

Hon Andrew Little

Minister of Justice

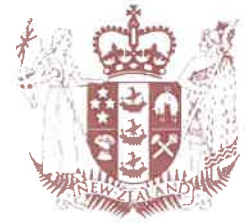
Minister for Courts

Minister for Treaty of Waitangi Negotiations

Minister Responsible for the NZSIS

Minister Responsible for the GCSB

Minister Responsible for Pike River Re-entry



26 JAN 2018

OIA-PRRAL1718-048

Andrew Joseph

fyi-request-6891-57ccbb6d@requests.fyi.org.nz

Dear Andrew

Thank you for your email of 27 November 2017 requesting, under the Official Information Act (the Act) 1982, the following information:

"I would like to request any advice, information, briefings, documents, cabinet papers, talking points, and/or emails, including drafts of all the aforementioned, received by your office from officials regarding the re-entry of the Pike River Mine since 26 October 2017."

On 14 December 2017, my office emailed you asking for clarification of your request. You amended your original request on 19 December 2017 to:

"...and/or emails that contain advice from officials, excluding any emails relating to the organisation of meetings".

On 15 January 2018 the time for advising you of my decision on your request was extended to 30 January 2018 because consultations necessary to make a decision on your request were such that a proper response could not reasonably be made within the original time limit.

I have taken "re-entry" to include where information relates to the establishment of the Te Kāhui Whakamana Rua Tekau mā Iwa—Pike River Recovery Agency.

The documents falling within the scope of your request, including advice that it is contained in emails, are listed in Appendix 1. The appendix indicates the provisions of the Act applied where redactions have been necessary.

Under section 18(d) of the Act, I am refusing documents that are, or will soon be, publicly available on the Ministry of Business, Innovation and Employment (MBIE) website at www.mbie.govt.nz/info-services/pike-river-recovery and those that are on the Solid Energy website at www.solidenergy.co.nz/operations/pike-river-project/.

Nineteen pieces of information have been withheld in full. Three are withheld under s9(2)(h); nine are withheld under s9(2)(g)(i) and s18(d); three are withheld under s9(2)(f)(iv) and s9(2)(g)(i); three are withheld under s9(2)(g)(i); and one is withheld under s9(2)(g)(i), s9(2)(a) and s18(d).

The documents released to you are attached. Please note Daily Updates were no longer produced after 15 November 2017.

Some information in the attached documents, and in the publicly available material, has been withheld under the following sections of the Act:

- s9(2)(a) - to protect the privacy of natural persons, including that of deceased natural persons;
- s9(2)(ba)(i) – to protect information which is subject to an obligation of confidence;
- s9(2)(f)(iv) – to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials
- s9(2)(g)(i) – to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty;
- s9(2)(h) – to maintain legal professional privilege;
- s9(2)(j) – to enable the Pike River Agency Establishment Unit to carry on negotiations without prejudice or disadvantage; and
- s18(d) - that the information will soon be publicly available.

With respect to information that has been withheld under section 9 of the Act, I do not consider there are any other factors which would render it desirable, in the public interest, to make the information available.

Under section 28(3) of the Official Information Act 1982, you have the right to apply to an Ombudsman for an investigation and review of my decision to refuse this information. The email address is www.ombudsman.parliament.nz/ or Freephone 0800 802 602.

Yours sincerely



Hon Andrew Little
Minister Responsible for Pike River Re-entry

Appendix 1

No	Date received	Title of document	Decision and OIA provision applied
N/A	26.10.17	Briefing: Briefing for the Incoming Minister Responsible for Pike River Re-entry	Refused under section 18(d) on the grounds that the information requested is publicly available
1	26.10.17	PowerPoint: Briefing material for Minister Little Pike River Re-entry portfolio	Released in full
N/A	26.10.17	Briefing: Preliminary advice on Pike River	Refused under section 18(d) on the grounds that the information requested is publicly available
N/A	2.11.17	Update: Daily Update for 2.11.17	Refused under section 18(d) on the grounds that the information requested will soon be publicly available
N/A	3.11.17	Update: Daily Update for 3.11.17	Refused under section 18(d) on the grounds that the information requested will soon be publicly available
N/A	3.11.17	Publicly available reports on Solid Energy's website <ul style="list-style-type: none"> • WRAC review • A report on ventilation and gas management in respect of the drift re-entry project • A technical review of the proposed re-entry plan and associated risk management • A review of the geotechnical considerations associated with the proposed drift re-entry • Solid Energy project steering committee final review of risk rankings • Initial Workplace Risk Assessment and Control (WRAC) • Fault Tree Analysis (FTA) of Potential Unwanted Top Level Events • Event Tree Analysis (ETA) of Potential Unwanted Top Level Events • Pike River Unmanned Entry Project – Update Overview Solid Energy 15 August 2017 • Functional Specification – HMS Consultants 	Refused under section 18(d) on the grounds that the information requested is publicly available
N/A	3.11.17	Aide Memoire: Further information on Unmanned Entry Project	Refused under section 18(d) on the grounds that the information requested is publicly available
N/A	3.11.17	Briefing: Options for Pike River Recovery Agency	Refused under section 18(d) on the grounds that the information requested is publicly available

No	Date received	Title of document	Decision and OIA provision applied
2	5.11.17	Draft timeline of legislation required to form new agency	Released in full
N/A	6.11.17	Update: Daily Update for 6.11.17	Refused under section 18(d) on the grounds that the information requested will soon be publicly available
N/A	7.11.17	Update: Daily Update for 7.11.17	Refused under section 18(d) on the grounds that the information requested will soon be publicly available
3	7.11.17	Briefing: WorkSafe's involvement at Pike River Site	Released in part and parts withheld under section 9(2)(a) - to protect the privacy of natural persons
N/A	8.11.17	Update: Daily Update for 8.11.17	Refused under section 18(d) on the grounds that the information requested will soon be publicly available
N/A	9.11.17	Update: Daily Update for 9.11.17	Refused under section 18(d) on the grounds that the information requested will soon be publicly available
4	9.11.17	Email: Update on collation of past briefings	Released in part and parts withheld under section 9(2)(a) - to protect the privacy of natural persons
N/A	9.11.17	Aide Memoire: Further information around Pike River Re-entry costings	Refused under section 18(d) on the grounds that the information requested is publicly available
N/A	9.11.17	Briefing: Draft Cabinet Paper on Establishment of the Pike River Recovery Agency Attachment: Draft Cabinet paper, Establishment of the Pike River Recovery Agency withheld	Refused under section 18(d) on the grounds that the information requested is publicly available; and section 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty
5	10.11.17	Briefing: Meeting with the Business Leaders Health and Safety Forum (BLHSF) on Monday 13 November 2017 Note – the BLHSF Annual report which is withheld is publicly available at: www.zeroharm.org.nz/assets/docs/governance/Forum-Annual-Report-2017.pdf	Released in part and parts withheld under section 9(2)(a) - to protect the privacy of natural persons; section 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty; and section 18(d) on the grounds that the information requested is publicly available

No	Date received	Title of document	Decision and OIA provision applied
6	10.11.17	Agencies and teams providing advice about Pike River Re-entry	Released in full
N/A	10.11.17	Report: Weekly Report - For the period from: 3 – 10 November 2017	Refused under section 18(d) on the grounds that the information requested will soon be publicly available
N/A	13.11.17	Update: Daily Update for 13.11.17	Refused under section 18(d) on the grounds that the information requested will soon be publicly available
N/A	14.11.17	Update: Daily Update for 14.11.17	Refused under section 18(d) on the grounds that the information requested will soon be publicly available
7	14.11.17	Briefing: Cabinet paper for the Establishment of Pike River Recovery Agency and Talking points for CBC	Released in part and parts withheld under section 9(2)(a) - to protect the privacy of natural persons; section 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty; and section 18(d) on the grounds that the information requested is publicly available
N/A	15.11.17	Update: Daily Update for 15.11.17	Refused under section 18(d) on the grounds that the information requested will soon be publicly available
8	15.11.17	Email: Update on technical and policy advice provided to the previous Government	Released in part and parts withheld under section 9(2)(a) - to protect the privacy of natural persons;
N/A	16/11/17	Factsheet: Factsheet: Pike River Recovery Agency	Refused under section 18(d) on the grounds that the information requested is publicly available
N/A	17.11.17	Report: Weekly Report For the period from: 13 – 17 November 2017	Refused under section 18(d) on the grounds that the information requested will soon be publicly available
N/A	17.11.17	Aide Memoire: Process to take over Pike River mine	Refused under section 18(d) on the grounds that the information requested is publicly available
N/A	17.11.17	Cabinet paper: Establishment of the Pike River Recovery Agency	Refused under section 18(d) on the grounds that the information requested is publicly available
9	20/11/17	Email: RE: quick question re boreholes potentially need for removal of existing methane at re-entry	Released in part and parts withheld under section 9(2)(a) - to protect the privacy of natural persons
10	20/11/17	Email	Released in part and parts withheld under section 9(2)(a) - to protect the privacy of natural persons

