the national viewpoint.*

### Format

19. The linkage between the objectives and the policies is not established. The section 32 evaluation is carried out to test the value of the Objectives against the main provisions of the Act, which is appropriate. However, the Policies are not tested as to their contribution to meeting the Objectives.

20. *Relief sought.*

*Link each objective to those sections of related policies that are designed to help achieve the objective by appropriate footnotes and explanatory notes.*

### Objectives

21. **Objective 1.** This is a rewrite of section 5 of the RMA, which separates the well-being of communities as a specific objective of the PNPS. This is a significant shift in emphasis from the single environmental focus common in many resource management discussions, where scant attention is given to social and economic well-being objectives. *INZ supports this Objective.*

22. **Objective 2.** The wording of the objective is confusing, the intent perhaps less so. The objective is mixed up with policies that are needed to meet the objective. These are better presented in the relevant policy sections. The scope of the integration sought is restricted to integration of the effects of land use and discharges on quality and quantity of freshwater. Another

aspect of integration is the need accommodate surface and groundwater interactions and to integrate these considerations.

23. *Relief sought. A suggested rewrite would be:*

*To ensure that the effects of water resource development<sup>4</sup> and associated land use on the quantity and quality of affected water bodies is managed in an integrated manner.*

24. *INZ supports this objective in this form or similar wording.*

25. **Objective 3.** The intent of this objective is to address freshwater quality in surface streams and water bodies so that quality is improved to contact recreational standards. It does not refer to groundwater quality, or to suitability for ecosystem sustainability. The use of four terms this objective – progressive enhancement, overall quality, appropriate Freshwater Resources, swimmable standards – are appropriate to national guidance but make it impossible to monitor progress in achieving the intent of the objective, unless specifics are given in related Policies. Where possible, the related Policies could refer to quantifiable targets as appropriate.

26. *Relief sought. Rewording or similar.*

*To ensure that surface freshwater resources identified under implementation of related policies<sup>5</sup> are improved to support safe contact recreational use.*

27. **Objective 4.** In contrast to Objective 3, it is ecosystem health that is the subject here. The question is whether all ecosystems need to be protected – for example, urban streams. The reference to (a) to (c) activities is unnecessary.

28. *Relief sought. Rewording or similar.*

*To ensure the life supporting capacity and ecological values of Freshwater resources identified under the implementation of related policies<sup>6</sup> are identified, recognised and protected.*

29. INZ supports this objective.

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<sup>4</sup> In this context water resources refers to rivers, groundwater, lakes and wetlands.

<sup>5</sup> Identify the policies involved.

<sup>6</sup> See above

30. **Objective 5.** In the interests of clarity.
31. *Relief sought.*
- Change title to "Addressing Current Freshwater Degradation". The text could be better expressed as:*
- "To halt the further reduction in quality of currently degraded water bodies by controlling activities that will reduce the levels of the current quality condition".*
32. *INZ supports this objective.*
33. **Objective 6.** *INZ supports this objective as-is.*
34. **Objective 7.** The concept of irrigation efficiency has been subject to at least 20 well-recognised definitions in the literature. The intent of this objective is clear, but may be better expressed as:
- Title: unchanged
35. *Relief sought. Rerword or similar.*
- To ensure that allocated fresh water is used so that:*
- (a) Wastage in minimised*
- (b) Amounts used are appropriate for the demand being met*
- (c) Surplus water generated in the use does not impact negatively on water quality of receiving water bodies*
- (d) Economic opportunities related to water use are maximised*
36. **Objective 8.** This objective is satisfactory except when linked to the policy for implementation. Successful engagement with Tangata Whenua at the local level will depend upon the Crown negotiating the nature of such engagement.
37. *Relief sought. Rerword or similar.*
- To ensure that iwi and hapu are involved so that Tangata Whenua Values and Interests are identified and reflected in the management of Freshwater Resources, in accordance with operative agreements between Crown and Tangata Whenua, and in accordance with Objectives 1 to 7 inclusive.*
38. **Objective 9:** Taken as read so long as effective monitoring and reporting as specified in related policies is sensible and cost effective.

