



Rep 21



HASTINGS
DISTRICT
COUNCIL

3 May 2013

Mr Fenton Wilson
Chairman
HB Regional Council
Private Bag 6006
NAPIER 4142

Dear Fenton

As we have briefly discussed with you we are jointly writing on behalf of both Territorial Councils and we request that you accept our comments as an attempt to be helpful rather than critical in a process that it is evident has inherent complexities. The issues raised in this letter have been discussed privately with both Councils and we have unanimous support to write to you.

Our comments relate to the Ruataniwha Dam project and focus entirely on our view of process not technical substance. We seek to raise your collective awareness of our experienced view of community concerns that are being raised with us by the wider community.

In the main they relate to 4 process issues that we raise independently:

1. Conflict of Interest and perceived Conflict of Interest of Elected Members

We are aware that this is a difficult area for individual members that is not readily satisfied by interpreting the legal position in isolation from community perception and interpretation. Fundamentally it is difficult to justify separation between a wholly owned Council company and the Council itself. When these entities are represented by directors who are also Councillors it is impossible to provide a community with confidence that decision making processes are transparent, fair and undertaken without a degree of predetermination. The position that the members of both HBRIC and the HB Regional Council find themselves, in relation to the dam project, may become untenable. Each individual member should take into account the likelihood of the community perceiving predetermination as a valid reason for that member or director to step aside.

2. Shared Chief Executive Role

We acknowledge the significant energy, skill and passion of your Chief Executive in advancing the project in the interests of the region. However the structural model of sharing the role between HBRIC and HB Regional Council exposes the Council and ratepayers to significant risk around independent advice that may be given to the Council. In our view this is not best practice and exposes the Council to financial and legal risk.

A Council is reliant on receiving independent information on all aspects of a project but most particularly the financial risks to the ratepayers. We do not believe this is possible when the same person is the 'hands on driver' of such a project. In our opinion these roles should be separated.

3. Risk Analysis

We understand that the HB Regional Council has considered many of the elements of risk in this major project. However we believe that a thoroughly prepared risk analysis report (single document) would be helpful to all parties including the Council itself. This would be consistent with the best practice advocated by the Office of the Auditor General in Local Government capital works planning and would in our opinion, help to build public confidence in the process.

It is a fact that these projects carry large single factor and multi factor risk elements including the bottom line risk of cost overruns of both capital and operating that could fall entirely on current and future ratepayers of the region. These are in fact to a very large degree, the same ratepayers of Napier and Hastings Councils. We note that proposed central government investment in the project seems to be configured as a short term investment. We also take the view that private sector investors are likely to seek to have the HBRIC carry as much of the risk as possible, and it may be difficult to avoid or mitigate all of this risk. Given this, focussed risk analysis and management should be a priority. Building confidence around the analysis, mitigation and management of risk is essential to success and at this stage we suggest it is not well presented to the public.

4. Specific Financial Information

To be helpful we suggest that further work should be undertaken in the area of feasibility (the big picture financially), insurance, certainty and sensitivity analysis around pricing, cost overrun risk and uptake lag, together with any other financial risk areas that arise from 3. above. Whatever view we take it appears that without further assurance around the financial modelling there is an inevitable risk for the ratepayers that is larger than any other single financial risk that we are aware of or can reasonably forecast. Unless this work is completed in a manner that brings confidence to the community, the project itself (regardless of its merits) runs a serious risk of being fatally flawed in its process.

As a gesture of good faith both Napier and Hastings Councils are prepared to either directly fund a peer review of the issues raised above or join with you in funding a wider review that covers these and other issues you may identify.

Yours sincerely



Barbara Arnott
MAYOR
NAPIER CITY COUNCIL



Lawrence Yule
MAYOR
HASTINGS DISTRICT COUNCIL