No	Date received	Title of document	Decision and OIA provision applied
11	22/11/17	Email RE: Maori Name	Released in part and parts withheld under section 9(2)(a) - to protect the privacy of natural persons; and section 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty
12	23/11.17	Briefing: Proactive release of Advice on Pike River Annex 1: All documents listed are publicly available at: www.mbie.govt.nz/info-services/pike-river-recovery ; Annex 2: Documents listed are released in part, parts withheld and withheld in full	Released in part and parts withheld under section 9(2)(a) - to protect the privacy of natural persons; section 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty section 9(2)(h) - to maintain legal professional privilege; and section 18(d) on the grounds that the information requested is publicly available One document listed in Annex 2 is withheld in full under section 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty
13	23/11/17	Email RE: Request for past briefings	Released in part and parts withheld under section 9(2)(a) - to protect the privacy of natural persons
14	24/11/17	Email RE: Weblink for website	Released in part and parts withheld under section 9(2)(a) - to protect the privacy of natural persons
15	24/11/17	Email SSC update on lodgement of LEG paper	Released in part and parts withheld under section 9(2)(a) - to protect the privacy of natural persons
N/A	24.11.17	Report: Weekly Report For the period from: 20– 24 November 2017	Refused under section 18(d) on the grounds that the information requested will soon be publicly available



MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT
HIKINA WHAKATUTUKI

Minister Responsible for Pike River Re-entry

Briefing Material for Minister Little
Pike River Re-entry portfolio

Carolyn Tremain
Joanne Hughes
Bruce Parkes



OFFICIAL INFORMATION ACT
RELEASED UNDER THE

What we would like to discuss

- How we can support you
- State of play
- Working with the families
- 100 day plan
- Working together



MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT
HIKINA WHAKATUTUKI

Who we are

- MBIE – lead agency for Pike River re-entry portfolio
- DOC – lead on the Great Walk and Memorial
- Treasury – lead on liquidation of Solid Energy

Lead officials:

- Bruce Parkes – Deputy Director General, DOC seconded to MBIE and family liaison official.



State of play

- Unmanned Entry Project
 - Planning completed, no commitments made pending new Government
- Solid Energy
 - Liquidation by 18 March
 - Managing Pike River Site until then
- Great Walk and Memorial
 - Track construction underway
 - Engagement process with Families on memorial



Working with the families

- Suggest an early meeting with families in Greymouth
- Ongoing engagement to ensure their confidence and support is critical
- 7-year anniversary on 19 November



MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT
HIKINA WHAKATUTUKI

Pike River re-entry – 100 day plan

- Being clear on objectives
 - The drift of the mine
- The design and form of a Pike River Agency
 - Who makes any decision to enter or not
 - Independence of the decision-maker
 - How to ensure family support and confidence
 - Approach to managing costs
- Legislation could be required
 - Tight timetable
 - Set up can be processed in parallel, for example key appointments
- Unmanned Entry Project
 - Continue or not



Working together

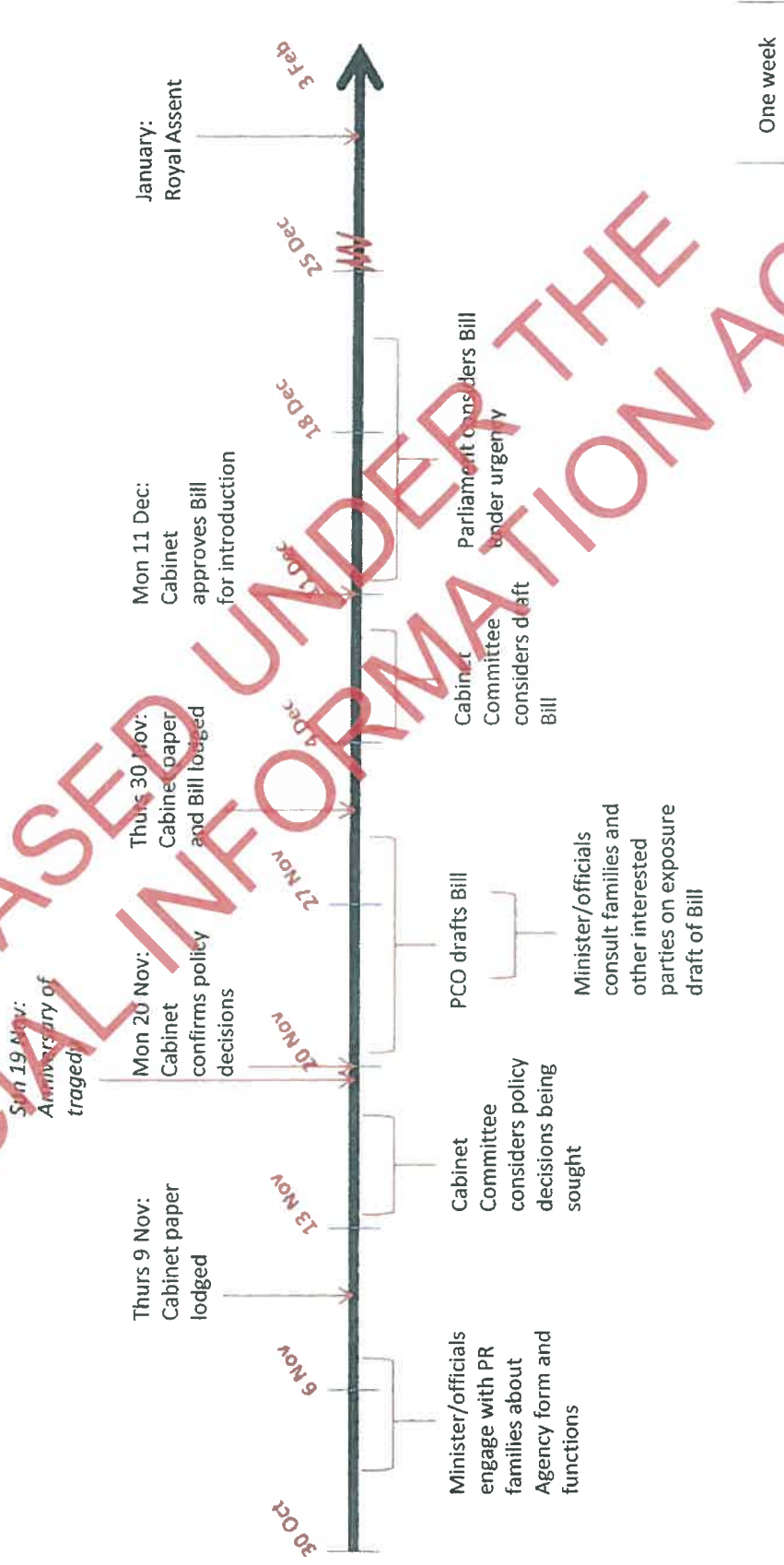
- Meetings – frequency and timing?
- Weekly reporting on activities?
- Supporting you
 - We will provide you options for private secretary support



Pike River Re-entry: Timeline to enact legislation within 100 days

This indicative timeline assumes:

- The Government wishes to have any legislation for a Pike River Recovery Agency passed through all stages in the first 100 days
- The House will sit until Christmas and will not resume sittings until February 2018
- House time will be available for urgent passage of the Bill in either of the two weeks before the summer recess.



NOT GOVERNMENT POLICY SENSITIVE

BRIEFING PAPER

WorkSafe's involvement at Pike River site

Date:	3 November 2017	Tracker #:	17/00713
Security:	In Confidence		

ACTION SOUGHT

Minister	Action sought	Deadline
Hon Iain Lees-Galloway Minister for Workplace Relations and Safety	<p>note the information in this briefing, including:</p> <ul style="list-style-type: none"> The outline of WorkSafe's role in relation to the Pike River Mine; The regulatory activities which WorkSafe is currently involved with relating to the Pike River Mine; in particular (i) ensuring compliance with a current improvement notice; (ii) unmanned entry to the mine; and (iii) transfer of responsibility for the mine. <p>agree to forward a copy of this briefing to the Minister Responsible for Pike River Re-entry</p> <p>note that WorkSafe will provide appropriate support to the Government on any discussions of a plan for manned entry, consistent with its role</p> <p>agree to meet with WorkSafe officials to discuss the matters in this paper</p>	N/A

CONTACT INFORMATION

Name	Position	Telephone	Contact
Mike Hargreaves	Chief Legal Advisor	9(2)(a)	✓
Nicole Rosie	Chief Executive		-

CONSULTATION

Ministry of Business, Innovation and Employment (Saskia Patton)

Minister's Comments:

EXECUTIVE SUMMARY

The Ministry of Business, Innovation and Employment (MBIE) is the lead agency for providing advice and implementing the Government's policy on the establishment of the Pike River Re-entry Agency, through its Office of the Chief Executive.

