

PERRY MADDOCKS TROLLOPE

LAWYERS

Our Ref: RWP: 20150096

16 October 2015

BY EMAIL: [REDACTED]

Ms Justine Stansen
Principal Legal Advisor
Hazelwood Mine Fire Inquiry
[REDACTED]

Dear Ms Stansen,

**Hazelwood Mine Fire Inquiry II
(Dr Rosemary Lester)**

We refer to your letters of 14th and 15th October 2015.

Please note we remain opposed to the re-opening of TOR 6 of the Inquiry and propose to make a submission to that effect on the new date of 22 October 2015.

Clearly if the Inquiry persists with accepting further evidence, then all witnesses who have purported to give same should be available for cross examination, including Prof Johnstone. On behalf of Dr Lester, we understand the right to cross-examine would be limited to the additional evidence, but clearly should not exclude the circumstances of its production.

As we previously advised, Prof McNeill does not return to Australia from Europe until 21/10/15. It is highly unlikely he will be in a position to comment on the various further reports and give evidence on 22/10/15. Clearly he will not be able to take part in an expert conclave on 19/10/15.

We further confirm that Dr Lester remains overseas on the adjourned date and will therefore be unable to participate in a reopened Inquiry.

In response to the further information you have provided, we note the backflip in relation to the calling, non-calling and now calling again of Dr Flander and Prof Gordon. What is the explanation for this?

We are curious as to why an invitation to be involved in an expert conclave was extended to Prof Abramson when your email of 12/10/15 stated unequivocally - *"It is not appropriate for Prof Abramson to give evidence on the subject matter."* Further the reason posited for this position was that he had not reviewed the data or conducted an analysis of it. Precisely the same factor should have disqualified Prof Johnstone from giving evidence, yet it did not. Why? Moreover, if this evidence is said to be relevant, we ask again, why Prof Abramson,

the acknowledged expert in the area, was not asked **any** questions by Counsel Assisting, or the Inquiry, about these issues.

We are concerned that any person (be they "expert" or not) should approach Prof Catford direct with further evidence. What prior communications, if any, had taken place between them? How and why did a direct communication occur? In the circumstance details of all prior communications should be provided.

You have still not addressed the issues raised in our letter of 6/10/15 and reiterated in our letter of 12/10/15 relating to –

- (a) the initial production of Barnett's third analysis (we note we have still not been provided with details of all communications after the close of his viva voce evidence);
- (b) the procedural fairness issues arising from reopening TOR 6;
- (c) the prejudice to Dr Lester arising from an inability to participate in a reopened TOR 6;
- (d) the inconsistency between your asserted position and the final submissions of Counsel Assisting.

Please circulate this letter to the other represented parties for Term of Reference 6.

Yours faithfully,



hr Rob Perry
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