SUBMISSION: Resource Management Amendment Bill

Date:	14/03/16
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(Andrew Curtis, CEO IrrigationNZ)

Irrigation New Zealand wishes to be heard in support of its submission.

OVERVIEW

1. IrrigationNZ (INZ) is a national body that promotes excellence in irrigation. INZ represents the interests of over 3,600 irrigators (irrigation schemes and individual irrigators - the majority of these being in Canterbury) totaling over 360,000ha of irrigation (over 50% of NZ's irrigated area). It also represents the interests of the majority of irrigation service providers (over 150 manufacturers, distributors, design and install companies and consultancies).

2. An irrigators business is founded on certainty. This includes access to a reliable water supply for irrigation and the ability to farm their land with a degree of flexibility. It is this certainty that enables investment and continuous improvement in resource use efficiency. Without certainty they and the considerable flow-on benefits to the regional economy are severely impacted. The national economy would also be impacted upon given NZ is an agricultural export based economy.

Submission

Reference	Issue	Relief Sought
Section 2AB	This brings the notification process into the modern era and is therefore supported	*Support*
Section 14 (3)(b)	The change from individual's to person's is required to clear up a previous technical issue around stock drinking water access.	*Support*
Section 18A	These new procedural principles are welcome as they will: • focus the planning process on matters relevant to the Act • drive the process to be clear and cost-effective • promote a greater degree of collaboration between local authorities	*Support*
Section 35 (2)(ca)	It is important that the efficiency and effectiveness of processes used by local authorities (including those delegated or transferred by it) come under greater scrutiny. There are presently considerable differences between local authorities relating to timeliness and cost. Monitoring, and post this drawing comparisons, is a good way of resolving this issue.	*Support*
Section 34B	This inserts a fixed fee for hearing commissioners. INZ is supportive of this as it provides greater certainty for applicants.	*Support*
Section 36 (1)(cc) & section 43A (8)(a)	The inability to place a monitoring charge upon permitted activities has frequently resulted in an unfair cost burden being place upon consent holders. Allowing monitoring charges for a permitted activity where the scenario has been specified in an NES is a good first step in addressing this.	*Support*
Section 41D	This strike-out addition is welcome as it will help better focus planning and resource consent processes on the facts at hand. When implemented it will also mean applicants are not faced with unfair hearings process charges as a result of objectors with 'hear say' evidence.	*Support*
Section 42C & Section 149L	This addition is welcome. However, post INZ's Tukituki EPA Board of Inquiry experience, the EPA's function needs to be broadened to provide both planning and technical advice. The addition of the word technical is also be necessary to avoid any ambiguity around the definition of 'planning advice'.	*Amend* • *(daa) to provide planning and technical advice under section 149L to a board of inquiry*
Section 42CA	There needs to be the ability to appeal costs around the EPA's functions added.	*Amend* • *Add a pathway to appeal costs*

Section 43 (3)	This adds greater flexibility to an NES, allowing them to become specific to a district or region or other part of NZ.	*Support*
Section 43B (3)	It is extremely difficult, given the diversity of NZ's natural resources and landscapes, to write a NES to cover all scenarios. Allowing a plan or resource consent to be more lenient than an NES providing the NES allows for this (given that a plan can be more stringent already), helps overcome such issues.	*Support*
Section 44 (2A)	This states that if the NES is specific to a region, district or other part of NZ, the public and iwi authorities to be notified are those within the specified region, district or other part of NZ.	*Support*
Section 45A	This clearly sets out what must and may be in an NPS, allows it to be specific to a district region or other part of NZ, and also allows for transitional provisions.	*Support*
Section 46 (2A) & section 48 (1A)	This states that if the NPS is specific to a region, district or other part of NZ, the public and iwi authorities to be notified are those within the specified region, district or other part of NZ.	*Support*
Section 55A	This allows for a combined process for the development of an NES & NPS	*Support*
Sections 58B-J	The is much need for a national planning template in NZ. INZ encounters many scenarios where, for the same issue, there are significant differences between plans but no discernible reason for this. However, INZ is concerned that the: • process for the preparation, approval and revoking of a national planning template leaves too much discretion to the minister (section 58D & 58E). A board of inquiry process, as set out as in sections 47 – 52, would be more appropriate. • default timeframe of 1 year for councils to amend their documents is rather short and there is no schedule 1 process around this amendment (section 58H). INZ suggests a default period of 3 years is more appropriate and that a schedule 1 process be used for this, this will ensure quality planning.	*Amend* • *the process is consistent with sections 47-52* • *a schedule 1 process is used to amend local authority plans*
Section 58I	There is no logical reason why the first national planning template would have to be approved within 2 years of the date bill passing. It is important quality planning prevails.	*Delete*
Sections 58K-P & Schedule 1	Iwi participation arrangements. INZ is supportive of the need for iwi-local authority relationships to be formalised, to clearly lay-out how they will better work together in the formulation of policy statements and plans. However, post the plan or policy statement entering into the schedule 1 process iwi should be treated in the same manner as any other person. Many iwi have considerable economic interests, and there is potential for conflicts of interest to arise if this clear delineation is not put in place. INZ is particularly concerned with 4A (1)(b) where local authorities must have particular regard to any advice received.	*Amend* • *remove schedule 1 processes from the iwi participation arrangements*
Section 61 (1)(da) & section 62 (3)	This is a double up. INZ suggests that section 61 (1)(da) is deleted.	*Delete section 61 (1)(da)*