WorkSafe, in its role as the Regulator, is already involved with a number of activities related to the Pike River Mine site, including:

- The installation of a permanent seal on the mine entrance.
- The unmanned entry project into the mine.
- The handover of responsibilities for the mine site to a new owner due to Solid Energy New Zealand going into liquidation.

In relation to Pike River, WorkSafe's role falls under three discrete headings, each of which will have a specific WorkSafe official assigned:

System leadership

With reference to the functions of promoting the sharing of information / fostering co-operative relationships, this would involve the fostering and maintenance of relationships between relevant organisations (e.g. MBIE, the Department of Conservation, Treasury, the agency responsible for re-entry) and WorkSafe, with the objective of improved health and safety outcomes in relation to any entry/recovery.

Harm prevention

WorkSafe has a role to play in helping to test and inform the new agency's view on whether a proposed method of entry into the mine would be in accordance with its legal obligations (this is WorkSafe's guidance, advice and information function). It would be a matter for the new agency as to whether it wished to seek or consider any such advice from WorkSafe in its decisions around re-entry.

Regulatory confidence

If WorkSafe believed that a proposed entry to the mine was to occur in a manner that did not meet the legal obligations of the PCBU, or seriously risked the health or safety of workers/others, then WorkSafe could resort to its suite of regulatory tools. In addition, in the event of an emergency at the mine, WorkSafe may appoint an incident controller under the Mines Rescue Act 2013.

We note the appointment of your colleague Andrew Little as Minister Responsible for Pike River Re-entry. We will work with you, Minister Little and relevant agencies to ensure the range of work required on Pike River is fully aligned across Government.

RECOMMENDATION

WorkSafe New Zealand recommends that you:

- a. **note** the information in this briefing, including:
- the outline of WorkSafe's role in relation to the Pike River Mine;
 - the regulatory activities which WorkSafe is currently involved with relating to the Pike River Mine; in particular:
 - i. ensuring compliance with a current improvement notice
 - ii. unmanned entry to the mine; and
 - iii. transfer of responsibility for the mine;

noted

- b. **agree** to forward a copy of this briefing to the Minister Responsible for Pike River Re-entry;

agree/disagree

- c. **note** that WorkSafe will provide appropriate support to the Government on any discussions of a plan for manned entry, consistent with its role;

noted

- d. **agree** to meet with WorkSafe officials to discuss the matters in this paper

yes / no



Nicole Rosie
Chief Executive
WorkSafe New Zealand

Hon Iain Lees-Galloway
Minister for Workplace Relations and Safety

..... / 3 / 11 / 2017

..... / /

PURPOSE

1. The purpose of this briefing is to give you an overview of WorkSafe's role in relation to Pike River, its relevant interactions to date, and its likely interactions into the future. This will help to ensure clarity, and also address some common public misconceptions about WorkSafe's role.

OVERVIEW

2. The Pike River Mine ('the mine') has not been in operation since the Tragedy on 19 November 2010. Solid Energy New Zealand Limited (SENZ) purchased the mine in 2012.
3. Following consideration of options to conduct a re-entry of the drift¹, SENZ decided in November 2014 not to re-enter the mine on the grounds that the risks of re-entry of the drift were too great.
4. In order for SENZ to make the mine safe for surrender to the Department of Conservation (DOC) as originally contemplated, it was necessary for SENZ to seal and abandon the Mine in accordance with the requirements of the Health and Safety at Work Act 2015 ('HSWA') and the Health and Safety at Work (Mining Operations and Quarrying Operations) Regulations 2016 ('the Regulations'). As at today's date, there are a number of outstanding matters relating to the mine. WorkSafe, in its role as the Regulator, is involved in the following three activities:
 - Sealing of the mine drift: SENZ is subject to an Improvement Notice² issued by WorkSafe requiring a permanent seal to be installed before the mine can be declared abandoned. This improvement notice was issued to ensure that the sealing of the mine occurred in a timely manner.
 - Entry to the drift: The previous Government directed and funded SENZ to consider the potential for an unmanned entry to the drift using robotic technology.
 - i. The date for compliance with WorkSafe's Improvement Notice was extended to 31 May 2018 to allow for this work to be considered.
 - ii. WorkSafe is currently considering an application from SENZ for exemption from a number of mining and electrical regulations that SENZ considers is necessary for unmanned entry to proceed.
 - Transfer of responsibility for SENZ sites: SENZ is preparing for liquidation and has advised that it intends to wind down operations on 15 December 2017. The mine will be transferred to a new entity, which will assume the relevant health and safety obligations.
5. WorkSafe's involvement in these activities, as the Regulator, is outlined in further detail below.

¹ The 'drift' is the term used to describe the 2400 metre passageway from the entrance of the mine, to its substantive workings.

² An Improvement Notice may be issued under [section 102](#) of the Health and Safety at Work Act 2015, where a health and safety inspector believes that a person is contravening a provision of HSWA or any of its regulations.

6. In addition, running parallel with these activities are two legal proceedings related to the Pike River tragedy:
- The appeal to the District Court by three Pike River families (Monk, Rockhouse, and Osborne) against the original Improvement Notices that were issued to SENZ for the sealing of the mine. The court has deferred this hearing until June 2018. Depending on the outcome of any unmanned/manned entry activities, this appeal may not need to proceed.
 - The Supreme Court has heard an appeal brought by two Pike families (Rockhouse and Osborne) against the decision by MBIE (as the then regulator) not to continue the prosecution of Peter Whittall (Chief Executive of the mine at the time of the tragedy).
 - i. The appellants have previously been unsuccessful in the High Court and Court of Appeal.
 - ii. WorkSafe is awaiting the decision of the Supreme Court. No timing has been set for this, though we anticipate it will be released before the end of the 2017. The appellants seek a declaration that the decision made was unlawful, invalid and unreasonable, but not a recommencement of the prosecution (which is now time-barred).

KEY INFORMATION AND ISSUES

WorkSafe's role

7. WorkSafe's main objective is to promote and contribute to securing the health and safety of workers and workplaces. Its functions include:
- Monitoring and enforcing compliance with relevant health and safety legislation;
 - Providing guidance, advice and information on workplace health and safety to persons who have duties under relevant health and safety legislation;
 - Engaging in, promoting, and co-ordinating the sharing of information with other agencies and interested persons that contribute to workplace health and safety;
 - Fostering a co-operative and consultative relationship between persons who have duties under relevant health and safety legislation.
8. In relation to Pike River, WorkSafe's role falls under three discrete headings, each of which will have a specific WorkSafe official assigned:

System leadership

With reference to the functions of promoting the sharing of information / fostering co-operative relationships, this would involve the fostering and maintenance of relationships between relevant organisations (e.g. MBIE, DOC, Treasury, the agency responsible for re-entry) and WorkSafe, with the objective of improved health and safety outcomes in relation to any entry/recovery.

Harm prevention

WorkSafe has a role to play in helping to test and inform the new agency's view on whether a proposed method of entry into the mine would be in accordance with its legal obligations (this is WorkSafe's guidance, advice and information function). It would be a matter for the new agency as to whether it wished to seek or consider any such advice from WorkSafe in its decisions around re-entry.

Regulatory confidence

If WorkSafe believed that a proposed entry to the mine was to occur in a manner that did not meet the legal obligations of any PCBU, or seriously risked the health or safety of workers/others, then WorkSafe could resort to its suite of regulatory tools. In addition, in the event of an emergency at the mine, WorkSafe may appoint an incident controller under the Mines Rescue Act 2013.

9. The decision regarding whether or not to enter the mine (manned, or unmanned) is one for the mine operator (currently SENZ). WorkSafe does not 'approve' entry to the mine.
10. Should the mine operator wish to enter the mine, then they must do so in accordance with their legal obligations under relevant health and safety legislation. This would include:
 - Ensuring, so far as is reasonably practicable, the health and safety of the workers who work for the PCBU (whether employees or contractors), while they are at work;
 - Ensuring, so far as is reasonably practicable, that the workplace, the means of entering/exiting and anything arising from the workplace are without risks to the health and safety of any person;
 - Specific requirements of the Regulations and the Electricity (Safety) Regulations 2010.

WorkSafe's regulatory involvement with the mine site to date

Compliance with improvement notice

11. SENZ made the decision to abandon the mine and return the mining permit to the Crown. The issue then became the method and timing to fully seal the mine in accordance with the requirements of both the HSWA and the Regulations. The sealing system decided upon by SENZ has two components to ensure the mine is safe to abandon and safe for visitors outside the mine:
 - A Type C seal³: A type of seal used in working mines to isolate an unused section to protect workers still working in other parts of the mine. This was installed in 2016.
 - Permanent seal: A much more substantial seal, with a design life of 100 years, to be constructed at the portal⁴ side of the Type C seal.
12. To ensure that the sealing of the mine occurred in a timely manner, WorkSafe has issued an Improvement Notice to SENZ for the completion of the permanent seal. Design work has been completed that would achieve this.
 - The date for the Improvement Notice has been extended to 31 May 2018 to allow for consideration to be given by SENZ to the unmanned entry project.

