



**Royal Commission on the Pike River Coal Mine Tragedy**  
**Te Komihana a te Karauna mōte 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**

Before: The Honourable Justice G K Panckhurst  
Judge of the High Court of New Zealand  
Commissioner D R Henry CMNZ  
Commissioner S L Bell  
Commissioner for Mine Safety and Health, Queensland

Appearances: K Beaton, S Mount and J Wilding as Counsel Assisting  
J Haigh QC and B Boyd for Douglas White  
J Rapley for Neville Rockhouse  
S Moore SC, K Anderson and K Lummis for the New Zealand  
Police  
N Davidson QC, R Raymond and J Mills for the Families of the  
Deceased  
S Shortall, A Rawlings, A Glenie, D MacKenzie, A Gordon for  
certain managers, directors and officers of Pike River Coal Limited  
(in receivership)  
C Stevens and A Holloway for Solid Energy New Zealand  
R Palairat for Fire Service Commission and West Coast Rural Fire  
Authority  
K McDonald QC, C Mander and A Boadita-Cormican for the  
Department of Labour, Department of Conservation, Ministry of  
Economic Development and Ministry for the Environment  
G Nicholson and S Steed for McConnell Dowell Constructors  
G Gallaway, J Forsey and E Whiteside for NZ Mines Rescue  
Service  
B Latimour for Coal Services Pty Ltd  
N Hampton QC and R Anderson for Amalgamated Engineering,  
Printing and Manufacturing Union Inc

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## OPENING ADDRESS OF K BEATON FOR THE COMMISSION

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**MS BEATON:**

May it please the Commissioners, ladies and gentlemen. Today we begin Phase Two of the public hearings of this Royal Commission of Inquiry into the tragedy that occurred at Pike River Mine on 19 November last year. We begin by recognising that this is a difficult time for those who have lost their loved ones at Pike River and to the communities in which they live. And you start these Phase Two hearings by acknowledging that loss and sharing their desire to learn what happened after the explosion on 19 November. To learn why no rescue of the men occurred and whether anything could have been differently.

There are five topics that I wish to talk about today. The first is the terms of reference that guide your inquiry in this phase. The second is the role of this public hearing, and thirdly how the hearing will proceed. The fourth topic will be the focused questions which you as Commissioners have identified and which you seek to have answered, and fifthly a brief description of the evidence that you will hear over the next three weeks.

So starting with the terms of reference. This phase is intended to cover two of those terms on which you are required to inquire and report to the Governor-General. The first is the cause of the loss of life of the 29 men who were working in Pike River Mine. Issues requiring consideration are the likely injuries suffered, the causes of, and the timing of their deaths. These issues though will fall to be considered against the background of findings already made by the Chief Coroner on 27 January this year. Judge MacLean determined on the evidence available to him that the death of all 29 men occurred either at the immediate time of the first explosion or a very short time thereafter. He determined that the cause of death, although it may vary in degree between an individual depending upon their location, was the result of

a substantial explosion and the combination of concussive and thermal injuries due to the explosive pressure wave, together with acute hypoxic hypoxia, through exposure to toxic gases and a lack of oxygen. Whether those findings do require reconsideration as to the cause and timing of the deaths will be assessed in this phase.

The other term of reference to be covered in Phase Two is an inquiry into the search, rescue and recovery operations that were contemplated and undertaken after the explosion on 19 November. And this requires consideration without limitation of the practices used, other steps taken and the equipment and other resources available and the preparedness for those operations. These are issues which all have the potential to, and indeed already have, attracted criticism from some quarters.

I wish to describe briefly now the role of this public hearing. It is an important part but only one part of the inquiry process. Within the framework of the broad terms of reference, in April of this year you released what is known as the List of Issues, and it separated the broader issues into four phases within which we are now all operating. That list contains 20 issues for Phase Two of your inquiry.

You have already received thousands of pages of evidence that addressed those 20 issues. There was also evidence given during the course of the Phase One public hearing which has both informed and provided context for some of those issues. And as occurred with Phase One, consideration of the evidence has led to a view that not every one of the 20 issues can or needs to be examined by way of additional oral evidence in this public hearing. For example, some aspects are better dealt with by way of written submissions later or by way of expert analysis and advice. As a result, it is important to recognise that much of the oral evidence to be called in this public hearing will be intended to focus even further down to specific questions which have arisen from those issues.

