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Media Release: EPA Tukituki / Ruataniwha hearing process stacked against opponents

The Environmental Defence Society is raising what it says are “serious and compelling concerns” about the fairness of the EPA process for the Tukituki hearings.

The hearings are before a Board of Inquiry and relate to a proposed Plan Change for the Tukituki River in Hawkes Bay and a large-scale irrigation dam designed to facilitate land use intensification including horticulture and dairying.

“But the Board of Inquiry process is so heavily stacked against the interests of submitters, it fails the fundamental requirements of fairness,” says EDS Chairman Gary Taylor.

“Because Government entities are not participating in the hearing, the burden of testing the applicant’s arguments has fallen on the voluntary sector. Engaging in the process is however extremely challenging.

“The applicant has had years to prepare its case and has produced an overwhelming amount of highly technical evidence that submitters had 4 weeks to evaluate and submit on. Then the applicant prepared 46 briefs of evidence that were posted on the EPA’s website and submitters were given just 4 weeks to submit evidence in response.

“These timelines have put enormous and unreasonable pressure on submitters.

“It gets worse. There are also burdensome administrative requirements, with formal requests needing to be filed to do anything. The EPA administrators are also firing off directions changing set dates and imposing fresh obligations on a daily basis. It is a challenge just keeping up with them.

“Moreover, it is clear from the evidence that a lot of this case hinges on freshwater science. But the Ministers for the Environment and Conservation, who appointed the Board, failed to include a freshwater specialist. And there’s no indication yet that the Board has even appointed science advisors.

“Unprecedented in my experience is the fact that experts have been refused access to the site of the proposed dam and to key information relied upon by the applicant. This is deeply prejudicial. The Board has acknowledged this by allowing supplementary evidence to be filed later but that is suboptimal.

“The process in this case is fundamentally flawed, the timeframes unrealistic, and the administration of it insensitive to constraints on submitters. Our confidence in getting a fair go has been heavily compromised.

“It is a process that seems designed to facilitate the applicant getting consents and the plan change getting approved unchanged. It is a process that appears designed to implement the government’s growth agenda at all costs – and to ride roughshod over serious and legitimate public interest and environmental concerns.

“I think the government needs to review the process for these called-in cases and create a fairer and more workable framework. This is so fast, so demanding and so unfair that it has to stop. It is just ridiculous.

“We think the Board also needs to have another look at the timeframe it has available. Nine months for a case of this size and complexity is unrealistic. The Board should ask the Minister for more time now and establish a workable and fair process as soon as possible,” Mr Taylor concluded.

For the EPA timeline, see:

http://www.epa.govt.nz/Publications/Tukituki_timeline_flow_chart_20130923.pdf