Unmanned entry project to the mine

13. SENZ was directed and funded by the previous Government to consider the potential for an unmanned entry to the drift beyond 170m (being the distance previously explored) using robotic technology.

³ Under [section 183](#) of the Health and Safety at Work (Mining Operations and Quarrying Operations) Regulations 2016. The requirement for a Type C seal is that it be capable of withstanding an overpressure of 140 kilopascals.

⁴ The 'portal' is the term used to describe the hillside entrance to the mine.

14. SENZ has advised WorkSafe that, to proceed with the unmanned entry, exemptions relating to mining and electrical safety regulations are required. An application for exemption⁵ has been lodged with WorkSafe and is being assessed.
15. Whilst the indicative timetable given for the start of the unmanned entry project was December 2017, we understand this is now unlikely to be met.

Manned entry to the mine drift

16. WorkSafe will provide appropriate support to relevant agencies on any discussions of a plan for manned entry, consistent with the role of WorkSafe as we have set out above.
17. Consideration is currently being given by WorkSafe to how it will resource this work.

Transfer of responsibility for the mine site

18. SENZ was placed into voluntary administration in August 2015. SENZ has advised that it intends to wind down operations at the mine on 15 December 2017 (before going into liquidation in March 2018). It is important that any entity assuming responsibility for the site beyond SENZ's existence is fully aware of the liability and responsibilities associated with the site.
 - SENZ has legal obligations as a PCBU and mine operator under HSWA and the Regulations. Upon liquidation, SENZ would cease to owe these duties, and the entity that takes over responsibility for the mine will assume these. Other PCBU's who perform work in relation to the mine will also owe duties under HSWA.
 - SENZ's contractual requirement to the Crown is to leave the Pike River site "at a standard that achieves an environment that is safe, secure and stable in respect of health and safety and environmental obligations such that a Liquidator acting reasonably and responsibly would disclaim such asset"⁶. To meet this requirement the portal must be permanently sealed to the standard that meets SENZ's legal obligations (set out in the WorkSafe Improvement Notice).
19. DOC, along with the Treasury, Department of Prime Minister and Cabinet and the State Services Commission, has been negotiating the handover agreement between SENZ and the Crown. WorkSafe has been involved in the relevant discussions between agencies to date to ensure that existing health and safety obligations are understood and are able to be met by the entity that ultimately assumes responsibility for the mine.

NEXT STEPS

20. WorkSafe will continue to work with relevant agencies to provide aligned cross-agency advice to Government on the approach to current issues.
21. Communications messages are currently being developed between WorkSafe and MBIE and will be shared with your office.

⁵ Exemption from compliance with regulation under section 220 of the Health and Safety at Work Act 2015.

⁶ Quoted from Duncan Cotterill, which represents DOC.

From: AJ Millward
To: s 9(2)(a)
Cc: Emma Cummins
Subject: Update on collation of past briefings [IN-CONFIDENCE:RELEASE EXTERNAL]
Date: Thursday, 9 November 2017 3:46:32 p.m.

Hi s 9(2)(a)

As per the Ministers letter to MBIE, we are working to gather together past information relating to Pike River. We have prioritised technical and policy briefings from TSY and MBIE as the priority. A table of these is set out in the briefings below.

Worksafe will provide us with a list of their technical and policy briefings ASAP also.

The process for release of information is set out in *CO (17) 9 Access to Information of a previous administration:*

6. Accordingly, officials who receive requests from Ministers for departmental papers dating from a previous administration should advise their chief executive. The chief executive will, in consultation with the Minister, determine how to meet the Minister's need for information without compromising the political neutrality of the department, or its ability to maintain the confidence of both present and future Ministers. Options may include:

- 6.1 supplying the material that has been requested; or*
- 6.2 providing a briefing summarising the advice given to a previous Minister and the decisions taken.*

7. Each request by a Minister for information held by the department should be individually assessed by the chief executive in relation to the Minister's needs, the sensitivity of the information, the currency of the information and the issue to which it relates, and other associated factors.

If you can please work with the office to identify which pieces of advice in the table below are of most interest we are happy to start the request for release process.

Below is a summary of all report provided to Government by the Experts Group via the families

- Technical Advisors to the Pike River Families Committee: *A method for safe re-entry of Pike River Mine Drift*
Mr. Robert Steven & Dr. David Creedy, 12 September 2016

Below is a summary of all technical and policy briefings and reports created by officials since 19 November 2010.

Summary of previous MBIE advice on Pike River re-entry

The following advice was sent to the previous government:

	Date	Reference	Title	To
1.	26 July 2013	0060 13-14	Briefing : Pike River – Funding for Risk Assessment	Minister Energy and Resources (Hon Simon Bridges)
2.	28 November 2013	1243 13-14	Briefing: Update on the Drift Recovery Work at the Pike River Mine	Minister Energy and Resources (Hon Simon Bridges)
3.	14 May 2014	2896 13-14	Aide Memoire: Meeting with Dan Clifford, CE of Solid Energy	Minister Energy and Resources (Hon Simon Bridges)
4.	20 June 2014	3473 13-14	Aide Memoire: Pike River – Update on refinement approach to the recovery of the drift	Minister Energy and Resources (Hon Simon Bridges)
5.	17 October 2014	0670 14-15	Briefing: Status update on Pike River drift recovery project	Minister Energy and Resources (Hon Simon Bridges)
6.	10 March 2016	s 9(2)(a)	Aide Memoire: Pike River update	Minister for Workplace Relations and Safety (Hon Michael Woodhouse)
7.	10 November 2016	s 9(2)(a)	Briefing: Pike River Mine Re-entry – statements by s 9(2)(a)	Minister for Workplace Relations and Safety (Hon Michael Woodhouse)
8.	15 November 2016	s 9(2)(a)	Aide Memoire: Pike River – update	Minister for Workplace Relations and Safety (Hon Michael Woodhouse)
9.	7 April 2017	3134 16-17	Aide Memoire: Pike River Coal Mine Update	Minister of Energy and Resources (Judith Collins)
10.	15 June 2012	s 9(2)(a)	Briefing: Pike River – Proposed deeds	Minister of Energy and Resources (Phil Heatley)
11.	6 July 2016	s 9(2)(a)	Briefing: Pike River – Completion of Sale Process	Hon Phil Heatley Hon Christopher Finlayson Hon Anne Tolley Hon Kate Wilkinson

12.	15 July 2016	s 9(2)(a)	Consent to Pike River Sale Agreement: Ministerial Consent to Pike River Sale Agreement	Minister of Energy and Resources
13.	16 July 2012	MAKO link	Pike River Communications Signing of Deeds and transfer of permits	Unclear

Summary of previous Treasury advice on Pike River re-entry

The following advice was sent to the previous government:

	Date	Reference	Title
1	5 November 2014	T2014/1848	Aide Memoire: Pike River re-entry: decision process
2	17 December 2014	T2014/2254	Aide Memoire: Solid Energy - additional information
3	28 July 2015	T2015/1711	Aide Memoire: Briefing for meeting with Solid Energy on Wednesday 29 July 2015
4	16 December 2016	T2016/2492	Aide Memoire: Solid Energy's obligations in respect of the Pike River Mine
5	17 March 2017	T2017/685	Pike River Update
6	23 June 2017	T2017/1709	Aide Memoire: Pike River - proposed oral item for Cabinet on Monday
7	3 July 2017	T2017/1806	Aide Memoire: Pike River – Update on Unmanned Entry
8	15 August 2017	T2017/2172	Aide Memoire: Pike River Mine: Briefing for EGI discussion on 16 August 2017
9	15 September 2017	T2017/2288	Pike River Mine: Amendment to Direct Agreement to Provide for Unmanned Entry [joint report with DoC]

Regards

AJ

A. Millward

GENERAL MANAGER, PIKE RIVER AGENCY ESTABLISHMENT UNIT

Office of the Chief Executive

Ministry of Business, Innovation & Employment

aj.millward@mbie.govt.nz | Telephone: +64 (4) 896 5560 | Mobile: s 9(2)(a)

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BRIEFING

Meeting with the Business Leaders' Health and Safety Forum on Monday 13 November 2017

Date:	10 November 2017	Priority:	High
Security classification:	In Confidence	Tracking number:	0924 17 18

Action sought		
	Action sought	Deadline
Hon Andrew Little Minister Responsible for Pike River Re-Entry	Note the attached information prior to your meeting with the Business Leaders' Health and Safety Forum	4pm, 13 November 2017
Hon Iain Lees-Galloway Minister for Workplace Relations and Safety		

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Ruth Isaac	General Manager, Labour and Immigration Policy	04 901 3883	s 9(2)(a)	✓
AJ Millward	General Manager, Pike River Recovery Agency Establishment Unit	04 8965560	s 9(2)(a)	
Saskia Patton	Manager, Health and Safety Policy	04 901 8569	s 9(2)(a)	

The following departments/agencies have been consulted

- Minister's office to complete:
- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



BRIEFING

Title

Date:	10 November 2017	Priority:	High
Security classification:	In Confidence	Tracking number:	0924 17-18

Purpose

To provide you with information and talking points for your meeting with Francois Barton, Executive Director, and possibly George Adams, Chair, of the Business Leaders' Health and Safety Forum (the Forum) at 4pm on 13 November 2017.

