

Media Release

21 November 2012

Response to Royal Commission Report

This media release is issued by Minter Ellison Rudd Watts, lawyers for John Dow, Ray Meyer and Stuart Nattrass, who were directors of Pike River Coal Limited (now in receivership) at the time of the tragic explosion at Pike River's coal mine on 19 November 2010.

Since our clients' initial response to the Royal Commission's report, they have now had an opportunity to review the report in full.

Some of the Commission's findings and comments have been the subject of particular media attention, including one with which our clients strongly disagree: the suggestion that production was ever prioritised ahead of safety at the mine. The view expressed by the Commission in this respect conflicts with evidence it received from senior management staff, including Mine Manager Doug White and Technical Services Manager Pieter van Rooyen, who emphasised that, while encouraging production (and therefore revenue) was important (as it is in all coal mines), safety was always their highest priority. Our clients consider that the Commission's view appears to be based only upon conjecture or impression, as despite the considerable amount of evidence made available to it, its report does not identify any particular circumstances, or any documents, in which a safety requirement was not met for financial reasons or because it might have impacted upon production. The Commission did not seek or receive any evidence from any of the Company's financial staff, nor did it review the Company's accounts or financial documents. The Company's board never rejected a health and safety request on financial grounds or because it might have impacted upon production and it was not aware of any unmet safety requirements.

Our clients also consider certain other views expressed and implications made by the Commission to be unmerited. In the interests of balance, they consider it appropriate for them to provide the following brief responses to some of those views:

- They disagree with the views expressed by the Commission with respect to the Company's health and safety procedures. Mr Neville Rockhouse's appointment as Safety and Training Manager in 2006 was one of the first management appointments made by the Company. Contrary to the Commission's suggestion that Mr Rockhouse started at the Company with a "blank piece of paper" from which to construct a health and safety framework, the Company had already engaged an experienced health and safety consultant to prepare a health and safety management system prior to Mr Rockhouse's appointment. The consultant prepared a comprehensive health and safety manual which provided a framework for a health and safety management system. A copy of this manual was produced in evidence to the Royal Commission.

- Mr Rockhouse's appointment as Safety and Training Manager, which was his sole role, underscored the Company's recognition of the importance of worker safety and its commitment to ensure that a senior executive was charged with responsibility for it. Mr Rockhouse has a postgraduate degree in health and safety and was appointed to various prominent positions that recognised his health and safety expertise. For example, Mr Rockhouse was the Operations Manager of the New Zealand Institute of Safety Managers, President-Elect of the International Network of Safety and Health Practitioner Organisations, and accredited as an auditor for ACC. Mr Rockhouse developed detailed health and safety documentation and procedures for the mine and as far as the Board was concerned, he put these into effect. Our clients had confidence that Mr Rockhouse would have raised with the board any concerns that he might have had regarding the implementation of health and safety systems.
- Mr Rockhouse's credentials, experience and enthusiasm gave the Board and other management staff considerable comfort that health and safety was being managed appropriately. The mine was at an early stage in its development and initial versions of health and safety policies were necessarily developed and amended as the mine began to move from development into production. Elements of the mine's health and safety practices that the Commission has criticised reflect operational matters and events that were not raised with the board despite there being many opportunities to do so.
- They also note that there has been much comment, with the convenient benefit of hindsight, about operational matters and decisions at the mine, such as the location of the main fan underground. All aspects of the mine's operation were known to the many different organisations and individuals involved with the mine, including the Department of Labour mine inspectors (an inspection of the mine was conducted just two weeks before the explosion), employees of the Company and their union the EPMU, employees and contractors from the New Zealand Mines Rescue Service, employees of international and national contracting companies, a range of consultants and mine experts, and many others. None of these individuals or organisations expressed concerns to the Company's management in relation to safety at the time.

It is regrettable that the Commission declined to reconvene its hearings to allow our clients to challenge late witness statements that they consider inaccurate and flawed. The Commission also refused to provide them with a copy of its report in draft, which would have enabled them to provide comments and further evidence to assist the Commission to make more appropriate findings that would have more accurately reflected the evidence.

Our clients reiterate their deep and personal regret for the loss of life at the mine. They participated in the Commission's inquiry knowing that this would mean that their actions would be scrutinised, but wishing to assist the Commission, the families and the coal mining industry. They now welcome consideration and discussion of the Commission's recommendations for the future conduct of mining in New Zealand.

ENDS

Please direct any inquiries to:

Stacey Shortall
Partner
Minter Ellison Rudd Watts
PO Box 2793
Wellington

Ph: 04 498 5118
Fax: 04 498 5001
Email: stacey.shortall@minterellison.co.nz
www.minterellison.co.nz

Notes to editors:

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