



**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**

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**MINUTE NO. 4: PHASE ONE HEARING PLAN**

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1 July 2011

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## **Introduction**

1. This Minute explains aspects of the Hearing Plan issued in anticipation of the Phase One hearings. The timeline included in the Plan is necessarily indicative. In light of progress there may be a need to amend the timetable, in which case this will be discussed in the course of the hearings.

## **Witnesses**

2. The evidence of Messrs Elder (dated 8 June 2011), Bell (23 June 2011) and Whittall (22 June 2011) will comprise the witness statements which they have provided to the Commission. In the case of Mr Whittall, there may be a need for some supplementary evidence by way of explanation of the plans, photographs and other exhibits which he is to produce.
3. Dr Jane Newman will give evidence in terms of her undated submission to the Commission (headed "Newman Energy Research"). Counsel Assisting will brief her evidence in order to highlight the aspects which are of interest to the Commission.
4. Mr Robin Hughes was very recently asked to provide a witness statement to the Commission. It came to the Commission's attention that Mr Hughes was the last Chief Inspector of Coal Mines before the integration of the Mines Inspectorate Group (MIG) into the Department of Labour in 1998. The Commission wishes to have evidence from Mr Hughes concerning matters which occurred before, and at the time of, the integration. Because Mr Hughes is presently an employee of Solid Energy, Mr Stevens (of DLA Phillips Fox) has agreed to prepare a witness statement. This will be posted to the secure website as soon as it is available next week and Mr Hughes' evidence will be as per the statement. Given that participants have had no opportunity to seek leave to examine Mr Hughes, oral applications may be made at the hearing.
5. The MED, DOC and DOL witnesses will be introduced and qualified by counsel representing them. The substance of their evidence, however, will be adduced through questioning by Counsel Assisting on a range of issues arising from their witness statements.
6. Mr Colin Dall from the West Coast Regional Council will be examined by Counsel Assisting with reference to a limited number of issues

arising from his witness statement dated 27 May 2011. The focus will be upon two resource consents which relate to the elements of the underground mine itself.

### **Reply evidence**

7. McConnell Dowell Constructors Limited applied for leave to file reply evidence from Mr Joe Edwards in response to issues raised in the witness statements of Messrs Bell and Renk, filed on behalf of the Families. Leave is granted. The reply evidence will be posted to the secure website as soon as Mr Edwards has signed his further witness statement. There was no application for leave to examine Messrs Bell and Renk at the Phase One hearings.
8. The Pike directors, officers and managers (represented by Minter Ellison Rudd Watts) sought leave to file reply evidence in relation to the statements of 22 witnesses and with reference to the Department of Conservation Tier Two Paper. The Commission considered that the matters to which counsel wished to reply (as particularised in a schedule annexed to the application) were Phase Three matters. Counsel Assisting discussed this aspect with Ms Shortall. In the result, there is no need to rule upon the leave application, since the applicants may file the “reply” evidence as of right in the context of the phases to which such evidence relates.

### **Leave to examine witnesses**

9. Mr Mander (Crown Law), on behalf of DOC, DOL, MED and MFE sought leave to examine five witnesses, but only if the Commission decided to call those witnesses in the context of Phase One. In the event Mr Bell is the only one of the five who is to give evidence in Phase One. Leave is granted to examine with reference to the issues listed as 5.2.1 to 5.2.9 in the schedule annexed to this Minute.
10. Ms Shortall (Minter Ellison Rudd Watts), in addition to seeking leave to file reply evidence, sought leave to examine the same 22 witnesses and the DOC officers able to speak to the Tier Two paper. This application was expressed to be conditional upon the Commission’s election to call such witnesses at Phase One, and in the event only Drs Elder and Newman, and Mr Bell are to be called. Leave is granted to examine these witnesses with reference to the issues identified in the annexed schedule.

11. Mr Hampton QC on behalf of EPMU sought leave to examine Messrs Poynter and Murphy, both of DOL. The application is granted in relation to Mr Murphy with reference to the two issues appearing in the schedule. To the extent that leave has not been granted in relation to further related issues, counsel may make an oral application if it is considered that such issues have not been adequately covered by Counsel Assisting.

