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**Submission on the Proposed National Policy Statement for Freshwater Management**

**To** Judge David Sheppard
Chairperson
Board of Inquiry, National Policy Statement for Freshwater Management

**Name of person / organisation making further submission:**

**New Zealand Recreational Canoeing Association**
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**This is a submission on the proposed national policy statement for freshwater management (the proposal).**

***Background to NZRCA***

1. Formed in 1957, the New Zealand Recreational Canoeing Association (NZRCA) is the national representative organisation of canoe clubs and recreational kayakers throughout New Zealand. NZRCA is a voluntary, non-profit, incorporated society and is affiliated to the NZ Canoe Federation (NZCF). The NZCF is in turn affiliated to the International Canoe Federation. NZRCA has delegated authority to represent the NZCF and all its member disciplines on advocacy issues.
2. NZRCA was known as the New Zealand Canoe Association until 1995/6. At this time the competitive canoeing disciplines were spun off into their own associations, the new umbrella body the NZCF was formed, and NZCA renamed itself to the NZ Recreational Canoeing Association to reflect its non-competitive advocacy role.
3. NZRCA has been an active, responsible and respected participant in RMA processes concerning river systems for many years.
4. NZRCA's primary constituency are whitewater paddlers (which includes kayaking and canoeists). As instream users of New Zealand's freshwater resources, canoeists and kayakers have significant interest in any NPS that affects whitewater amenity value including issues such as environmental flows and water levels and water quality.

***Submission***

5. The NZRCA supports the concept of a NPS for Freshwater Management (hereinafter "NPS") in principle and supports some of the concepts emphasised in the NPS such as integrated management of freshwater resources, the required identification and protection of instream values, and efficiency in utilisation and the aspiration of better water quality. However, the NZRCA opposes the proposed NPS as it stands for two reasons:
   a) ***The relationship of the proposed NPS to other processes is flawed***
   b) ***The NPS Objectives, Definitions and Policies are flawed***

## a) The relationship of the proposed NPS to other processes is flawed

### Relationship to Sustainable Land Use Forum

6. A collaborative governance approach towards land use, including freshwater management has been initiated via the Sustainable Land Use Forum. The Minister for the Environment, Hon Dr. Nick Smith, has addressed the Forum and has expressed his support for the initiative. The NZRCA is a key member of this Forum and is committed to achieving a result through the collaborative governance process. We are concerned that the current Board of Inquiry continues, it will undermine the work of the Forum by entrenching positions prior to the collaborative governance approach being properly trialled.
7. The NZRCA requests that:
   - that the proposed NPS be put on hold until at least December 2009 so that the Sustainable Land Use Forum can be given a "fair go", and
   - that current submissions are not publicly released until after this date as they may jeopardise the collaborative governance approach sought.

### Relationship to National Environmental Standard (NES) on Ecological Flows and Water Levels

8. The NES on Ecological Flows and Water Levels is in proposed form, and the submission process is complete, but there has been no hearing or final decision, therefore its final form is not set. The NPS and the NES on Ecological Flows and Water Levels will have a significant degree of overlap and commonality; therefore it will be essential for there to be a process whereby this is achieved and consistency in terminology, concepts and objectives used in both the NES on Ecological Flows and Water Levels, and this NPS.
9. The definition in the NPS of "environmental flows and water levels" has specific regard to protecting, maintaining, enhancing or restoring Notable Values. Notable values include recreational values. However, recreational values are not currently considered in the draft NES on Ecological Flows and Water Levels.
10. The NZRCA has previously submitted on the NES on Ecological Flows and Water Levels. In this submission, the NZRCA strongly voiced the need for the NES on Ecological Flows and Water Levels to be expanded in scope or that an additional NES be developed to include recreational flows, as recreational flows are an important component of environmental flows.
11. As far as we are aware, there has been no public notification of definite plans to incorporate the assessment of recreational flows into the proposed NES on Ecological Flows and Water Levels or a new NES, nor have default flows or other provisions (e.g., clawback) been made as an interim measure. As this NPS also concerns itself with environmental flows and water levels, the NZRCA will not unconditionally support the NPS until the issue of recreational flows is addressed satisfactorily within a NES.

## b) The NPS Objectives, Definitions and Policies are flawed

### *Objectives*

**Recreational values are inconsistently recognised in the objectives**

12. Objective Two promotes the protection of "Notable Values" which includes recreational amenity values including instream uses such as whitewater kayaking. The NZRCA supports the identification of "Notable Values". However, the values in Objective Two are inconsistent with the values promoted in other NPS objectives, particularly Objective One, Four and Six.

**Existing activities as well as future activities need to be considered explicitly in the objectives**

13. Many water bodies have already been significantly degraded or over-allocated (i.e., water quality and environmental flows and water levels are below that which protects the Notable values for which the freshwater resource is held). The NPS should direct action in respect of existing as well as future activities where current activities are contributing to the degradation or over-allocation of freshwater resources. Without consideration of existing activities in the objectives the NPS does not require comprehensive action, and adverse effects will continue. This will ultimately frustrate the ability to achieve the stated objectives of halting degradation and improving water quality.

