



**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 9: DEPARTMENT OF LABOUR INVESTIGATION REPORT

1 DECEMBER 2011

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Introduction

1. On 22 November 2011 the Department of Labour filed an Investigation Report (entitled "Pike River Mine Tragedy 19 November, 2010") with the Commission. The Commission understands that copies of the report were also provided to those parties charged by the Department with offences against the Health and Safety in Employment Act 1992.
2. On 28 November 2011 counsel for Pike River Coal Limited (In Receivership), Certain Directors, Officers and Managers of that Company, and for Valley Longwall International Pty Ltd, applied to the Commission for management directions in relation to the report.
3. The application sought an order restricting dissemination of the report beyond the Commission and related orders that any questioning of witnesses with reference to the report be undertaken in chambers, with the resulting evidence suppressed.
4. In the alternative, the application sought orders that dissemination of the report be restricted to the Commission and parties having a "legitimate interest" in receiving it; together with orders limiting to whom the investigation report may be shown and requiring that questioning upon the report, references to evidence from it and submissions based on the content of the report be suppressed from publication.

The decision of the Commission

5. The Commission does not make a management order in the terms sought. It does accept that the investigation report is in a different category to other evidence filed with the Commission.
6. The report seeks to cover a number of the Terms of Reference which the Commission is to consider, and is also conclusionary in relation to some of the same issues that the Commission has identified as relevant to meeting its Terms of Reference.
7. In these circumstances the Commission accepts that there is a case for restricting distribution of the report. In this it is influenced by the recent unauthorised release of a witness statement filed with the Commission, which prompted the issue of Minute No 8.
8. A further concern is that the suppression orders sought, if granted, would have the potential to distort a proper understanding of the evidence. The Commission considers that its hearings are of public interest and should be able to be accurately reported, subject only to the requirements of natural justice being met.

A management order

9. The Commission is satisfied that it is in the interests of justice for a management order to be made, but in the following terms:
 - (a) that the investigation report shall not be disseminated to all participants via the secure website, but instead shall only be made available upon written application and where the Commission determines in its discretion that the applicant requires the report to effectively participate in the inquiry;

- (b) that such applications shall include an endorsement of applicants' counsel:

"I undertake to receive the investigation report on behalf of (client's name), to use the report solely for the purposes of the inquiry and not to disclose its contents to anyone outside the legal team save as is required to obtain instructions from our client";

- (c) that further management directions, if required, may be made in the course of the Commission's hearings; and
- (d) that leave to file evidence in reply to any matter contained in the report is granted to participants who consider they are adversely affected by its contents, without the need for leave to be obtained from the Commission.

Produced by

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Dated 1 December 2011