An example is issue 2.4 in your list of issues. That sought to establish a chronology of events from the time of the first explosion at 3.45 pm on 19 November through to the present day. That has been done by the filing of helpful timelines, by detailed witness statements and by institutional reports filed by a large number of the agencies and individuals who were involved in the search, rescue and recovery operation and those witnesses include current and former staff of Pike River Coal Limited, New Zealand Police, New Zealand Mines Rescue, Department of Labour, Solid Energy, New Zealand Fire Service, the Defence Force, St John's Ambulance and the Department of Conservation. Evidence has also been received from representatives of several Australian mines rescue organisations from Queensland and New South Wales. They quickly became involved in deploying technical and rescue personnel to assist at Pike River.

And all of that evidence has enabled the Commission's analysts to prepare a draft chronology of events that occurred from the 19<sup>th</sup> of November and this is available on the Commission's public website, and on which you welcome input and comment. But as a result of the large amount of evidence already filed, it is not considered necessary for there to be any supplementary oral evidence given in this public hearing on the issue of the chronology of what occurred.

Another example is issue 2.5 in your list of issues. It addresses the opportunity for the men in the mine to have taken steps towards what is called self-rescue. That means whether the men had the equipment and training to enable them to get themselves to a place of safety without outside assistance.

This understandably is an issue of great import to the families of the 29 men and to the company and the contractors who had staff within the mine and to you as the Commission. It encompasses an assessment of rescue plans, resourcing and training and again a large amount of very helpful evidence has already been filed on this issue. But, in addition to that evidence already received, these issues will be a focus of oral evidence given by witnesses over the course of the next three weeks.

So the witnesses who will be called in this public hearing are by no means the only people who have provided relevant and useful evidence to you, but they have been identified as some of those whose evidence should be heard and tested if necessary in a public way. I know you seek to thank all of the individuals and agencies that have already contributed with written submissions and detailed evidence over the last several months. It is impossible to list them all by name in this opening statement, but you are grateful for every contribution that you have received. Your task as Commissioners is very much dependent upon receiving and assessing this written information as it supplies much of what you need to know in relation to the terms of reference. However, it is important to remember that this Commission of Inquiry is not a criminal investigation nor is it directed at establishing civil liability, but that does not mean that you as Commissioners will not closely scrutinise what occurred. The actions of a number of individuals and external agencies will be scrutinised. But, it is important to remember for everyone to remember that they reserve judgment until individuals and agencies who are the subject of criticism have had a proper opportunity to be heard and for such criticisms to be tested to the extent that that is necessary.

I now want to move to outline how this Phase Two hearing is intended to proceed. Twenty-six witnesses have been selected to give oral evidence. They will be called by their own lawyer, if they or the agency they represent has counsel. Some witnesses will read part or all of their witness statements to you and some will give evidence by way of additional questioning over and above their written evidence already provided to the Commission. You have directed that cross-examination of witnesses will by by leave of the Commission and a number of applications for leave to cross-examine have already been filed. The parameters of cross-examination will be assessed as we go and you recognise that there may well be oral applications made to cross-examine witnesses on issues that might arise in the course of their evidence. The order of cross-examination will be determined by counsel for the participants and it is intended that counsel assisting you will then ask any

additional questions that might arise and re-examination may occur if necessary.

As with Phase One, the oral evidence in this hearing will be live-streamed on the Internet to allow family members and other interested persons to hear and see the Commission's work. There will be restrictions on media coverage of the evidence of some family members who will be giving evidence in the third week. There may also be suppression orders required during the course of the hearing.

You will hear and receive evidence in a number of ways and some evidence will be made public for the first time. There will be video footage played to you of various people entering and existing the mine, before and after the first explosion, and this footage was recorded at the portal or the entrance to the mine. You will also see video footage of the explosions taken at the portal and at the top of the mine's ventilation shaft. You will be shown what are called, C-ALS scan images. C-ALS stands for cavity autoscanning laser system and this technology uses down-hole laser scanning to map underground mine workings from the surface. Scans have been taken down what's called the Slimline shaft in the fresh air base. One was taken on the morning of 24 November last year before the second explosion. That same area was re-scanned in February of this year and substantial changes were noted within the area of the fresh air base. Scans have also been taken down drill holes known as 44 to 47. Drillhole 47 was actually drilled during the search and rescue operation. Subsequent analysis of a C-ALS scan taken down drill hole 47 in January of this year and analysis of video footage of the same area has led to the opinion that there is a body shown lying in a stub.

