

## Request for risk assessment report on Hut Creek Mine

<b>Legislation</b>	Official Information Act 1982, s 9(2)(j)
<b>Agency</b>	Solid Energy
<b>Ombudsman</b>	Beverley Wakem
<b>Case number(s)</b>	176463
<b>Date</b>	December 2007

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*Release would prejudice or disadvantage agency's negotiations to acquire mining permit— s 9(2)(j) applies*

A mine owner requested a risk assessment report commissioned by Solid Energy in respect of the mine. At the time, Solid Energy was considering purchasing the relevant mining permit. The report was commissioned as part of the due diligence process. Solid Energy refused the request under section 9(2)(j), and the requester complained to the Ombudsman.

The Ombudsman found the report was material to the negotiations, and its release would reveal Solid Energy's negotiating strategy. She stated:

*A party's ability to negotiate effectively is liable to be undermined if the opposite party becomes aware of its full negotiating hand. In the absence of any obligation to disclose, it is not improper for information relevant to a negotiating strategy to be kept confidential in a commercial environment.*

The Ombudsman concluded that section 9(2)(j) applied, and was not outweighed by the public interest in release.

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