

SUBMISSION OF

**THE NEW ZEALAND MINING INDUSTRY  
SAFETY COUNCIL (MinEx)**

TO THE

**MINISTRY OF BUSINESS INNOVATION  
AND EMPLOYMENT**

ON THE

**MINES RESCUE SERVICE LEVY**

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18 September 2013

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## INTRODUCTION

1. MinEx<sup>1</sup> welcomes the opportunity to submit on the consultation document “Review of the Mines Rescue Service Levy” issued on 20 August 2013. We note the submission deadline of 16 September has been subsequently extended to 10am, 18 September 2013.
2. MinEx notes that the draft Bill entitled “The Health and Safety (Pike River Implementation Bill)” had its first reading in Parliament on 27 June 2013 and that MinEx also submitted on that Bill which, amongst other things, creates a new Mines Rescue Act 2013 to:
  - Clarify the functions of the MRS;
  - Expand its coverage to additional open cast coal mines, underground metalliferous mines, and construction tunnels that are or are intended to be longer than 150m; and,
  - Move the levy into regulations.
3. The consultation document released by the Ministry of Business Innovation and Employment focuses solely on the calculation of the Mines Rescue Service (the Service) levy. An additional document released on 2 September 2013 by MBIE and written by the Service entitled “Service Provision Model - Discussion Paper” details the services that will be supplied in return for the levy imposed.
4. Consultation on both documents has been carried out via two workshops arranged by MBIE and the Service and with input from MinEx on attendees. Consequently, all of the key users of the Service that will be required to pay the proposed levy were present or engaged in the consultation. This included:
  - Solid Energy New Zealand;
  - OceanaGold;
  - NZ Coal & Carbon;

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<sup>1</sup> MinEx is a national Health & Safety Council for the New Zealand minerals industry. Its main purpose is to help industry to improve its health and safety performance, and to provide centralised industry representation on matters relating to health and safety.

- Bathurst Resources;
  - Crusader Coal;
  - Stevenson Mining; and
  - The Contractors Federation representing the tunnelling industry; and
  - MinEx representing the broader industry and importantly the smaller mines.
5. Newmont Waihi Gold was invited to participate in the workshops. They were unable to attend and have been briefed separately.
6. The extensive and constructive engagement between the Pike River Implementation Team and MinEx is acknowledged, and appreciated. It is clear there is a significant degree of alignment between government and industry on the future shape of the mining regime. Accordingly, the Government's objectives for the new mining regime are supported: to improve public confidence in the New Zealand mining sector, and to bring mining health and safety regulation into line with international best-practice.
7. The driver for the reforms is the Pike River Coal Mine tragedy of November 2010. Like the Government, industry is committed to ensuring that such an event does not occur again in New Zealand. This is a realistic goal.
8. MinEx, and indeed most individual mining companies that will fall under the coverage of the Mines Rescue Service, supported the proposed changes in the Bill. Here we are now addressing the issues of;
- The calculation of the levy; and
  - The nature of the service to be provided to levy payers.
9. We will also address some peripheral issues relating to the commercial activities of the Service, and the need for regular reviews and adjustments to the levy in response to future structural changes within the mining industry as commodity prices rise and fall. It is vital that, both the method of calculating the levy, and the ability of the levy to be amended, is flexible enough to ensure that the Mines Rescue Trust remains adequately funded to cope with emergencies and structural changes within the industry.

