



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 6: PHASE TWO HEARING PLAN

26 AUGUST 2011

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Introduction

1. This Minute explains aspects of the final Phase Two hearing plan issued today. The draft hearing plan emailed to participants last week produced a number of responses. A number of participants favoured a forward looking approach in relation to the evaluation of the search, rescue and recovery operation. Others expressed an equally clear view that a factual examination was the first priority, before it was appropriate to take a forward looking approach. Another concern raised was that additional witnesses would be required in order to cover both factual and forward looking components.
2. In light of these responses the Commission has resolved to call witnesses who are able to deal with the factual issues which are of most interest to the Commission. Where appropriate, these witnesses may also be questioned concerning what they would now do differently in light of their experience in relation to the Pike River rescue operation.

Focus of the hearing

3. The evidence and supporting documentation filed in relation to this phase is comprehensive. All of the main entities involved in the rescue operation have provided a detailed account of their involvement. The Commission appreciates the extent and quality of the information with which it has been provided.
4. The course of the rescue operation from 19 November 2010 is amply described in numerous witness statements and associated documents. An analysis of this material has enabled the Commission to identify a range of higher level questions which it considers should supply the focus for the hearings. These questions are set out in the annexed Schedule headed "Phase Two Questions". The hearing plan has been drawn with these questions in mind. Participants are asked to have regard to these questions in formulating their approach at the hearings.
5. The Commission is also of the view that everyone involved in the rescue operation acted with the best of intentions. Numerous agencies from New Zealand, and beyond, willingly contributed to the operation. The effort put in by all those involved cannot be doubted. On the other hand, some evidence which has been filed contains an element of "finger-pointing" in relation to the actions of other agencies. The Commission doubts whether exploration of many of the criticisms would serve any useful purpose. However, constructive criticism concerning what could have been done better, especially where directed to the specific questions listed in the Schedule, will be beneficial.

Witnesses

6. The Week One witnesses will give evidence in terms of their witness statements, supplemented as necessary. The witnesses listed to appear in Week Two will give evidence based on their witness statements, but limited in order to focus on the high level questions which the Commission has identified. To achieve this there will need

to be a process of consultation between counsel calling the witnesses and counsel assisting the Commission.

7. The witnesses for Week Three will give evidence by reference to their witness statements. In relation to some witnesses who are representative of the families it is likely that some orders will be made limiting the extent of media coverage as allowed under the Guidelines.

Leave to examine witnesses

8. To date, 16 applications seeking leave to question a range of witnesses have been filed. Many of the persons named in the applications are not witnesses who have been included in the hearing plan. In addition, there has been no opportunity to apply for leave in relation to a number of witnesses whose witness statements were filed recently or which are still to be placed on the secure website. In relation to these witnesses oral applications to examine may be made in the course of the hearings.
9. Leave to examine is granted to those parties listed by reference to individual witnesses in the hearing plan. In some instances multiple parties have been granted leave to question a single witness. The Commission requests that these counsel confer as to the order and content of questioning. This should enable the questioning to proceed in a logical sequence, and also avoid duplication.
10. Leave to examine witnesses is not linked to the intended subject matter identified in the various leave applications. This is deliberate. Instead, by providing the Schedule of questions the Commission seeks to set the tone for Phase Two; and asks that the parties approach the questioning of witnesses in light of the Commission's thinking where possible.

Reply evidence

11. Applications filed on behalf of the Pike Officers (dated 16 August and 22 August) sought leave to file reply evidence in response to a number of witness statements, should these witnesses not be called at the hearings. Similarly, the Department of Labour (DOL) (application dated 22 August) applied in the alternative to file reply evidence if certain witnesses were not called. Both applications are granted.
12. Where there has been no opportunity to apply concerning reply evidence relating to witness statements filed more recently, applications can be made as necessary.

Chronology

13. A chronology entitled "Search & Rescue" is in the course of preparation. It will be placed on the secure website prior to commencement of the Phase Two hearings.

Media access to hearing materials

14. In light of experience at the Phase One hearings, the Commission has instituted a process to enable our Communications Advisor to provide copies of witness statements and other materials which are aired in the course of the hearings to members of the media. This may include photographs, video footage and maps, but not the Calscan images which cannot be supplied for technical reasons. Attention is being drawn to this to emphasise that if participants oppose the release of an item of evidence, objection will need to be taken as soon as it is introduced at the hearing.

Produced by

The Pike River Royal Commission
P O Box 5846
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SCHEDULE

Phase Two Questions

Cause of loss of life: (Issues 2.1 - 2.5)

1. Where within the mine were the men most likely located at the time of the explosion and what activities were being undertaken?
2. Is there any evidence (including video and laser images) that indicates the Coroner's finding as to the likely cause and timing of the deaths should be re-visited?

Search and Rescue: (Issue 2.5)

3. Were there suitable and sufficient outlets providing means of entry and exit for employees in the mine on 19 November?
4. Were the equipment and facilities for self-rescue adequate, properly maintained and situated in the right places within the mine?
5. Were the self-rescue policies and procedures of the Company clear and were the workers adequately trained?

Emergency Response Planning: (Issues 2.6 - 2.8)

6. Was the Company's emergency response plan (ERP) adequate for the eventuality of an explosion and had it been tested for this eventuality?
7. Had the Company's ERP been integrated and tested with those of other agencies including the New Zealand Fire Service and New Zealand Mines Rescue Service (MRS)?
8. Was the Company able to provide fundamental information required for the Search Rescue & Recovery (SR & R) operation?
9. Had the Company planned how testing of the mine atmosphere would occur following an explosion?

The SR & R Operation: (Issues 2.9 - 2.11)

10. Did the organisational structure, communications, information systems and decision-making processes established by the Police enable decisions to be made in a clear and timely manner?
11. Were the multiple levels of the organisational structure and their physical separation a hindrance to effective decision-making?
12. Were the roles of the Company, the Statutory Mine Manager and the other supporting agencies defined and understood by all participants?
13. Were the services of the technical experts used to best advantage?
14. What were the components of the risk assessment structure and did it operate effectively?
15. What was the role of DOL and MRS during the SR & R operation and what contributions did they make to the Incident Management Team?

The decisions reached: (Issue 2.12)

16. Is there an evidentiary basis for the proposition that a “window of opportunity” existed following the first explosion?
17. Were the decisions concerning:
 - the survival of the men;
 - the transition from rescue to recovery; and
 - controlling ventilation, sealing the mine and utilisation of the GAG machineappropriate and timely?
18. Did the timing of these decisions have any adverse consequences in relation to the number of explosions and the conditions within the mine?

Resources: (Issue 2.13)

19. Were there deficiencies in the availability and level of logistical support for the SR & R operation?

Communications with the families: (Issue 2.20)

20. Were appropriate steps taken to contact the families immediately after the first explosion?
21. Subsequently, when briefings occurred:
 - were “false hopes” raised?
 - was material information withheld or its release unduly delayed?If so, was this by design or as a result of the exigencies of the situation?