Recommended action

The Ministry of Business, Innovation and Employment (the Ministry) recommends that you:

- a **note** the information and suggested talking points for your meeting with the Business Leaders' Health and Safety Forum on Monday 13 November 2017.

Noted

s 9(2)(a)

Ruth Isaac
General Manager
Labour and Immigration Policy, MBIE

10/11/17

s 9(2)(a)

Hon Andrew Little
Minister Responsible for Pike River Re-Entry

12/11/17

Hon Iain Lees-Galloway
Minister for Workplace Relations and Safety

..... / /

Meeting with the Business Leaders' Health and Safety Forum

1. The meeting details are:

Time and date:	4pm, Monday 13 November 2017
Venue:	Minister Little's office, 5.1L The Beehive
Organisation:	Business Leaders' Health and Safety Forum
Attendees:	Francois Barton (Forum Executive Director) George Adams (Forum Chair) – possible attendee

2. Background information on the Forum is provided in Annex One. You both previously met with the Forum last year.
3. The Forum has indicated they would like to discuss health and safety governance and leadership in relation to Pike River. The Forum's letter requesting the meeting is attached as Annex Two.
4. Attendees from the Ministry are Ruth Isaac, General Manager of the Labour and Immigration Policy Group; AJ Millward, General Manager of the Pike River Recovery Agency Establishment Unit; and Saskia Patton, Manager of Health and Safety Policy.
5. Topic information and some suggested talking points for your consideration are provided below. The talking points are also included as Annex Three.

Meeting topic: accountabilities and re-entry of Pike River Mine

6. The Forum believes that any re-entry of the Pike River Mine should be done within the scope and intent of the current health and safety legislation. They strongly support the recently introduced accountabilities on officers to ensure health and safety risk controls are resourced and effective. They believe in avoiding legal exemptions and distortions in order to have consistency across all businesses. They consider that government should hold itself to the same standard it expects of industry.
7. The Forum has taken a significant leadership role in supporting the recent health and safety reforms, in particular the new due diligence role for officers under the *Health and Safety at Work Act 2015*. They have strongly promoted the Institute of Directors' guidance on director duties; they run an executive leadership programme on health and safety leadership skills; and they have developed monitoring and benchmarking tools for their members. The Forum's annual report is provided in Annex Four.
8. The Forum will be interested in the Government's objectives for the Pike River Recovery Agency and proposed coverage by health and safety legislation.

s 9(2)(g)(i)

s 9(2)(g)(i)

9. If required, more detail on work health and safety accountabilities is provided in Annex Five.

Annexes

Annex One: Background Information

Annex Two: Letter from the Business Leaders' Health and Safety Forum

Annex Three: Suggested talking points

Annex Four: Business Leaders' Health and Safety Forum Annual Report 2017

Annex Five: Q&As on Work Health and Safety

Annex One: Background Information: Business Leaders' Forum

<p>Overview</p>	<p>The Forum is a coalition of business and government agency leaders committed to improving the performance of workplace health and safety in New Zealand. The Forum was launched in 2010.</p> <p>Its focus is to make workplaces safer by growing world-class chief executive safety leadership in New Zealand, and by leveraging the combined skill, influence and resources of members.</p>
<p>Total members</p>	<p>300 members - chief executives and managing directors of large New Zealand businesses and businesses operating in high risk industries.</p>
<p>Key initiatives</p>	<ul style="list-style-type: none"> • <i>Executive Safety Leadership Programme</i> – CEO Safety Leadership assessments, workshops and courses • <i>Contractor Safety Initiative</i> – aims to use the collective influence of chief executives to improve safety among contractors • Developing guidance for members - for example its 2016 Monitoring What Matters guide (developed with WorkSafe New Zealand) • Supporting industry-based CEO leadership groups • Health and Safety Performance surveys and industry-wide performance benchmarking.

Meeting Attendees

<p>George Adams Chair - Business Leaders' Health and Safety Forum</p>	
<p>George Adams is the Chair of the Business Leaders' Health and Safety Forum. In 2014 he was asked to chair the Occupational Health and Safety Group, set up to advise WorkSafe New Zealand on work-related illness and disease. The same year he chaired the Independent Forestry Safety Review investigating the high serious injury and death rate in that industry.</p>	
<p>Francois Barton Executive Director – Business Leaders' Health and Safety Forum</p>	
<p>Francois Barton took over as Forum Executive Director in May 2015. Prior to joining the Forum, Francois established and ran WorkSafe New Zealand's National Programmes team, which delivered major safety campaigns in construction, forestry, and manufacturing.</p>	

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Hon. Andrew Little
Minister Responsible for Pike River Re-entry
Parliament House
WELLINGTON

3 November 2017

Safety Governance and Leadership

Dear Minister

On behalf of the Business Leaders' Health and Safety Forum, we would like to pass on our congratulations on your government's recent success and in becoming the Minister Responsible for Pike River Re-entry.

We met with you and Hon. Iain Lees-Galloway last year to introduce the Forum and learn more of Labour's priorities for safer and healthier New Zealand workplaces. As we discussed at the time, the Forum is a coalition of more than 300 CEOs, across the private and public sector, committed to playing their part in building workplace cultures that deliver better health and safety performance.

We have been strong public supporters of the recently introduced and increased accountabilities on officers to ensure health and safety risk controls are resourced and effective. Leadership, and thus accountability from the top, is critical. Indeed, the officer due diligence responsibilities have had perhaps the most significant and positive impact on elevating health and safety on the business agenda.

And like you, we are also strong believers in avoiding legal exemptions and distortions in order to have consistency for all.

Given that, we believe it is important that any re-entry of the Pike River mine is done within the scope and intent of the current law. To do otherwise risks sending a message to New Zealand businesses – big and small – that it's morally okay to set aside health and safety requirements when they get in the way of important goals. Government holding itself to the same standard that experts of industry is an important show of leadership that will have an impact beyond Pike River.

Pike has become a powerful catalyst and symbol for enhanced health and safety accountability, governance and indeed the effectiveness of the whole safety system. Our view is that any efforts at re-entry can and should be done in a manner that affirms the important improvements and changes that occurred as a result of that tragedy.

We would welcome the opportunity to meet with you and Minister Lees-Galloway as soon as possible to share with you our ideas on this important issue.

Yours sincerely

s 9(2)(a)

George Adams
Chairman

s 9(2)(a)

Francois Barton
Executive Director

Annex Three: Suggested Talking Points

s 9(2)(g)(i)

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Annex Four: Business Leaders' Forum Annual Report

refused publicly available

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s 9(2)(g)(i)

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OFFICIAL INFORMATION ACT

s 9(2)(g)(i)

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Agencies and teams providing advice about the Pike River Re-Entry

Agency	Role
MBIE Pike River Recovery Agency Establishment Unit Hon Andrew Little Minister Responsible for Pike River Re-Entry	Leads policy advice on the establishment of the Pike River Recovery Agency.
MBIE Health and Safety Policy Team Hon Iain Lees-Galloway Minister for Workplace Relations and Safety	Leads policy advice on the application of health and safety legislation to the Agency and re-entry of the Pike River mine.
MBIE Energy Resource Markets Branch Hon Dr Megan Woods Minister for Energy and Resources	Administers the Crown Minerals Act 1991 and issues and administers mining permits, including the existing permit for Pike River mine.
WorkSafe New Zealand Hon Iain Lees-Galloway Minister for Workplace Relations and Safety	Work health and safety regulator responsible for monitoring and enforcing compliance with the health and safety legislation and the Mining Regulations.
Department of Conservation Hon Eugenie Sage Minister for Conservation	Administers the Conservation Act 1987 and National Parks Act 1980 (Pike River mine is situated in Paparoa National Park). Funded to construct the new Paparoa Great Walk, and the memorial and information centre at Pike River mine.
Treasury Hon Grant Robertson Minister of Finance	Leads advice to the Government on the Crown's interests in the solvent liquidation of Solid Energy. Advises on and monitors Vote expenditure.
State Services Commission Hon Chris Hipkins Minister of State Services	Leads advice on machinery of government issues (eg agency form) and employment of chief executives for the Pike River Recovery Agency.