## RECOMMENDATIONS

10. MinEx recommends the Ministry of Business, Innovation and Employment to:
- a) Agree to move to a labour-based levy calculation, as more closely aligned than a production-based approach with risk, and the need for the Mines Rescue Service to assist in an emergency;
  - b) Agree to rescind the proposed calculation method in the consultation document;
  - c) Agree that the Mines Rescue Service is capable, on additional resourcing, of providing the services outlined in Figure 1 (on page 9);
  - d) Subject to approval by the Mines Rescue Trust Board, agree that services supplied on a commercial basis, described as optional services in Figure 1, should be or could be supplied to levy payers at a discounted rate;
  - e) Notwithstanding Rec. (d), agree that the regulations must continue to allow the Mines Rescue Service to provide core services in return for the proposed levy, and other services to both levy and non-levy companies on a fully commercial basis without restriction, to enable the Service to properly manage its costs;
  - f) In relation to Rec. (a), agree to adopt industry's proposed full model, as shown in Figure 2 (on page 10), subject to the Service completing a full and detailed budget to finalise the levy model;
  - g) Agree to provide for flexibility in setting the levy, and reviewing the levy annually, on the recommendation of the Mines Rescue Trust Board to the Minister, e.g., via Gazette notice;
  - h) Note industry's support for the Mines Rescue Trust to raise and maintain an emergency fund to cover the costs of full emergency response in circumstances where full cost recovery is not possible;
  - i) Agree that the emergency fund should have additional capacity to absorb structural changes in the amount of levy collected where the number of operations levied reduces; and

- j) In addition to Recs. (h) and (i), agree that any revenue collected from the provision of commercial services should be used to top up the emergency fund until reaching a desired level, from which point, the commercial revenue could be then used to subsidise the levy via periodic adjustments to the levy.

## LEVY BASIS

11. The discussion document proposed two options:
- A levy based on production; or
  - A levy based on mine labour numbers.
12. The industry was unanimous in preferring a labour-based levy calculation since this was more closely aligned with risk and the need for the Service to assist in an emergency than a production-based approach.
13. However, industry did not agree with the proposed calculation method in the consultation document as it was felt this did not fairly spread the levy across the proposed extended coverage. Before addressing what industry considers a fairer model, it is useful to look at what services will be provided.

## SERVICES PROVIDED

14. The Mines Rescue Service is capable, with some additional resources, in providing the following services, which are illustrated in Figure 1 (on page 8);
- a. **Emergency preparedness ;**
    - **Assist in Emergency Management Plan development, implementation and review;**
    - **Assist with emergency exercises; and**
    - **Maintain a national resource register;**
  - b. Immediate Response;

- c. First response;
  - d. **External response;**
    - o **NZMRS would provide technical, operational and logistical support to operators in an emergency.**
15. The Industry workshops held on 4 and 13 September 2013 concluded that items (a) and (d) were considered core services while (b) and (c) were considered optional services that the Service would supply to the mining industry on a commercial basis. Currently the Mines Rescue Service supplies services under items (a) to (c) inclusive to non-levy payers on a commercial basis. It was agreed that incorporating services under (a) within the levy would assist in compensating those additional sectors included under the extended coverage proposed.
16. Additionally, although this is a commercial matter for the Mines Rescue Trust Board, the industry wishes that services supplied on a commercial basis under items (b) and (c) to be supplied to levy payers at a discounted rate.
17. Notwithstanding the foregoing, MinEx also submits that the regulations must allow the Service to provide core services in return for the proposed levy and other services to both levy and non-levy companies on a fully commercial basis without restriction, which we understand is currently the situation, in order for the Service to be able to properly manage its costs.

## LEVY CALCULATION

18. The Industry workshops also concluded that the proposals contained in the consultation document did not fairly spread the cost of the Service fairly across the extended coverage. A relatively simple model was developed at the final workshop that consisted of:
- o A fixed payment which varies according to mine size in two broad bands based on labour numbers for provision of Emergency Preparedness services; and
  - o A further fixed payment again in two bands based on labour numbers for the provision of External Response services.

19. Agreed risk ratings and lump sum provisions varied across operations of differing size and mining method were incorporated in the model to fairly spread the cost of the agreed services.
20. Industry's proposed full model is shown in Figure 2 (on page 9). The total proposed levy of around \$1.5M is based on an indicative budget that allows for the provision of the proposed core services but would be subject to the Service completing a full and detailed budget to finalise the levy model. The model would be retained and used as a basis for review and levy adjustments.