You will also receive into evidence a number of maps and mine plans. One of those is a map prepared by police and Department of Labour after analysis of a large number of witness statements taken in the course of their concurrent investigations. This map shows what is presently the best reconstruction of the likely locations of the 29 men on the afternoon of the first explosion on 19 November. It is based primarily on the recollections of those people who

exited the mine earlier that day but also on other sources including information as to where each group of employees or contractors was intended to be working on that shift. You will also hear in evidence the 111 call that was made to emergency services at 4.35 pm on the 19<sup>th</sup> of November.

I want to move now to talk about the focus that you have identified for the Phase Two public hearings. On 26 August 2011, you issued a Minute setting out your appreciation of the quality and extent of the evidence provided by the large number of submitters. In that Minute you said that the Commission had been able to identify a range of higher level questions on which you sought answers and you advised that these questions should provide the focus for this public hearing. Those questions were identified within the context of your view that everyone involved in this search, rescue and recovery operation acted with the best of intentions. You stated, and I quote, "Numerous agencies from New Zealand and beyond willingly contributed to the operation. The effort put in by all of those involved cannot be doubted." You go on in that Minute to say that while there has been some evidence filed which contains an element of finger-pointing towards the actions of individuals or agencies, that the exploration of those criticisms may not serve any useful purpose. Instead you encourage constructive criticism concerning what could have been done better. You consider that as being beneficial to your inquiry.

I think it would be useful to go through and detail what you have identified as these focused high-level questions for Phase Two. The first is, where within the mine were the men most likely located at the time of the first explosion and what activities were being undertaken? On this issue, as mentioned a few moments ago, there will be produced before you a draft plan depicting the possible locations of the men that afternoon. This was prepared at The Commission's request and I know that you are grateful to the Police and the Department of Labour for that assistance, given in the context of their ongoing investigations.

The second focussed question you have identified is whether there is any evidence including video footage and laser images that indicates whether the

Chief Coroner's finding as to the likely cause and timing of the deaths should be re-visited?

The third question is whether there were suitable and sufficient outlets providing a means of entry and exit for employees and contractors in the mine as at 19 November?

Fourthly, were the equipment and facilities for self-rescue adequate? Were they properly maintained? Were they situated in the right places within the mine?

Fifthly, were the self-rescue policies and procedures of the company clear? Were the workers adequately trained?

The sixth question is, was the company's emergency response plan adequate for and had it been tested for the eventuality of an underground explosion?

Seven, had that emergency response plan been integrated and tested with those of other agencies?

The eighth question is whether the company was able to provide the fundamental information that was required for the search, rescue and recovery operation?

Nine, had the company planned how it would test the atmosphere within the mine following an explosion?

Those are all questions which look back in time prior to 19 November. They are designed to focus scrutiny on whether this mine had adequate planning in place for the level of emergency response that was required in case of an underground explosion. You have then focussed on the search and rescue operation that took place.



Question 10 is this, did the organisational structure, the communications and information systems and the decision making processes that were established by the Police as lead agency, enable decisions to be made in a clear and timely manner?

Question 11 is this, were the multiple levels of that structure and its physical separation between the mine site, Greymouth and Wellington, a hindrance to effective decision making?

Twelve, were the roles of the company, the statutory mine manager, and the other supporting agencies defined and understood by all of the participants in the days after the first explosion on 19 November?

Question 13 is, were the services of the technical experts who became involved used to best advantage?

Question 14 asks, what were the components of the risk assessment structure and did it operate effectively?

Leading from that, question 15, focuses on the role of the Department of Labour and the Mines Rescue Service during the operation and what contributions they made to what is called the incident management team that was established?

Your questions also encompass scrutiny of decisions that were reached. Question 16 asks whether there is an evidential basis for the proposition that there existed a window of opportunity for entry into the mine following the first explosion or not?

