



**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 8: INFORMATION CONFIDENTIALITY OBLIGATION

8 NOVEMBER 2011

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1. The witness statement of Masaoki Nishioka has been released to the media without authorisation in advance of his scheduled appearance at the second week of the November hearings.
2. This was in breach of paragraphs 16 and 17 of Practice Note No 2. Participants who obtain documents from the secure website are subject to:

“an implied undertaking that the information obtained is received in confidence, and...will be used only for the purposes of the person’s participation in the Inquiry”.

Paragraph 17 provides that undertakings cease to be in force only when information becomes public in the course of an Inquiry hearing.

3. The purpose of the confidentiality requirement is to enable the Commission to provide information to participants in advance of the hearings without imperilling rights which may be exercised at a hearing. These rights include the opportunity to test evidence through cross-examination and also the power to make a suppression order in relation to “particular evidence” where its publication would be contrary to the interests of justice.
4. The Commission views the present breach of the rules seriously. In addition to potentially affecting the rights of persons who are adversely affected by the evidence, advance publication of evidence also has the potential to inhibit the Commission’s ability to obtain evidence. If a witness cannot be assured that their evidence will only become a matter of public knowledge at a formal hearing, they may not be prepared to provide a witness statement in the first place.
5. Accordingly, this Minute has been issued to everyone who has access to the secure website as a reminder, and to reinforce the importance, of the confidentiality obligation. The Commission will use its power to punish for contempt if a breach of its rules is shown to have had an adverse impact on the proper conduct of this Inquiry.

Produced by

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Dated 8 November 2011