## ONGOING LEVY REVIEW

21. Recent events in global commodity markets have shown the industry the importance for flexibility in striking the levy. Industry is unanimous in wishing to see the Mines Rescue Trust Board granted the ability to review the levy annually and, if warranted, adjust the levy annually, e.g., via Gazette notice.

## EMERGENCY FUND

22. The consultation document concluded that the Mines Rescue Trust needs an emergency fund to cover the costs of full emergency response in circumstances where full cost recovery is not possible.
23. MinEx submits that the emergency fund also needs to act as a buffer to absorb structural changes in the amount of levy collected where the numbers of operations levied reduces.
24. The Mines Rescue Trust currently has a small emergency fund which the consultation document concluded needs to be increased to approximately \$1M. The consultation document recommended that this be achieved over five years by a small increase in the levy collected.
25. In addition to the small increase in rates suggested above to generate the emergency fund, any revenue collected from the provision of commercial services would be used initially to add

to the emergency fund. Once the fund was at the desired level, the commercial revenue could be then used to subsidise the levy via adjustments in the levy from time to time.

**Les McCracken**  
CEO, MinEx  
18 September 2013

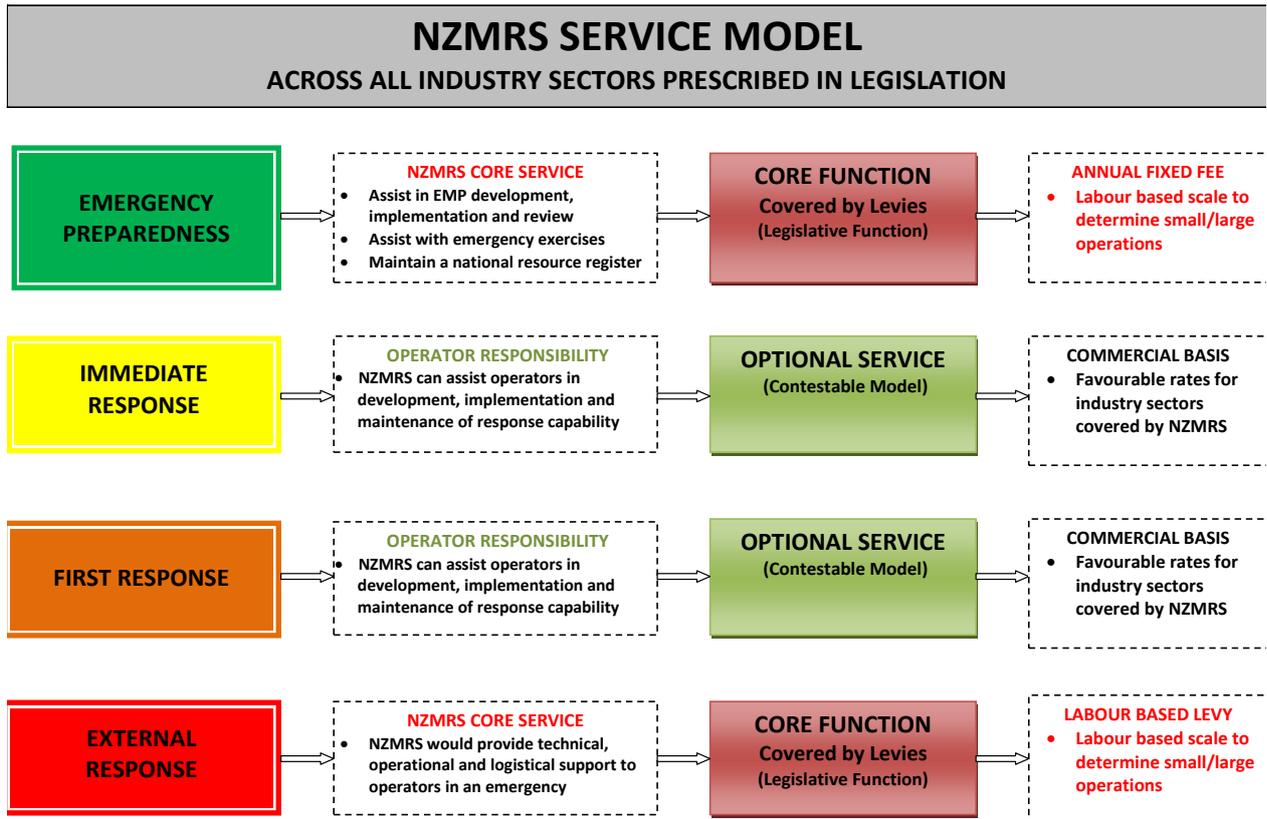


Figure 1. Industry Agreed Mines Rescue Service Model

NZMRS CORE FUNCTION LEVIES - EXTERNAL RESPONSE					
Sector	# of workers	Risk Factor	Levy Rate	# of Mines	Sector Total
Underground Coal - Small	<30	1	75,000.00	2	\$ 150,000.00
Underground Coal - large	>30	1	150,000.00	1	\$ 150,000.00