BRIEFING

Cabinet Paper for the Establishment of Pike River Recovery Agency and talking points for CBC on 16 November 2017

Date:	14 November 2017	Priority:	High
Security Classification:	In Confidence	Tracker number:	0987 17-18

Action sought:

	Action sought	Deadline
Hon Andrew Little Minister Responsible for Pike River Re-entry	<p>Note the attached Cabinet paper has been lodged for consideration by CBC at 10am on Thursday 16 November 2017.</p> <p>Note the attached talking points for CBC at 10am on Thursday 16 November 2017.</p> <p>Agree to forward a copy of this briefing to the Minister of State Services prior to CBC at 10am on Thursday 16 November 2017.</p>	Prior to 10am Thursday 16 November 2017

Contact for telephone discussion (if required):

Name	Position	Telephone	1st contact
AJ Millward	General Manager, Pike River Recovery Agency Establishment Unit	(04) 896 5560 s 9(2)(a)	✓
David King	Director	(04) 901 8584 s 9(2)(a)	

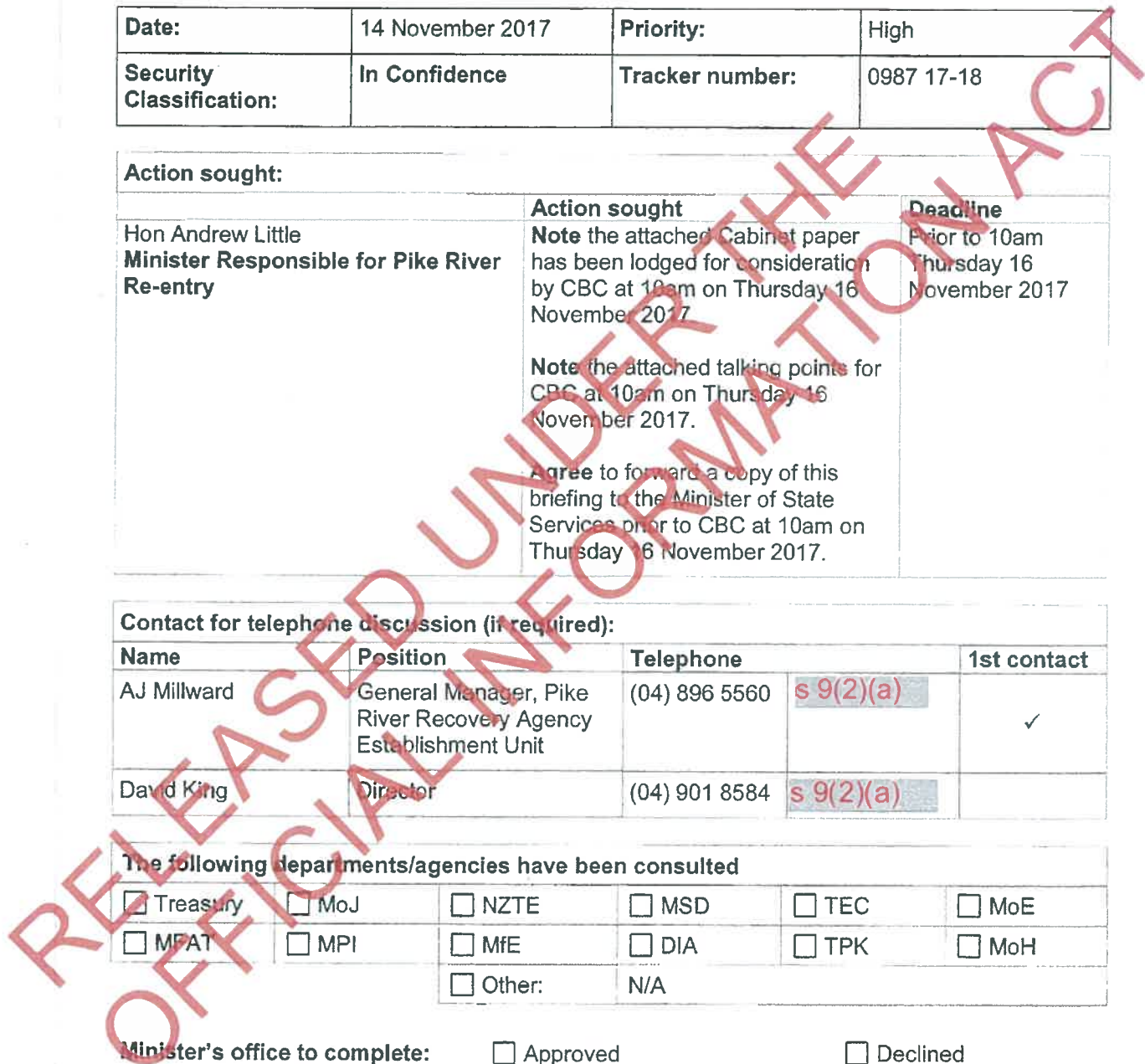
The following departments/agencies have been consulted

<input type="checkbox"/> Treasury	<input type="checkbox"/> MoJ	<input type="checkbox"/> NZTE	<input type="checkbox"/> MSD	<input type="checkbox"/> TEC	<input type="checkbox"/> MoE
<input type="checkbox"/> MFAT	<input type="checkbox"/> MPI	<input type="checkbox"/> MfE	<input type="checkbox"/> DIA	<input type="checkbox"/> TPK	<input type="checkbox"/> MoH
<input type="checkbox"/> Other:		N/A			

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments:





BRIEFING

Cabinet Paper for the Establishment of Pike River Recovery Agency and talking points for CBC on 16 November 2017

Date:	14 November 2017	Priority:	High
Security classification:	In Confidence	Tracking number:	0987 17-18

Purpose

Provide a final copy of the Cabinet paper following Ministerial consultation and discussions with officials on Monday 13 November along with suggested talking points for CBC on Thursday 16 November 2017 at 10am.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Note** the attached Cabinet paper has been lodged for consideration by CBC at 10am on Thursday 16 November 2017. Note ✓
- b **Note** the attached talking points for CBC at 10am on Thursday 16 November 2017. Note ✓
- c **Agree** to forward a copy of this briefing to the Minister of State Services prior to CBC at 10am on Thursday 16 November 2017. (Agree / Disagree)

s 9(2)(a)

AJ Milward
General Manager,
Pike River Recovery Agency Establishment Unit
T: s 9(2)(a)
Ministry of Business, Innovation and Employment
14 / 11 / 2017

s 9(2)(a)

Hon Andrew Little
Minister Responsible for Pike River
Re-entry

14 / 11 / 17

Changes to Cabinet paper

1. Attached is a copy of the final Cabinet paper lodged by your office today for consideration by CBC at 10am Thursday, 16 November 2017.
2. The final Cabinet paper reflects the changes discussed at your meeting with officials on Monday, 13 November 2017 along with one or two relatively minor matters raised by SSC and the Treasury (Annex 1).
3. In addition suggested talking points for CBC are attached (Annex 2).

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Annex 1: Cabinet Paper Establishment of Pike River Recovery Agency

refused s18(d) on the grounds
that the information requested is
or will soon be publicly available

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s 9(2)(g)(i)

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8

From: AJ Millward
To: s 9(2)(a)
Cc: AJ Millward
Bcc: Emma Cummins
Subject: RE: Update on technical and policy advice provided to the previous Government [IN-CONFIDENCE:RELEASE EXTERNAL]
Date: Wednesday, 15 November 2017 4:09:00 p.m.

Hi 

As per the Ministers letter to MBIE, we are working to gather together past information relating to Pike River. We have prioritised technical and policy briefings from TSY and MBIE as the priority. A table of these is set out in the briefings below.

Worksafe will provide us with a list of their technical and policy briefings ASAP also.

The process for release of information is set out in *CO (17) - Access to Information of a previous administration:*

6. Accordingly, officials who receive requests from Ministers for departmental papers dating from a previous administration should advise their chief executive. The chief executive will, in consultation with the Minister, determine how to meet the Minister's need for information without compromising the political neutrality of the department, or its ability to maintain the confidence of both present and future Ministers. Options may include:

- 6.1 supplying the material that has been requested; or*
- 6.2 providing a briefing summarising the advice given to a previous Minister and the decisions taken.*

7. Each request by a Minister for information held by the department should be individually assessed by the chief executive in relation to the Minister's needs, the sensitivity of the information, the currency of the information and the issue to which it relates, and other associated factors.

If you can please work with the office to identify which pieces of advice in the table below are of most interest we are happy to start the request for release process.

Below is a summary of all report provided to Government by the Experts Group via the families

- Technical Advisors to the Pike River Families Committee: *A method for safe re-entry of Pike River Mine Drift*
Mr. Robert Steven & Dr. David Creedy, 12 September 2016

Below is a summary of all technical and policy briefings and reports created by officials since 19 November 2010.

