



**Royal Commission on the Pike River Coal Mine Tragedy  
Te Komihana a te Karauna mō te Parekura Ana Waro o te Awa o Pike**

**UNDER THE COMMISSIONS OF INQUIRY ACT 1908**

**IN THE MATTER OF THE ROYAL COMMISSION ON THE PIKE RIVER  
COAL MINE TRAGEDY**

---

**MINUTE NO 10: PHASE FOUR, POLICY ASPECTS**

---

22 December 2011

---

Level 14, Prime Property Tower, 86-90 Lambton Quay, Wellington  
P O Box 5846, Lambton Quay, Wellington 6145  
Email: [pikeriver@royalcommission.govt.nz](mailto:pikeriver@royalcommission.govt.nz)  
Freephone (NZ only) 0800 080 092

## **Introduction**

1. The Commission until now has left open the process to be adopted with reference to phase four of the Inquiry. This minute details the approach upon which the Commission has settled, although as will become clear a measure of flexibility still remains.

## **Input into phase four**

2. As in relation to earlier phases the Commission invites input from participants with reference to the phase four policy issues and the recommendations to be made by the Commission.
3. The Commission anticipates that such input will mostly comprise relevant documentary materials and the views of the participants upon the policy issues and the appropriate direction of future change. Witness statements are less likely to be required but may be filed if thought appropriate.
4. Participants who wish to file documentary materials and witness statements are requested to do so as soon as possible. Counsel assisting are already in the process of obtaining an early indication of some participants' views. Information filed with the Commission will be placed on the secure website in the usual way. Those intending to confine their input to submissions on the policy issues and future direction may do so as part of the submission process outlined below (paragraph 8).

## **Some questions of interest to the Commission**

5. In light of the evidence already filed and the hearings to date, the Commission has an interest in a number of questions which are relevant to phase four of the Inquiry. These are attached.
6. The questions identify various aspects which the Commission presently views as of importance. Other policy questions may need to be considered and answered. Hence, the list of questions should not be seen as limiting the scope of input from participants.

## **Phase four process**

7. In light of the input received the Commission may seek expert advice both in New Zealand and overseas in relation to policy aspects. It will also hold discussions with, or seek written comments from, selected participants who have a particular interest in, or who are affected by, a policy issue. Information gathered from these sources will also be made available on the secure website.

## **Submissions process**

8. The Commission also seeks written submissions in relation to all phases of the Inquiry. The date for the filing of submissions is 16 March 2012.
9. There will be a hearing in Greymouth to enable participants to speak to their written submissions and respond to those of other participants, where necessary. Subject to the granting of an extension to the Commission's reporting date, the submissions hearing will commence on Monday 2 April 2012.

Produced by

Royal Commission on the Pike River Coal Mine Tragedy  
P O Box 5846  
Lambton Quay  
Wellington 6145

Dated 22 December 2011

## **A. Mining regulation and recognised practices**

### *Comparators*

1. The Commission is minded to use the Western Australia, New South Wales and Queensland regulatory structures (including the National Mine Safety Framework established by a steering group on behalf of the Standing Council on Energy and Resources<sup>1</sup>) to provide a comparison for the regulation of the New Zealand underground coal mining industry (“mining industry”). Nonetheless, are there other countries or states which should also be used as comparators?
2. What are the significant features or principles of these overseas regulatory structures which are worthy of consideration?
3. Are there particular features of the New Zealand mining environment and industry which need to be taken into account in making a comparative evaluation against overseas regimes?

### *The nature and form of regulatory arrangements*

4. Aside from the Health and Safety in Employment Act 1992 (HSEA), what additional regulatory arrangements are needed in relation to the mining industry?
5. With reference to the form of the mining industry regulatory arrangements:
  - a. at what level, and when, is prescriptive regulation appropriate?
  - b. what type of regulatory arrangements (regulations, approved codes of practice, codes of practice and industry standards) are most appropriate?
  - c. should a “safety case” requirement or components thereof be included as an aspect of the mining industry regulatory arrangements?
  - d. if so, what form of requirement is appropriate and should the safety case be subject to review, or approval, by the regulator or an independent third party?
6. Do the employee participation provisions in Part 2A of the HSEA require improvement and, if so, in what respects?

### *The establishment of regulatory arrangements*

7. Who should have primary responsibility for establishing and updating the mining industry regulatory arrangements for:
  - a. occupational health and safety;
  - b. prospecting, exploration and mining permits.
8. Accepting the need for tripartite involvement, which bodies or individuals should participate in the drafting and review of the mining industry regulatory arrangements, and how can this best be achieved?

---

<sup>1</sup> Refer to: [www.ret.gov.au/minesafety](http://www.ret.gov.au/minesafety), for further details.

9. Generally, would there be advantages in greater cooperation, coordination and sharing of expertise with Australia and its States in relation to the regulation of the mining industry? If so, how might a closer relationship be achieved? Would there be any disadvantages?

**B. The interaction between mining regulation and recognised practices and other (including conservation and environmental) legal requirements**

1. How do overseas jurisdictions manage the interface between mining and other legal requirements (including conservation and environmental) with reference to:
  - a. the permitting of prospecting, exploration and mining activity;
  - b. occupational safety and health.
2. Should applicants for prospecting, exploration and mining permits be assessed as to their capacity (financial, managerial and technical) to develop the mine proposal and to do so in a safe manner?
3. If so, how should this assessment be carried out, by whom and should there be a sharing of information between regulators?

**C. The resourcing and administration of the regulators of mining law and practice**

1. Are there overseas jurisdictions, other than those used for the mining regulation and recognised practices comparison, which should be used in the comparative assessment of the New Zealand regulator? What are the significant features of these overseas regulatory agencies?
2. Is the concept of a High Hazards Unit announced in August 2011 to provide health and safety regulatory services to the extractives, geothermal and petroleum sectors supported; and are there views concerning:
  - a. the funding of the unit?
  - b. the organisational structure (copy annexed)?
  - c. any other aspects of this development?
3. What are the required features of a modern and effective regulator of the New Zealand mining industry including its:
  - a. position or situation (unit in a department, stand alone etc)?
  - b. organisational structure, personnel, technical expertise and training?
  - c. financial resourcing and the source of such funding?
  - d. key relationships with the industry, unions, employees, contractors, industry associations and overseas agencies?

- e. operational role (balance between advice, compliance and enforcement) and operational methods?
- f. policy role and responsibilities?
- g. involvement in search, rescue and recovery operations?