Section 69 (4)	This deletion is necessary as it removes any confusion between schedule 3 and the National Objectives Framework with the Freshwater Management NPS.	*Support*
Section 80A & Schedule 1 Part 4	INZ is extremely supportive of collaborative planning processes. They better enable local people to find local solutions. However, based on INZ's considerable experiences to date, a number of amendments need to be made to the Bill to better enable collaborative processes to function: a) Require membership of the collaborative group to represent the full range community interests and investments, importantly also including proposed developments. b) Allow appointments to the collaborative group to be challenged, particularly around conflicts of interest. c) Enable the collaborative group to work with the local authority planners to translate the collaborative agreement into policy provisions prior to recommending them to the council. This is particularly important as the collaborative agreement can often be mis-interpreted by local authority planners d) Allow merit based appeals for a transitional period until the wrinkles are ironed out of the process.	*Amend* • *Provide for representation of proposed developments under 40 (5)* • *Provide for the collaborative group to work with local authority planners under 45* • *Provide for merit appeals as a transitional measure under 58*
Section 80B & Schedule 1 Part 5	INZ is not supportive of the proposed Schedule 1 streamlined planning process, as it detracts from the collaborative pathway and also it gives too much authority to the minister without the necessary checks and balances. INZ is particularly concerned at the lack of appeal rights.	*Delete*
Section 85	The Environment Court being able to direct a Council to modify, delete or replace a provision in a plan is appropriate.	*Support*
Section 87AAC & section 87AAD (2)	INZ supports a controlled activity having a fast-track process providing it is not notified, this will help streamline the consenting process.	*Support*
Section 95A	This introduces a 10-day period for a decision to be made around whether a fast-track consent is notified or not.	*Support*
Section 95B	This sets out a process for limited notification of consent applications. Drafting changes are required to better link the steps to determine whether a consent is limited notified together – 'notify or continue to next step'. It would also be useful to clarify how limited notification relates to regional plans and NES's that state a particular activity does not need to be	*Amend* • *'Notify or Continue' drafting changes* • *Clarity around hierarchy with plan rules and NES's*

Section 95D (ca)	This allows the adverse effects of an activity to be disregard if it is already factored into the objectives and policies of a plan. This is supported as it further avoids the current 'double-dipping' approach in some regions. If the activity is consistent with the plan objectives and policies this should not be revisited during the consent process.	*Support*
Section 95DA	This sets out persons eligible to be affected parties for limited notification	*Support*
Section 95E	This sets out affected persons for purpose of limited notification and gives greater clarity around adverse effects that may and must be disregarded. It puts the onus on quality planning, to ensure matters of control or discretion are well covered for example.	*Support*
Section 104 (1)(ab)	This sets out an off-setting pathway for councils to consider when assessing a resource consent. It is of particular benefit for infrastructure projects where the localised environmental effects are often outweighed by the wider environmental benefits - infrastructure projects that include augmentation or aquifer recharge for example.	*Support*
Section 104 (1A)	This should be written as a transitional arrangement - post a national planning template being released but prior to a plan being amended	*Amend* • *Reflect transitional nature*
Section 108AA	This sets out clear expectations around resource consent conditions. In the past conditions have frequently been used to introduce regulation by stealth. Requiring riparian planting as a condition on a water take consent for example. Conditions must be specific to the adverse effect of an activity.	*Support*
Section 149C, 149E & 149F	This moves the submission process into the modern era.	*Support*
Section 149E (9)	A 30-day timeframe for EPA submissions is a more realistic.	*Support*
Section 149K (4)	This section sets out how members of a BoI are appointed. In (4)(c) the addition of technical expertise as a point for consideration is welcome.	*Support*
Section 149L	This section more clearly sets out how the inquiry is conducted.	*Support*
Section 149Q	This section repeals the draft report. There are some instances where it would be useful for the Board to issue a draft report for comment. Changing must to may would allow for this approach to remain an option.	*Amend* • *The Board <u>may</u> issue a draft report*
Section 149R	The parts of this section that relate to the repeal of the draft report above should remain.	*Amend* • *Allow for consideration of draft*

Section 268 & Section 268A	These sections set up the alternative dispute resolution process. INZ supports this approach (the mandatory participation component) as it will help to avoid unnecessary cost and delays.	*Support*
Section 360 (1)(da)	This allows for a 360 regulation to prescribe the form and content of water and discharge permits. There are other pathways within the RMA through which this can be implemented so INZ questions why it is required within section 360? If it is to be included the 360 regulation development process needs to be formalised allowing for submissions, and the Minister, at the very least, to consider these.	*Delete*
Section 360 (1)(hn)	This allows for a 360 regulation to prescribe measures for stock exclusion. There are other pathways within the RMA through which this can be implemented so INZ questions why it is required within section 360. If it is to be included the 360 regulation development process needs to be formalised allowing for submissions, and the Minister, at the very least, to consider these.	*Delete*
Section 360 (1)(hp)	This allows for a 360 regulation for the use of models in regulation. There are other pathways within the RMA through which this can be implemented so INZ questions why it is required within section 360. If it is to be included the 360 regulation development process needs to be formalised allowing for submissions, and the Minister, at the very least, to consider these.	*Delete*
Section 360D (8)	The process for making 360 regulations needs to have a submission and hearing component to it akin to sections 47-52. Once submissions have been made and hearings held, the report produced must then be at the very least considered by the Minister.	*Amend* *Remove opportunity for comment and add in submission* *Add in Minister must consider the report*
Addition to Section 123	There needs to be a minimum duration for a consent. Irrigation infrastructure development requires a long-term investment and the duration of consents need to better reflect this through a minimum 20-year term.	*Amend section 123 of the Act to allow for a 20-year minimum duration unless requested otherwise or a shorter period is requested or there are special circumstances arising from the activity*