Summary of previous WorkSafe advice on Pike River re-entry

Please find below the list of document titles we believe are in scope of what's been asked for:

	Date	Title
1	28 March 2013	MBIE Briefing Paper "Pike River Drift Exploration – Release of Funding for Shaft Sealing"
2	24 October 2013	Pike River update for Lesley Haines
3	14 January 2014	Status of Pike River Drift Recovery Project
4	17 June 2014	EGI Paper Update on the Drift Recovery Project at the Pike River Coal Mine
5	Undated (The date saved into Mako is 10 August 2015)	Summary briefing and further detail regarding Pike seam and MSHA ruling on US coal mine seal designs

Summary of previous MBIE advice on Pike River re-entry

The following advice was sent to the previous government:

	Date	Reference	Title	To
1.	26 July 2013	0060 13-14	Briefing : Pike River Funding for Risk Assessment	Minister Energy and Resources (Hon Simon Bridges)
2.	28 November 2013	1243 13-14	Briefing: Update on the Drift Recovery Work at the Pike River Mine	Minister Energy and Resources (Hon Simon Bridges)
3.	14 May 2014	2896 13-14	Aide Memoire: Meeting with Dan Clifford, CE of Solid Energy	Minister Energy and Resources (Hon Simon Bridges)
4.	20 June 2014	3477 13-14	Aide Memoire: Pike River – Update on refinement approach to the recovery of the drift	Minister Energy and Resources (Hon Simon Bridges)
5.	17 October 2014	0670 14-15	Briefing: Status update on Pike River drift recovery project	Minister Energy and Resources (Hon Simon Bridges)
6.	10 March 2016	s 9(2)(a) [Redacted]	Aide Memoire: Pike River update	Minister for Workplace Relations and Safety (Hon Michael Woodhouse)
7.	10 November 2016	s 9(2)(a) [Redacted]	Briefing: Pike River Mine Re-entry – statements by Mr Bernie Monk	Minister for Workplace Relations and Safety (Hon Michael Woodhouse)
8.	18 November 2016	s 9(2)(a) [Redacted]	Aide Memoire: Pike River – update	Minister for Workplace Relations and Safety (Hon Michael Woodhouse)

9.	7 April 2017	3134 16-17	Aide Memoire: Pike River Coal Mine Update	Minister of Energy and Resources (Judith Collins)
10.	15 June 2012	s 9(2)(a)	Briefing: Pike River – Proposed deeds	Minister of Energy and Resources (Phil Heatley)
11.	6 July 2016	s 9(2)(a)	Briefing: Pike River – Completion of Sale Process	Hon Phil Heatley Hon Christopher Finlayson Hon Anne Tolley Hon Kate Wilkinson
12.	15 July 2016	s 9(2)(a)	Consent to Pike River Sale Agreement: Ministerial Consent to Pike River Sale Agreement	Minister of Energy and Resources
13.	16 July 2012	MAKO link	Pike River Communications Signing of Deeds and transfer of permits	Unclear

Summary of previous Treasury advice on Pike River re-entry

The following advice was sent to the previous government:

refer document 11

	Date	Reference	Title
1	5 November 2014	T2014/1848	Aide Memoire: Pike River re-entry: decision process
2	17 December 2014	T2014/2254	Aide Memoire: Solid Energy - additional information
3	28 July 2015	T2015/1711	Aide Memoire: Briefing for meeting with Solid Energy on Wednesday 29 July 2015
4	16 December 2016	T2016/2492	Aide Memoire: Solid Energy's obligations in respect of the Pike River Mine
5	17 March 2017	T2017/685	Pike River Update
6	23 June 2017	T2017/1709	Aide Memoire: Pike River - proposed oral item for Cabinet on Monday
7	3 July 2017	T2017/1806	Aide Memoire: Pike River – Update on Unmanned Entry
8	15 August 2017	T2017/2172	Aide Memoire: Pike River Mine: Briefing for EGI discussion on 16 August 2017
9	15 September 2017	T2017/2288	Pike River Mine: Amendment to Direct Agreement to Provide for Unmanned Entry [joint report with DoC]

Regards

AJ

AJ Millward

GENERAL MANAGER, PIKE RIVER AGENCY ESTABLISHMENT UNIT
Office of the Chief Executive
Ministry of Business, Innovation & Employment

aj.millward@mbie.govt.nz | Telephone: +64 (4) 896 5560 | Mobile: s 9(2)(a)
15 Stout St, PO Box 1473, Wellington 6140
www.mbie.govt.nz

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From: s 9(2)(a)
To: s 9(2)(a)
Subject: RE: Quick question re boreholes potentially needed for removal of existing methane at re-entry [IN-CONFIDENCE:RELEASE EXTERNAL]
Date: Monday, 20 November 2017 6:10:54 p.m.

s 9(2)(a)

Sorry I'm on a training course all day tomorrow too.

Yes Solid Energy's plan had the drilling of a total of four drillholes as part of the Rocsil seal plan. I believe that two have already been drilled and a further 2 drillholes are required. However Solid Energy's ventilation modelling suggested the ventilation holes may need to be reamed to a larger size.

I imagine any re-entry will require the drilling of further holes.

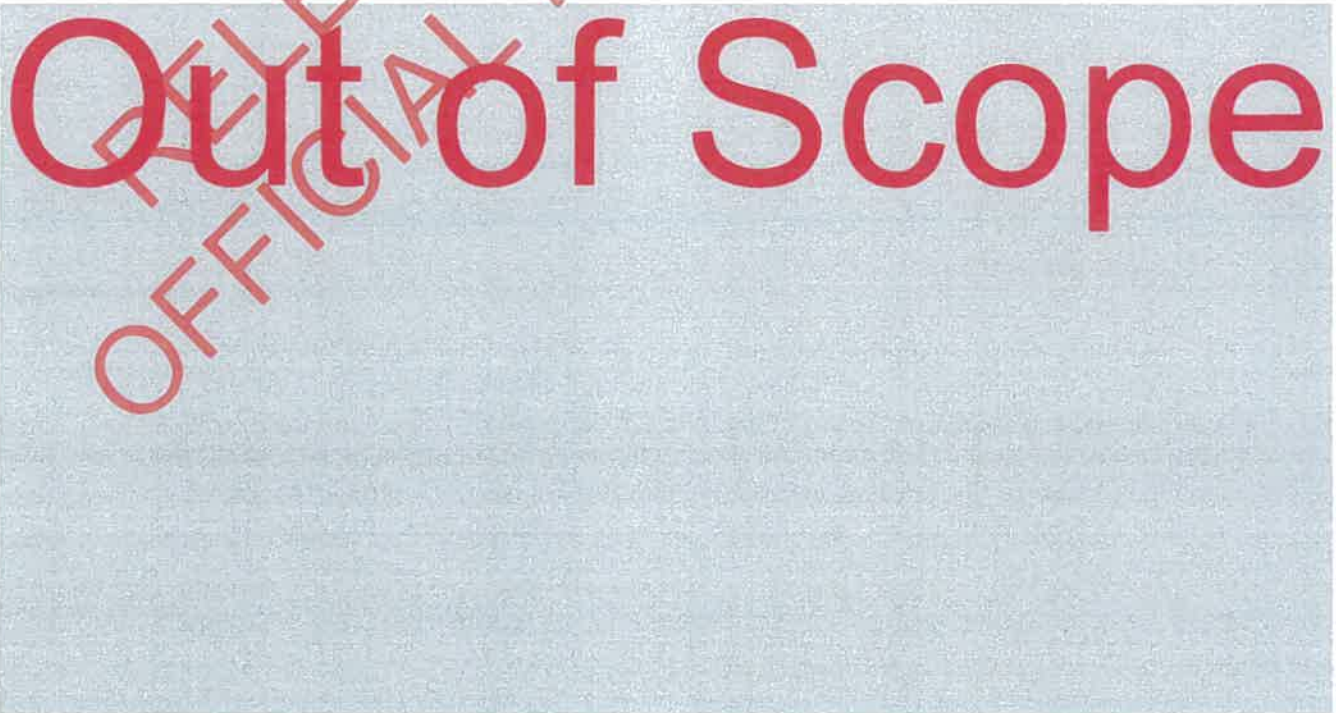
If you need to talk to me I can call you around 12 ish tomorrow

Thanks

s 9(2)(a)
SENIOR MINERALS ADVISOR

Energy & Resource Markets Branch
Ministry of Business, Innovation & Employment

s 9(2)(a) Telephone: s 9(2)(a)
15 Stout St, PO Box 1473, Wellington 614
www.nzpam.govt.nz



Out of Scope

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s 9(2)(a)

From: AJ Millward <AJ.Millward@mbie.govt.nz>
Sent: Monday, 20 November 2017 11:51 AM
To: s 9(2)(a)

Here we go:
Te Kahui Whakamana- Rua Tekau ma Iwa
Shortened to:
Te Kahui Whakamana 29

Sent from my iPhone

www.govt.nz - your guide to finding and using New Zealand government services

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s 9(2)(a)

From: s 9(2)(a)
Sent: Wednesday, 22 November 2017 11:07 AM
To: s 9(2)(a)
Cc: s 9(2)(a) AJ Millward
Subject: RE: Maori Name [UNCLASSIFIED]

As discussed s 9(2)(a)

The legal name for the Agency should be: Pike River Recovery Agency, Te Kāhui Whakamona - Rua Tekau mā Iwa

Best s 9(2)(a)

From: s 9(2)(a)
Sent: Wednesday, 22 November 2017 10:58 a.m.
To: s 9(2)(a)
Cc: s 9(2)(a) s 9(2)(a) AJ Millward
Subject: Maori Name [UNCLASSIFIED]