12. Mr Hampton in a further application sought leave to examine Messrs Whittall and Dow with reference to:

“All matters as to the design of the mine, at all stages of planning and construction, including aspects of the means of egress, health and safety, gas drainage and monitoring, and ventilation ...”

the particulars of which issues conveyed that the intention was to challenge the efficacy of most systems within the mine. Leave is refused on the grounds that such questioning is appropriate to Phase Three as opposed to this contextual phase. Likewise, leave is refused in relation to questioning “as to the relationship between EPMU and PRCL” and with reference to “any matter touching on the turnover of managers in PRCL”. Mr Hampton may renew the application for leave to examine Mr Whittall concerning New Zealand’s Mining Regulations and its Mining Inspectorate if this is considered necessary after Counsel Assisting has examined this witness.

13. Mr Davidson QC on behalf of the Families filed a memorandum which was generally supportive of the approach taken by Mr Hampton in the leave applications filed by him. The conclusions of the Commission in the previous paragraph sufficiently respond to this memorandum.

14. For completeness, the Commission repeats that the purpose of Mr Whittall’s evidence is to describe the state of development and the layout of the mine as at the incident date. If this factual description is considered to be incomplete, or unclear, at the conclusion of Counsel Assisting’s examination of the witness; it may be appropriate for other counsel to apply orally for leave to examine upon any such deficiencies.

### **Chronologies**

15. The Commission has produced five chronologies which identify and summarise key milestones relating to topics considered of particular

relevance to the Inquiry. These range from the historical profile of New Zealand mining and coal production to the history of the development of the Pike River Mine. The chronologies will be available to participants on the secure website on Monday, 4 July.

16. Further chronologies, or new iterations of the existing ones may be issued as further evidence is received by the Commission or in light of input from participants.

Issued by:

**Pike River Royal Commission**

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1 July 2011

## Schedule

### **Dr Don Elder (Minter Ellison on behalf of certain Pike directors, officers and managers)**

- Allegations regarding the quality of PRC's information gathering and investigation during the feasibility stage (para 11.1, 69–72, 75).
- Allegations about PRC's financial issues, the commercial risk associated with the PRC development and the economics of mining the PRC coalfield (para 11.2, 76–80).
- Claims in relation to opencast mining at PRC coalfield (para 12.1).
- Allegations in relation to the quality of the PRC's export coal (paras 73–75).
- Allegations that certain factors at PRC had "significant potential to be at the root cause of generating a wide range of safety risks" (para 103).

### **Dr Jane Newman (Minter Ellison on behalf of certain Pike directors, officers and managers)**

- Statements in relation to the generation of the proposed mine plan (p 3).
- Statements in relation to the strategic aspects of mine geology (p 4).
- Statements in relation to the adequacy of the definition of PRC mine geology prior to mining (p 2).

### **Harry Bell (MED, MFE, DOC, DOL)**

- 5.2.1 The Department of Conservation's role in relation to the development of Pike River Mine;
- 5.2.2 Department of Labour personnel interactions with Mr Bell;
- 5.2.3 The expertise, qualifications, experience, role and functions of Department of Labour OSH Inspectors and the purpose, frequency and nature of their inspections;
- 5.2.4 Mr Bell's comments regarding lack of detail and enforceable requirements in the regulations;
- 5.2.5 Mr Bell's temporary role as mine inspector with Department of Labour;
- 5.2.6 The supervision of mines in New Zealand prior to 1992;

- 5.2.7 Crown Minerals/New Zealand Petroleum and Minerals role in relation to the development of Pike River Mine and its role in mine permitting and approval;
- 5.2.8 Mr Bell's comments on the nature of New Zealand mining conditions geologically; and
- 5.2.9 Mr Bell's comments on the exclusion of coal mining from the Health and Safety in Employment Act.

**Harry Bell (Minter Ellison on behalf of certain Pike directors, officers and managers)**

- Statements in relation to extending the road and single entry tunnel (para 7).
- Statements in relation to sampling (paras 8–10).
- Statements in relation to mining options and the approach taken to developing the mine (paras 11–15).
- Statements about the pumping system (paras 15–16).
- Statements in relation to the single drive entry (paras 21 – 22).
- Statements in relation to ventilation systems and ventilation ducting (paras 23–31).
- Statements in relation to shotcreting at the fault (paras 32–34).
- Statements in relation to first involvement with PRC (para 1).
- Statements in relation to December 2008 involvement with PRC (para 5).
- Statements in relation to review of Mac Dow's tender documents (paras 17–19).
- Statements in relation to the ignitions (paras 35–37).
- Statements in relation to approval of Pike plans (para 66).

**James Murphy (EPMU)**

- (ii) matters raised by Mr Murphy in his statement of evidence at para 108 et seq as to the development of regulations for the mining sector post–1991.

- (iii) matters raised by him in his statement of evidence at paras 150–180 as to the re-evaluation and review of mining regulations from 2006 to the present.