## Policies

### General Comment

39. INZ has resisted the temptation to not comment on the details of each of the 9 Policies. The temptation arises because of the poor quality of the material presented and the neglect of over-arching and important current issues that the policies do not address. However, as a contribution to the process, the following comments are made.
40. The Policies are effectively the things that must be done to meet the Objectives using the tools available under the RMA. The tools available under the RMA are regional policy statements, regional and district plans and resource consents. The PNPS is hampered in meeting its Objectives by the inflexibility in the way that these instruments can be used. The need for additional tools or additional powers under the tools is illustrated by the representations coming from regional councils that they need more flexibility and powers to deal with situations not envisaged to be a matter for RMA resolution – over-allocated and at risk catchments, cumulative effects and so on.
41. The policies are not linked to the objectives. The policies are focused on processes and give little real guidance to regional councils. Effectively the Policies pass the buck to regional and district councils with little guidance and an inadequate and simplistic mention of capacity or resources, a common approach used when other central government initiatives have been developed in the recent past and sent on to rate payer funded agencies for implementation. Regional councils have little scope to seek more resources from their communities.
42. The Policies require regional councils to undertake work in areas where some regional councils are already active, and are approaching solutions to problems in a different way to that suggested in the Policies. The PNPS policies also require initiatives new to some regional councils, whose scope and complexity are unknown – for example, Policy 1 (j) directs regional and district plans to encourage, coordinate and sequence infrastructure investments. How? In Canterbury alone, this would take a separate Canterbury Water Development Agency to make any progress.
43. The timeframes suggested for changes to RPS and subsequent notification to regional plans will be too short for some regional councils and too long for other stakeholders concerned with environmental quality. INZ believes that under current RMA processes the suggested time frames are too short to get it done, and too long to be acceptable. INZ conclusion is that there is a real risk that the policies can be implemented in the PNPS timeframe, and concerns that even if they are, the prospects for achieving related objectives in a

44. From a national viewpoint, the costs involved in implementing these new processes are clearly much more than estimated in the section 32 report. It is not just the costs to central and regional government to get the PNPS material reflected in local documents and processes, but the related direct and indirect costs of consultation on notified variations to RPS and plans, changes needed to resource consents and so on that are not able to be estimated, but will clearly be very significant. We risk committing large resources with poor prospects of gaining the expected benefits.
45. The section 32 report makes much of the national viewpoint stance taken in regard to cost and benefit estimation. Looking at impacts on individuals, financial sustainability becomes the parameter ignored in such an analysis. The achievement of the benefits sought under the PNPS will be compromised if the individual farming businesses involved are put at risk by the policies, and section 32 analyses does not examine this impact.
46. *Relief sought.*  
  
*Review and redraft policies to take account of revisions to Objectives and comments hereunder.*

### **Policy 1.**

47. In general, the policy fails to recognise the progress made by regional councils and that there will be variable requirement to revise and consult and notify within 24 months after notification of the NPS – it may be that the current RPS satisfies the requirements of the NPS without the need for a long-winded and costly repeat of RMA processes.
48. 1(b) and 1(c): Further guidance to assist regional councils in identification of notable values is needed and there should be a clear requirement for consistency in the criteria used. The variable capacity and expertise across regional councils needs to be recognised and addressed. Consideration could be given to a well-resourced national task force that could lend expertise to regional councils when needed, and this would improve the prospects of getting consistency.
49. 1(d): As mentioned before, Government should bite the bullet and get a high level agreement with the Treaty Partner that will guide each regional council in dealings with its local Maori communities about involvement in management and decision making.
50. 1(j): The notion that district plans will be able to accommodate requirements of the RPS will only work if the district councils have input to the RPS at an early stage because they have their own set of responsibilities under the LGA -- which are often conflicted by regional council processes. The risk of a protracted set of processes with duplication of consultation processes is clear.