SSC and DPMC have talked. It's been agreed that a Cabinet minute is not needed, BUT that SSC needs formal advice from the Minister that he wishes the Maori name to be part of the legal name s 9(2)(a) do you mind arranging for this to be done (assuming the Minister wants it to be the legal name). We also need to advise whether there is a comma between the English and the Te Reo name (the only precedent has this being the case so I would recommend that). Do give me call if you want to discuss – SSC are supposed to be trying to get s 9(2)(a) to put the details of what's needed in detail, but this seems enough to go on to me s 9(2)(a)

s 9(2)(a)

Policy Director, Office of the Chief Executive
Ministry of Business, Innovation & Employment
PO Box 1473 | 15 Stout Street, Wellington 6011 | New Zealand
Tel s 9(2)(a) | Mobile s 9(2)(a)
Email: s 9(2)(a) | Web: www.mbie.govt.nz

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BRIEFING

Proactive Release of Advice on Pike River

Date:	23 November 2017	Priority:	Medium
Security classification:	In Confidence	Tracking number:	1119 17-18

Action sought

	Action sought	Deadline
Hon Andrew Little Minister Responsible for Pike River Re-entry	Agree to the proactive release of documents onto MBIE's Pike River Recovery Agency webpage	27 November 2017

Contact for telephone discussion (if required)

Name	Position	Telephone	1st contact
AJ Millward	General Manager, Pike River Agency Establishment Unit	04 896 5560	✓
David King	Policy Director	04 901 8584	

The following departments/agencies have been consulted

N/A

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments

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BRIEFING

Title

Date:	23 November 2017	Priority:	Medium
Security classification:	In Confidence	Tracking number:	1119 17-18

Purpose

The purpose of this briefing is to seek your agreement to the material that will be proactively released on the MBIE website's Pike River Recovery Agency webpage early next week.

Executive summary

You have previously said that you wished for all the advice you have received in relation to the Pike River Recovery Agency to be proactively released once a decision on the establishment of the Agency had been made by Cabinet. We seek your approval to proactively release the documents attached in Annex One. These include your Cabinet paper, the Cabinet minute and the advice we have provided to you on the Pike River Recovery Agency, appropriately redacted.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Agree** to the proactive release of the documents attached in Annex One on MBIE's Pike River Recovery Agency webpage.

Agree / Disagree

s 9(2)(a)

s 9(2)(a)

AJ Millward
General Manager, Pike River Agency
Establishment Unit
Office of the Chief Executive, MBIE

23 / 11 / 17

Hon Andrew Little
Minister Responsible for Pike River Re-
entry

26 / 11 / 17

Background

1. You have previously said that you wished for all the advice you had received in relation to the Pike River Recovery Agency to be proactively released once a decision on the establishment of the Agency had been made by Cabinet.
2. The Prime Minister announced Cabinet's decisions about the Agency on 20 November and the Cabinet minute has now been published.

Comment

Briefings proposed for proactive release

3. The material that we propose to publicly release on the MBIE website's Pike River Recovery Agency page is contained in Annex One. This material includes the final Cabinet paper and minute, in line with your advice to Cabinet that you planned to proactively release the Cabinet Paper and advice that you have received on the establishment of the Agency. [REDACTED] also contains the substantive advice provided with the first draft of the Cabinet paper, but not the Cabinet paper itself (see paragraph 6 where drafts of Cabinet papers are not being proactively released).
4. To preserve the Crown's negotiating position with Solid Energy, we are redacting a few paragraphs from the aide memoire, 'Process to take over Pike River Mine', dated 17 November. Apart from this, the only redactions are of officials' mobile phone numbers. The papers attached in Annex One show the redactions we propose and the grounds under the Official Information Act for the redactions.
5. We do not consider that there are any significant risks associated with the release of the material listed in Annex One. s 9(2)(g)(i)
s 9(2)(g)(i)

s 9(2)(g)(i)

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s 9(2)(g)(i)

6. We consider that the Cabinet paper is faithful to the spirit of what was agreed with the FRG and that each of the wording changes was made in good faith to better capture the concept involved or to address particular concerns of the Department during the consultation process without undermining the core concept.
7. The Ministry provided the material proposed to be provided to the FRG on 21 November so that they have time to absorb it before its publication. This excluded the Cabinet minute which hadn't been published at that time, but the Ministry subsequently provided it.

Briefings not proposed for proactive release

8. Annex Two contains several briefings. These briefings are not proactively released as they are either drafts of Cabinet papers, departmental communications material or an aide memoire for a meeting you have with stakeholders. They do not in our view constitute substantive advice to you on the future of the Agency.
9. In addition, we do not propose to release at this point the briefing you received on 10 November 2017.

Risks

10. s 9(2)(g)(i)

Next steps

11. Subject to your agreement, the Ministry will proactively release the material on its website early next week.
12. We are preparing for the Pike River Recovery Agency to have its own website once it is established. This website will have its own URL, independent of MBIE.

Annexes

Annex One: Material to be proactively released regarding the Agency

Annex Two: Material not to be proactively released regarding the Agency

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Annex 1: Material to be proactively released regarding the Agency

Type	Title	Date
Briefing	Preliminary advice on Pike River	26 October 2017
Aide Memoire	Further Information on Unmanned Entry Project	3 November 2017
Briefing	Options for Pike River Recovery Agency	3 November 2017
Aide Memoire	Further Information around Pike River Re-Entry costings	9 November 2017
Briefing	Draft Cabinet Paper on Establishment of the Pike River Recovery Agency (<i>excluding the draft Cabinet paper</i>)	9 November 2017
Aide Memoire	Process to take over Pike River mine (<i>some redactions of commercially and legally privileged text</i>)	17 November 2017
Final Cabinet Paper	Establishment of the Pike River Recovery Agency	17 November 2017
Cabinet minute	Establishment of the Pike River Recovery Agency	20 November 2017

NOTE: All documents listed are publicly available at: www.mbie.govt.nz/info-services/pike-river-recovery

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Annex 2: Material not to be proactively released regarding the Agency

Type	Title	Date
Briefing	Meeting with Business Leaders' Health and Safety Forum November 2017	10 November 2017
Briefing	Cabinet Paper for the Establishment of Pike River Recovery Agency and talking points for CBC on 16 November 2017	14 November 2017
Communications material	Draft Press Release, Fact Sheet and Questions and Answers	17 November 2017

Note - Doc 1 and doc 2 above are released in part and doc 3 is withheld in full under section 9(2)(g)(i)

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s 9(2)(a)

From: Emma Cummins <Emma.Cummins@mbie.govt.nz>
Sent: Thursday, 23 November 2017 10:44 AM
To: s 9(2)(a) AJ Millward
Subject: RE: Request for past briefings [UNCLASSIFIED]

Hi s 9(2)(a)

Acknowledging your email, yes we will follow the process asking our CE to release advice to the new Minister. We will also contact the other agencies to start the process in their organisations.

Kind regards
Emma

Out of Scope

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s 9(2)(a)

From: Emma Cummins
Sent: Friday, 24 November 2017 10:13 a.m.
To: s 9(2)(a)
Subject: RE: Weblink for website [IN-CONFIDENCE:RELEASE EXTERNAL]

Categories: OIA - Include

Hi s 9(2)(a)

<http://www.mbie.govt.nz/info-services/pike-river-recovery> screen shot below.

Above is the link to the holding webpage, until the agencies website can be developed, it is being hosted on the MBIE site. The information for proactive release will be uploaded once feedback is received from the office and families.

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Pike River Recovery

Pike River Recovery Agency announced

The Government announced on 20 November 2017 the establishment of the Pike River Recovery Agency – Te Iwi a Māori o Te Taiāpiti, a new government department which will work in close partnership with the Pike River families to plan for decision

The new agency will be established on 31 January 2018. An establishment unit within MBIE is in place to set up

The Government is committed to transparency and the agency's planning and decision-making processes will be an important stage.

It is expected that the agency will develop and execute a plan for complete recovery of the drift by the end of the next assessment.

The final decision on whether to re-enter the drift will be made by the Minister Responsible for Pike River Recovery.

The Government and Pike River families strongly agree that safety is paramount. Existing health and safety legislation

- [Read the Minister's media release](#)
- [Read the fact sheet \[PDF 263KB\]](#)



s 9(2)(a)

From: s 9(2)(a)
Sent: Friday, 24 November 2017 12:59 PM
To: s 9(2)(a)
Cc: AJ Millward; Emma Cummins; s 9(2)(a)
Subject: SSC update on lodgement of LEG paper [UNCLASSIFIED]

Hi s 9(2)(a)

SSC has advised it is intended the LEG paper will be lodged by 10 am next Thursday, 30 Nov.

s 9(2)(a)

SENIOR ADVISOR

Pike River Agency Establishment Unit, Office of the Chief Executive
Ministry of Business, Innovation & Employment

s 9(2)(a) | Mobile: s 9(2)(a)
15 Stout Street, PO Box 1473, Wellington 6140

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