

**BEFORE THE BOARD OF INQUIRY INTO THE  
UPPER NORTH ISLAND GRID UPGRADE PROPOSAL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of applications by Transpower New Zealand Limited for resource consents and notices of requirement for the Upper North Island Grid Upgrade between Whakamaru and South Auckland

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**JOINT MEMORANDUM OF COUNSEL ON BEHALF OF THE MANUKAU CITY COUNCIL,  
WAIPA DISTRICT COUNCIL, AUCKLAND REGIONAL COUNCIL, UNDERGROUND IN  
MANUKAU INCORPORATED, R M<sup>c</sup>QUEEN, HUNUA & PAPANUI VALLEY RESIDENTS'  
ASSOCIATION INCORPORATED, S MURRAY, M MURRAY, L E LYONS AND J LYONS**

**DATED THE 17<sup>th</sup> DAY OF MARCH 2008**

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## MAY IT PLEASE THE BOARD

1. Counsel for the above named parties have been in discussions with a view to assisting the Board with the orderly conduct of the forthcoming hearing. Arising from those discussions are a number of commonly held concerns and identified issues that will, it is respectfully submitted, need to be resolved at the outset of the hearing, specifically:

### *Non-Adversarial Character of Inquiry*

- (a) The Board has determined, as a guiding principle, that the Inquiry "should not have the character of an adversarial contest between parties"<sup>1</sup>. Clarification is sought in relation to the Board's comments in this regard.

### *Order of Witnesses and Timetable*

- (b) Early advice is sought as to the proposed order of witnesses, particularly, at this stage, the order of Transpower's witnesses. Given the proposed length of the hearing it will not be practicable for all parties to be represented throughout. The need for counsel to be present will turn on which witness is giving evidence. Given that the hearing is being held in part outside of Auckland, it is desirable that the Board establish a timetable for the attendance of witnesses intended to be called, so that parties can organise when they need to be present. Counsel accept that such a timetable would need to have a degree of flexibility, due to the difficulties in estimating cross-examination times. However, it is expected that a timetable would "firm up" over time, as experience with the duration of cross-examination enables more accurate estimation.
- (c) Similarly, it would be of enormous value if a daily update were available on the Board's website indicating where on the timetable proceedings had reached at the conclusion of the day.
- (d) Given the foregoing discussion, advance permission is also respectfully sought by counsel to come to and from the hearing, attending only during those parts of the hearing touching upon their respective clients' interests.

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<sup>1</sup> Paragraph 4, third bullet point, Hearing Procedures document dated December 2007.

*Pre-reading of Evidence*

- (e) Guidance is sought as to whether the Board intends to pre-read any of the evidence. The general consensus amongst counsel contributing to this memorandum is that the evidence of expert witnesses should not be pre-read if that means that such witnesses will not present it at the hearing.

*Evidence-testing*

- (f) Guidance is also sought as to the procedure the Board intends to follow in dealing with the evidence it receives. It is recognised that, in the usual course, if evidence is uncontested, a court will accept it. In this case, however, the hearing is an Inquiry and one which the Board has determined, as noted above, "should not have the character of an adversarial contest between parties". Further, it has already been foreshadowed by counsel that this usual course may be inappropriate to an inquiry of this nature. Specifically, there are aspects of the evidence for Transpower that are not accepted, but for which no competing evidence is available. The Board has been requested to commission independent review evidence to assist in those respects. Should the Board be minded to adopt that approach, the process for doing so will need to be discussed.
- (g) With that last point in mind, counsel respectfully request advice as to whether any counsel or consultants have been appointed to assist the Board at this stage, apart from Mitchell Partnerships.

*Recording of Proceedings*

- (h) Will the proceedings be recorded and a transcript made available to the parties?

*Hearing*

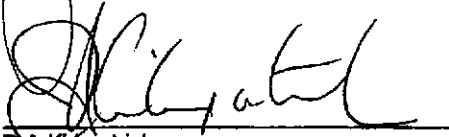
- (i) Finally, confirmation is sought that the hearing of submitters from the greater Auckland area will be held in Auckland. Counsel note in that respect that some

hearing time is allocated at Takapuna but not a great deal. Is it the intention that all Auckland submitters submit their cases within the time allocated at Takapuna?

DATED the 17<sup>th</sup> day of March 2008



J Burns/S Fraser  
Counsel for the Auckland Regional Council



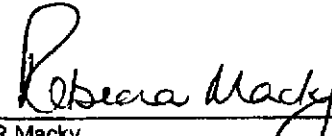
D A Kirkpatrick  
Counsel for the Waipa District Council and Underground in Manukau



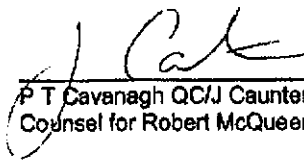
M J L Dickey  
Counsel for the Manukau City Council



D Allan  
Counsel for the Hunua & Paparimu Valley Residents' Association Incorporated



R Macky  
Counsel for Suzanne Murray, Micaela Murray, Lynette Elizabeth Lyons and Jamie Lyons



P T Cavanagh QC/J Caunter  
Counsel for Robert McQueen