**Objectives relating to water quality (Objectives 3 and 5) need to be strengthened**

14. Objective Three on water quality has no deadline or reference to an objective, measurable standard and so is weak. NZRCA seeks that an objective, measurable standard for water quality be developed and be required to be reached within a certain timeframe.
15. Objective Five appears to be inconsistent with the statement in Objective Three reading as objective three reads "progressive enhancement of overall quality of Freshwater Resources". This statement could be read as allowing for some Freshwater Resources to be progressively degraded, while others are enhanced, as long as there is an overall enhancement.
16. Additionally, Objective Five in using the defined term "Land Use development" which excludes consideration of existing activities.

**Efficient use needs to cover the allocation of water as well as end use**

17. The efficient use of New Zealand's freshwater resources is supported by the NZRCA. However, Objective Seven needs to be amended so that the concept of efficient use covers allocation to the most efficient consumptive uses, above ineffecient uses, as well as end use.

***Definitions***

18. "Land use development" is defined as including "land-use intensification, land-use change and subdivision of land" This definiton only explicitly address future land use development. As discussed earlier, the NPS ultimately also needs to address existing land-use activities, as well as future land-use development.
19. "Degraded Freshwater Resources" is defined as "those Freshwater Resources of a region whose Notable Values have been so degraded by inappropriate Land-use development, discharges of contaminants and/or the taking, use, damming or diverting of fresh water as to require that priority be given to enhancement or restoration in order to achieved the purpose of the Act".
20. NZRCA supports the intent of this definition but seeks that an identifiable, unambigous threshold for a resource to be considered degraded is set. Without this threshold, it is unlikely that the NPS will assist greatly in the interpretation and application of the Act.
21. Additionally, the reference to "priority" as it is currently drafted could be read to imply that the enhancement or restoration of degraded freshwater resources be given priority over the protection of other freshwater resources.
22. "Notable Values" in relation to any Freshwater Resource include:
    - scientific, ecological and biodiversity values
    - Cultural values
    - Recreational (including contact recreational eg swimming) values."
23. When these Notable values are such as to require priority to be given to protection, the freshwater resource is defined as an "Outstanding Freshwater Resources". It is unclear what the threshold for a water body to be "outstanding" is or how it relates to existing criteria such as Water Conservation Orders. The NZRCA seeks a clear threshold for defining an outstanding freshwater resource and clarity on how this threshold relates to terms contained in Part II of the Act.
24. The NZRCA would also point out that in some cases the value ascribed to a group of freshwater resources may be greater than the sum of values ascribed to individual components of this group. For instance, the West Coast as a region (including Buller and Fiordland) is one of the most highly valued whitewater kayaking *regions* in the world. Adverse effects on the whitewater kayaking amenity of even a few individual rivers within this region can result in a significant reduction in the whitewater amenity value placed on the whole region.

***Policies***

25. There are no set deadlines for the attainment of critical objectives such as restoring water to a swimmable standard or notifying environmental flows and levels. Without this, progress towards the NPS objectives is likely to be limited.
26. "Industry good practice" is proposed in various parts of the NPS (e.g., policies 2, 3 and 6) is an unacceptable minimum way of complying with non-degradation objectives. The term "industry good practice" is undefined and open to interpretation. In the absence of a definition "Industry good practice" may send a signal that the "status quo" is acceptable, when in fact the data already indicates that significant change from the status quo is needed.
27. The proposed NPS only requires new consents to comply with the objectives and policies of the NPS (see Policy 2 c) and Policy 3 b)) i.e., privilige is given to existing consents. As noted earlier, the NPS needs to have provision to address existing consents (e.g., clawback mechanisms or grandfathering constraints)

where existing activities are leading to the degradation or over-allocation of the resource.

28. Additionally, with no provisions to affect existing consents there is a risk that there will be a rush of land-use intensification and other activities prior to implementation of the NPS i.e., there is a significant short term implementation risk.
29. The process for establishing a freshwater body to be "outstanding" is not described. As a voluntary organisation we would note that processes that could require extensive evidence to be given in hearings and/or litigation to justify a status are likely to discriminate against community, recreational and environmental organisations with limited resources. Without the provision of additional resources to these groups, this type of process may result in economic interests being favoured over recreational and environmental interests. This issue also further points to the need for clear definitions, thresholds, goals and timelines to be set.
30. Without a national water quality standard being implemented under the NPS it appears that the key mechanism for members of the public seeking improvements in water quality is the nomination of the freshwater resource as "outstanding". Earlier in the submission, the NZRCA requested that an objective, measurable standard for water quality be developed and be required to be reached within a certain timeframe. Assuming that a national water quality standard is implemented, NZRCA would seek that the onus of proof be on the polluter to advance evidence that the water body cannot be improved to meet the national standard within the scheduled timeframe.
31. Commercial uses of freshwater should not be given undue emphasis within the NPS. For instance, Policy Five could be interpreted to give priority for provision of irrigation infrastructure. While Policy One (i)(ii) refers explicitly to domestic water supply, Policy Five just refers to water supply which could be for commercial uses, including irrigation. NZRCA would like to see priority provision for infrastructure being made only for *domestic* water supply.
32. The NZRCA would like the Board of Inquiry to consider whether commercial uses of water should pay a resource rent for use of freshwater resources. At present commercial users are appropriating significant value from public water resources. The NZRCA would suggest that a resource rent will not only encourage a more efficient use of the resource but could also be used to mitigate adverse effects from existing consents (e.g., restoring water quality, providing higher environmental flows).

**The NZRCA wishes to be heard in support of our submission.**

**Date: 23 January 2008**


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