Question 17, seeks to focus on whether important decisions were made in an appropriate and timely way. Decisions concerning the men's survival, the transition from a rescue operation to one of recovery, control of the ventilation, the sealing of the mine, and utilisation of a GAG machine to make the mine inert.

Question 18 asks, did the timing of these decisions have any adverse consequences in relation to the number of explosions that occurred and the conditions within the mine?

Question 19 focuses on resourcing. Were there deficiencies in the availability and level of logistical support for the search, rescue and recovery operation?

Your final two focussed questions are on the issue of communications with families of the men. In asking question 20, you seek to focus on whether appropriate steps were taken to contact families immediately after the first explosion.

In question 21 you ask that when subsequent briefings occurred, were false hopes raised? And, was material information withheld or was the release of such information to the families unduly delayed? If either occurred, was this by design or was it as a result of necessity given the situation?

These issues are of considerable importance to the bereaved families, including many of those present in this room today, and this is evident from your reading of the 33 witness statements that have been received so far from spouses, partners, children, parents, siblings, whanau and friends of the 29 men who died. There are a wide range of views encompassed within those family statements as to the quality and quantity of communications with them after the 19<sup>th</sup> of November. You have also received evidence on this issue from Police and from company representatives. And all of this will be scrutinised as you recognise that communications with the families of people missing is a vital part of this and indeed any search, rescue and recovery operation. You have received those statements with gratitude and I know that you have considerable empathy for all of those who have lost their men.

So those are the high level questions identified by you as requiring particular focus and attention during the Phase Two hearings. Counsel assisting have

sought to facilitate that process and it is anticipated that counsel for the parties will co-operate in this regard.

I'll turn now to summarising the 26 witnesses from who you will hear oral evidence over the next three weeks. A witness list has been provided by way of your hearing plan and it is intended to try and keep to that order, although there will be the need for flexibility at times.

The first witness who you will hear from this morning is Detective Senior Sergeant Nigel Hughes. He is a senior Police officer from Christchurch and is second in charge of the Police investigation into potential criminal liability arising from the explosions at Pike River. Detective Senior Sergeant Hughes will produce the draft map of the possible locations of the men within the mine before the first explosion.

The next witness is Mattheus Strydom. He is an electrician employed by Pike River Coal Limited who went into the mine after the first explosion to investigate a power outage. He will give evidence about what he saw and did while he was in the mine and afterwards.

The next witness to be called today will be Daniel Rockhouse, one of the two survivors who exited the mine on 19 November. He will give evidence about his recollections of what occurred, his experiences after exiting the mine and there will be some questions of him regarding the training he had, including in self-rescue.

The other survivor, Russell Smith, requires acknowledgement at this point. Mr Smith has filed a written statement for Phase Two and this has been considered already by you. However, given the nature of what happened to him and the extent of his recollections it is not considered to be necessary for Mr Smith to have to appear in this public forum and give oral evidence as well.

Tomorrow it is intended to start with evidence with Mr Doug White who was at the time of the explosion the statutory mine manager at Pike River. He will be

followed by Stephen Ellis, and their evidence will cover their roles within the company, what occurred on 19 November, their roles in the search, rescue and recovery operation over the days and weeks that followed. They will give evidence about the implementation of the company's emergency response plan, their knowledge of training and of other factors that are relevant to the ability of the miners at Pike River to take steps towards self-rescue.

Mr Daniel Duggan will be the next witness. He was employed by Pike River Coal Limited as a control room officer and was working at the time of the first explosion. He will give evidence about what occurred just prior to and after his contact with other Pike River employees, with Mines Rescue Service and other agencies, and about answering a phone call from Daniel Rockhouse within the mine. And the 111 call he made to Emergency Services will be played.

The next witness will be Mr Neville Rockhouse, the former safety and training manager at Pike River Coal Limited. He will give evidence about his recollections of what occurred on the 19<sup>th</sup> of November and subsequently, the role that he took in the search and rescue operation, and he will also be questioned regarding the training given to Pike River staff, to contractors, including on self-rescue. He will give evidence about the Emergency Response Plan prepared by the company and the facilities available to miners within the mine.

