

The Treasury

New Zealand Aluminium Smelters (NZAS) Information Release

September 2013

Release Document

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Key to sections of the Official Information Act 1982 under which information has been withheld.

Certain information in this document has been withheld under one or more of the following sections of the Official Information Act, as applicable:

- [1] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [2] 9(2)(b)(ii) - to protect the commercial position of the person who supplied the information, or who is the subject of the information
- [3] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [4] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
- [5] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice
- [6] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice
- [7] 9(2)(ba)(i) - to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied
- [8] 9(2)(h) – to maintain professional legal privilege

Where information has been withheld, a numbered reference to the applicable section of the Official Information Act has been made, as listed above. For example, a [3] appearing where information has been withheld in a release document refers to section 9(2)(f)(iv).

In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

Reference: T2013/899

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THE TREASURY

Kaitohutohu Kaupapa Rawa

Date: 5 April 2013

To:
Minister of Finance
(Hon Bill English)

Associate Minister of Finance
(Hon Steven Joyce)

Minister for State Owned Enterprises
(Hon Tony Ryall)

Deadline: None

Aide Memoire: Tiwai update

We understand that Meridian and Pacific Aluminium have agreed to meet in Wellington on Wednesday and Thursday of next week to continue discussions over the electricity contract for Tiwai Point. Meridian would like to focus the discussion on any new ideas that Pacific Aluminium are bringing to the table to bridge the existing gap (on the basis that Pacific Aluminium is the party taking a position that a deal can be done, whereas Meridian maintains it has reached its bottom line). Pacific Aluminium may be focused on clarifying exactly where the parties (including the Crown) landed in discussions last week as part of an appraisal of next steps.

Recent correspondence from Rio to the Prime Minister and from Pacific Aluminium to Meridian, and recent reporting of Pacific Aluminium views in the media, indicate that Rio/Pacific Aluminium would like to keep the government actively engaged in the negotiations. As part of this, Rio has offered to meet with the Prime Minister, and Shareholding Ministers may be approached for meetings with Pacific Aluminium next week.

The Mighty River Power offer document describes the state of play with negotiations at the time of its publication and discloses all material facts that investors need to consider before investing. If there are material changes in the situation during the offer period, this could require the Crown and MRP to produce and publicise a supplementary disclosure document to inform potential investors of such changes and provide them with an opportunity to withdraw their application to buy shares.^[4,5]

[4,5,6]

For these reasons, we recommend that Ministers push the responsibility for negotiations back to the commercial parties – Meridian and Pacific Aluminium – until they are either successfully concluded or until such a point as the parties agree that they have reached a final position. Only at that stage, if at all, should the government become directly involved again. On this basis, we recommend that any request for meetings should be declined. Officials are proposing to adopt the same approach. We also recommend that Ministers take the opportunity to make this position clear publicly.

Chris White, Manager, Commercial Transactions, 890 7256, [1]

John Crawford, Deputy Secretary, Commercial Transactions, 917 6985, [1]