Underground Gold - Small	<30	0.35	26,250.00	0	\$ -
Underground Gold - Large	>30	0.35	52,500.00	2	\$ 105,000.00
Opencast Coal - Small (no u/g workings)	<50	0.1	7,500.00	10	\$ 75,000.00
Opencast Coal - Large (no u/g workings)	>50	0.1	15,000.00	0	\$ -
Opencast Coal - Small (u/g workings)	<50	0.25	18,750.00	6	\$ 112,500.00
Opencast Coal - Large (u/g workings)	>50	0.25	37,500.00	2	\$ 75,000.00
Tunnels - Small	<30	0.35	26,250.00	0	\$ -
Tunnels - Large	>30	0.35	52,500.00	0	\$ -
TBM Tunnels - Small	<20	0.2	15,000.00	5	\$ 75,000.00
TBM Tunnels - Large	>20	0.2	30,000.00	1	\$ 30,000.00
Underground Mines - Care & Maintenance		0.35	26,250.00	1	\$ 26,250.00
<b>Total Levies - External Response</b>					<b>\$ 798,750.00</b>

NZMRS CORE FUNCTION ANNUAL FIXED FEE - EMERGENCY PREPAREDNESS					
Sector	# of workers	Annual Fee	# of Mines		Sector Total
Underground Coal - Small	<30	20,000.00	2		\$ 40,000.00
Underground Coal - large	>30	40,000.00	1		\$ 40,000.00
Underground Gold - Small	<30	20,000.00	0		\$ -
Underground Gold - Large	>30	40,000.00	2		\$ 80,000.00
Opencast Coal - Small (no u/g workings)	<50	20,000.00	10		\$ 200,000.00
Opencast Coal - Large (no u/g workings)	>50	40,000.00	0		\$ -
Opencast Coal - Small (u/g workings)	<50	20,000.00	6		\$ 120,000.00
Opencast Coal - Large (u/g workings)	>50	40,000.00	2		\$ 80,000.00
Tunnels - Small	<30	20,000.00	0		\$ -
Tunnels - Large	>30	40,000.00	0		\$ -
TBM Tunnels - Small	<20	20,000.00	5		\$ 100,000.00
TBM Tunnels - Large	>20	40,000.00	1		\$ 40,000.00
Underground Mines - Care & Maintenance		10,000.00	1		\$ 10,000.00
<b>Total Annual Fixed Fee - Emergency Preparedness</b>					<b>\$ 710,000.00</b>
<b>Total Core Function Revenue</b>					<b>\$ 1,508,750.00</b>

Figure 2. Industry Agreed Levy Calculation