It is intended that those witnesses will likely take us through until the end of this week. On Friday morning it is intended that some of the C-ALS scan evidence will be presented to you and two witnesses will be called to deal with that information. They are Mr Glenville Stiles, Mr John Taylor. Mr Stiles is contracted to Mines Rescue Service in New Zealand as a trainer. As part of that role he was required to conduct audits of equipment for both Pike River Mine and Spring Creek Mine. He conducted an audit at Pike River on 12 November 2010, so a week prior to the first explosion, and he will give evidence about that. Mr Taylor is employed by Solid Energy New Zealand as a project investigations manager. He became involved in the search, rescue

and recovery operation and he led a team which obtained some of the C-AL scan images and some video footage. He will give evidence explaining what those images are, their limitations and what they may show.

In week 2 the first witnesses to be called will be Assistant Commissioner Grant Nicholls and Superintendent Gary Knowles of the New Zealand Police. They will both give evidence about their respective roles in the search, rescue and recovery operation, about the organisational structure employed, the risk assessments and decision-making processes, the decisions made and the communications with families.

The next witness in week 2 will be Mr Darren Brady from Queensland. He is an employee of an organisation called SIMTARS which is the Safety in Mines Testing and Research Station. He is manager of that agency's Occupational Hygiene, Environment and Chemistry Centre. He is one of the individuals engaged by the Commission to assist in expert review and analysis of some of the evidence received so far, but he was also involved in the search, rescue and recovery operation at Pike River as part of SIMTARS response.

The next witness will be Mr Timothy Whyte. He's also from Queensland and is an elected Industry Safety and Health Representative. He became involved at Pike River after the second explosion when our Government requested that the Queensland Mines Rescue Service deploy their GAG mine inertisation unit. Mr White offered his expertise and travelled with that team to New Zealand.

Mr Seamus Devlin will be the next witness. He's the State Manager of the New South Wales Mines Rescue Service. With others he deployed to Pike River on 20 November and he will give evidence about the assistance that his organisation gave to New Zealand Mines Rescue and the Police during the operation.

The next witness will be Jim Stuart-Black of the New Zealand Fire Service. He will give evidence about his role as part of an expert panel based out of

Police National Headquarters in Wellington including the group's involvement in risk assessments.

The next witness is Ms Lesley Haines, who is the Deputy Chief Executive of the Labour Group of the Department of Labour. Ms Haines' evidence will also include the roles of Department of Labour staff who were sent to the mine site, the input they had on decision making on site as well as her own involvement in the expert panel based in Wellington.

The next witness will be Mr Trevor Watts, the General Manager of the New Zealand Mines Rescue Trust. He will give evidence about what he and other mines rescue personnel did, the extent of information available to them and the risk assessment and decision making processes that occurred.

The likely final witness in week 2 will be Mr Craig Smith. He is employed by Solid Energy in the role of General Manager for underground mining. He is also a trustee of the Mines Rescue Service. He will give evidence as to the response and assistance that Solid Energy provided during the operation.

It is intended that evidence from seven of the family members will be dealt with at the beginning of week 3. Those witnesses are Lauryn Marden, Tara Kennedy, Sonya Rockhouse, Carol Rose, Marty Palmer, Richard Valli and Bernie Monk.

You recognise that it will not be easy for those seven witnesses to give evidence in this very public environment. Their evidence, and indeed the evidence of Mr Daniel Rockhouse and Mr Strydom and a number of other witnesses who have lost family, work colleagues and friends at Pike River will require a reliving of those dark days and weeks following the 19<sup>th</sup> of November. You appreciate that it will not be easy for anyone who knew these men to give evidence and you are grateful to all of the witnesses for their willingness to do so in such trying circumstances.

It is intended at this stage that the last witness in the Phase Two hearing will be Mr Peter Whittall. He will give evidence about his role as spokesman for the company and also on issues including the company's emergency response plan and the ability for the men to have taken steps towards self rescue.

I wish to conclude this opening with an observation. That it is clear that every person involved in the search, rescue and recovery operation at Pike River wanted to rescue the 29 men. Their deaths are a tragedy; the human cost of their loss to their families and communities is immense. And so the scrutiny that you give to these questions will, we hope, permit a full understanding of what happened. A full understanding of why no rescue occurred and whether there are aspects that could be done differently in the future.

I know these are fundamental concerns to you as Commissioners and that your expectation is that these questions will be answered. Thank you.