

**BOARD OF INQUIRY**

**Upper North Island  
Grid Upgrade Proposal**

**DECISION ON AATUC ADDITIONAL EVIDENCE**

The Ardmore Airfield Tenants and Users Committee (AATUC) lodged a submission on Transpower's Upper North Island Grid Upgrade proposal.

The Board of Inquiry considering the proposal directed that statements of evidence which was to be given on behalf of submitters were to be lodged by 26 February 2008, and that was later amended to direct lodgement of evidence statements up to but no later than 14 March 2008.

AATUC lodged a statement of evidence to be given on its behalf by its Acting Chairman Mr Allan Robert McCreadie; and Transpower gave notice of its wish to cross-examine Mr McCreadie.

During the course of the hearing, on 22 May 2008 Mr McCreadie appeared on behalf of AATUC, and cross-examined two witnesses called on behalf of Transpower: Mr R E Sullivan and Mr M B Stevens.

Later in the hearing, on 23 and 24 September 2008, on behalf of AATUC Mr McCreadie gave testimony by reading an amended evidence statement, and by answering questions in cross-examination by counsel on behalf of Transpower, and in answering a question by the Chairperson of the Board of Inquiry.

On 26 September, the Board's staff received a message from Mr McCreadie asking to "add a couple of items if possible". The first related to his answer to the question by the Board Chairperson, whether two existing transmission lines (Otahuhu – Whakamaru A and B) are supported by one line of towers where they pass to the east of Ardmore Airfield, and whether his testimony about that was based on inference, or from his own observation. By his later message, Mr McCreadie described what he had observed on a visual check subsequent to completing giving his testimony; and added his opinion about whether what he had seen was beneficial or adverse.

The second item that Mr McCreadie wished to add to his testimony related to his answers to questions in cross-examination by counsel on behalf of Transpower. He attached to his message three diagrams he had prepared to show paths of certain types of aircraft taking off to the north-east from Ardmore Airfield in certain wind conditions and in relation to the proposed Grid Upgrade transmission line. From his message it appeared that the diagrams were intended to be considered by the Board to cast doubt on testimony that had been given by Mr M B Stevens in cross-examination by Mr McCreadie, and to support testimony by Mr McCreadie given in cross-examination by counsel for Transpower.

On becoming aware of Mr McCreadie's message, the Board asked that a copy be provided to Transpower, so that counsel could address the Board on whether the message should be admitted.

On 7 October 2008 counsel for Transpower submitted that the Board should disregard Mr McCreadie's message on two main grounds: that it is late evidence not provided for by the Board's directions; and that although Mr McCreadie was seeking to help the Board, the effect would be prejudicial by allowing AATUC opportunity to improve its position from cross-examination in a way that could not be tested by cross-examination or by contradictory evidence.

In the absence from the hearing of Mr McCreadie or other representative of AATUC, the Board gave AATUC opportunity to make written submissions in response to those of counsel for Transpower.

Since then, on 8 October 2008 the Board has completed the hearing of submissions on the Grid Upgrade proposal, and the hearing stands adjourned to allow completion of preparation of Transpower's address in reply, to be delivered at a final sitting to commence on 29 October 2008.

Meanwhile, Mr McCreadie has provided AATUC's response to Transpower's submissions. On the existing transmission lines, he apologised for his evidence having been unsatisfactory, and explained that he sought to correct it. He added some rhetorical points that are inappropriate to the instant question, and which can be discarded.

On the aircraft performance diagrams, Mr McCreadie remarked that a similar diagram had been put to him in cross-examination on behalf of Transpower without his having had opportunity to consider it in advance; that he considered it devoid of realism and explanatory detail, and discredited by his expertise as an experienced pilot of the types of aircraft concerned; that the diagrams now provided were to formalise his response in cross-examination; that they show the level of detail required for presentation of such information; and he criticised Transpower for its intransigence in failing to agree to have their evidence on Ardmore removed in its entirety.

The way in which the existing Otahuhu – Whakamaru A and B Lines passing to the east of Ardmore Airfield are supported is a matter of primary fact. The Board asked Mr McCreadie about it, and he later recognised that his answer had been unsatisfactory, and might have misled the Board. The Board appreciates his wish to ensure that the Board not be misled on the point; and considers that he should have opportunity to correct his testimony.

It seems unlikely that there could be room for differing evidence on this point of primary fact; and Transpower's submissions contained no suggestion that the nature of the support of existing transmission lines described by Mr McCreadie from his own observation is incorrect in any respect.

To the extent that Mr McCreadie's message reports his observation of the tower alignment supporting the Otahuhu – Whakamaru A and B lines passing to the east of the airfield, we accept it as evidence on an uncontradicted primary fact.

To the extent that Mr McCreadie's message continues by adding his opinion about whether the arrangement for supporting that stretch of those lines is beneficial or adverse, evidence about that could have been included in his original evidence statement, and could have been sought in AATUC's cross-examination of Transpower witnesses, but was not. To admit it now would be prejudicial to Transpower; would undermine what the Board hopes has been orderly and fair expectations for the presentation of evidence; and by allowing the necessary opportunities for cross-examination and contradictory evidence, would unnecessarily extend what has been a prolonged hearing process. So the Board declines to admit that part of Mr McCreadie's message.

Mr McCreadie had the opportunity in cross-examination to give evidence of his opinion of the value of the aircraft performance diagram put to him by counsel for Transpower. If he had chosen, he might have included in his own evidence statement corresponding diagrams that he considered would be more reliable, or more helpful to the Board.

No doubt many parties may be dissatisfied with answers obtained in cross-examination; and many witnesses may in hindsight be dissatisfied with answers they gave in cross-examination. However the limits on re-opening proceedings provide a valuable incentive for witnesses to present complete and well-considered evidence at the appropriate opportunity; and reduce the need for imposing the prejudice and cost of late re-opening of proceedings.

The Board is not persuaded that Mr McCreadie's diagrams, and his commentary on them, would be of such value to its decision-making as to justify re-opening the hearing. So it declines to receive that part of Mr McCreadie's message either.

In short, the Board will receive as evidence the part of Mr McCreadie's message about the way in which the existing Otahuhu – Whakamaru A and B lines passing to the east of Ardmore Airfield are supported; but it declines to admit any other content of the message.

For the Board of Inquiry



D F G Sheppard  
Chairperson

Dated: 14 October 2008