

Memo

To: Phil Parkes, Chief Executive
From: Paul Hunt, Chief Inspector, Extractives
Date: 17 June 2020

SUBJECT:

Recommendations

1. It is recommended that you:
 - a. **Note** that on 29 April 2020, the PRRA requested an amendment to the Exemption to allow for the installation of a VCD2 seal;
 - b. **Note** that on 3 June 2020, you agreed in principle to grant the amendment sought by the PRRA, subject to certain proposed drafting changes, and to consultation with the PRRA;
 - c. **Note** that by letter dated 5 June 2020, the PRRA agreed with WorkSafe's approach, rationale, and proposed drafting; and
 - d. **agree** to amend the Exemption, as set at Appendix C.

Purpose

2. This memo is to seek your agreement to amend the exemption granted on 3 December 2019 to the Pike River Recovery Agency *Te Kāhui Whakamana Rua Tekau mā Iwa* (PRRA) (the Exemption). The exemption is from compliance with regulation 170(4)(a) of the Health and Safety at Work (Mining Operations and Quarrying Operations) Regulations 2016 (the Regulations).

Discussion

3. In a letter dated 29 April 2020, PRRA applied for an amendment to the Exemption, to allow for the installation of a VCD2 seal in the Pike River Mine. This seal will perform the same function as the phenolic plug currently in place in the mine, by providing a barrier between the recovered and ventilated drift and the old mine workings.
4. On 3 June 2020, I provided my advice on the amendment request to you. This advice is attached as Appendix A to this memo. Having considered this advice, you agreed in principle to grant the amendment sought by the PRRA, subject to certain proposed drafting changes, and to consultation with the PRRA.
5. The PRRA responded by letter dated 5 June 2020 to you (see Appendix B), advising that it was comfortable with WorkSafe's rationale, approach and proposed wording for the amendment. In light of this response, I recommend that you now approve and sign the amendment to the Exemption, attached to this memo as Appendix C.
6. If you agree, also attached for your signature is a letter to the PRRA advising it of your decision.

Approval

9. It is recommended that you

a)	Agree: Agree to amend the Exemption, as set at Appendix C	Yes / No
b)	Sign: Sign the attached: (a) Amendment to the Exemption; and (b) Letter to the PRRA advising it of the outcome of the request for an amendment to the Exemption;	Yes / No



Paul Hunt
Chief Inspector, Extractives

17/06/20

Date



Phil Parkes
Chief Executive

17/06/20

Date

Appendix A: Recommendation to amend the exemption

Published on the WorkSafe website: <https://worksafe.govt.nz/laws-and-regulations/acts/hswa/exemptions-under-hswa/pike-river-recovery-agency/>

Appendix B: Response letter from PRRA



TE KĀHUI WHAKAMANA
RUA TEKAU MĀ IWA
PIKE RIVER
RECOVERY AGENCY

05 June 2020

Phil Parkes
Chief Executive
WorkSafe
Mahi Haumarū Aotearoa
PO Box 165
Wellington 6011

Dear Phil

Reference your letter: Pike River Recovery Agency (PRRA) Application for Amendment to Exemption from Regulation 170(4)(a) of the Health and Safety at Work (Mining Operations and Quarrying Operations) Regulations 2016 dated 05 June 2020.

Thankyou for the opportunity to consult on your approach to our request (dated 29 Apr 2020) for an amendment to the exemption granted on 3 December 2019 from the requirements of regulation 170(4)(a) of the Health and Safety at Work (Mining Operations And Quarrying Operations) Regulations 2016 (the Regulations) in respect of the proposed re-entry of the Pike River Mine drift.

PRRA is comfortable with your proposed approach, rationale and wording you outlined in your letter.

Yours sincerely

Dave Gawn
Chief Executive

Te Kahui Whakamana Rua Tekau ma Iwa – Pike River Recovery Agency

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Appendix C: Amendment to the exemption

Amendment to exemption from provisions of Health and Safety at Work (Mining Operations and Quarrying Operations) Regulations 2016

In accordance with section 220 of the Health and Safety at Work Act 2015 (the Act), I, Phil Parkes, Chief Executive, amend the exemption granted to the Pike River Recovery Agency Te Kāhui Whakamana Rua Tekau mā Iwa from compliance with regulation 170(4)(a) of the Health and Safety at Work (Mining Operations and Quarrying Operations) Regulations 2016 (the Regulations), dated 3 December 2019 (the exemption).

I do so, being satisfied that:

- The extent of the exemption, as amended, is not broader than is reasonably necessary to address the matters that gave rise to it; and
- The exemption, as amended, is not inconsistent with the purpose of the Act.

The terms and conditions of the exemption are amended as follows:

1. Paragraph (1) is amended by deleting "The" and substituting "Subject to paragraph (1A), the".
2. A new paragraph (1A) is inserted as follows:
 - (1A) However, the exemption applies only in respect of re-entry and recovery of the drift up to the VCD2 seal, on and from the date on which –
 - (a) the VCD2 seal has been installed; and
 - (b) a design engineer engaged by the PRRA has accepted the VCD2 seal complies with its rating.
3. Paragraph (2) is amended by deleting the words "phenolic plug" wherever they appear, and substituting the word "seal".
4. The following terms and conditions are added as paragraphs (4) and (5):
 - (4) To avoid doubt, nothing in this exemption prevents the PRRA from entering the area between the roof fall and the VCD2 seal in full compliance with the Regulations.
 - (5) In paragraph (2), **seal** means –
 - (a) The phenolic plug:
 - (b) On and from the date referred to in paragraph (1A), the VCD2 seal.

This amendment to the exemption takes effect on 19 June 2020.

Signed at WELLINGTON this 17th day of June 2020

A handwritten signature in black ink, appearing to be 'Phil Parkes', written over a horizontal line.

Phil Parkes
CHIEF EXECUTIVE