

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
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- [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.

From: Baker, Phil [Phil.Baker@pacificaluminium.com.au]
Sent: Monday, 15 July 2013 3:40 p.m.
To: Chris White [TSY]; John Crawford [TSY]
Subject: Proposal - commercial-in-confidence

Dear Chris and John,

Thanks for the phone call.

As I mentioned, and to be blunt but to the point, there was considerable concern and disappointment on the part of London and Tokyo in respect of last Thursday's proposal. We approached the ultimate owners in good faith almost immediately after hearing the proposal from the Deputy PM and so that we could be in position to provide initial feedback early this week as requested by the Deputy PM. In our view, a shifting of the goal posts during the few days since that proposal was outlined to the ultimate owners, for the Government now to unilaterally impose conditions regarding ownership and strategic reviews, will merely exacerbate those concerns.

However, in our view, an increase in monetary compensation would likely allay such concerns and allow all matters to be finalised this week provided that appropriate wording can be agreed regarding your new conditionality terms. I would be confident that a doubling of the monetary offer would be regarded favourably by the ultimate owners and could be confirmed before the end of this week.

I outlined for you today the concerns in relation to last week's offer. These include the fact that the offer amount is a value equivalent to that proposed by the PM around the end of March this year when any offer was incapable of acceptance at that time. That offer was in the absence of any discussion on transmission charges and pre-dated the new parent guarantees in favour of Meridian that effectively require the ultimate owners to guarantee uncapped but significant annual increases in the subsidy provided by the smelter to Transpower and ultimately the NZ Government. I mentioned to you that the present value to the Government of these increases in transmission charges over and above inflation are [2]

Clearly these windfall profits to the Government had not been taken into account by the PM in late March and therefore not reflected in last week's offer by the Deputy PM. Further, since late March, the smelter has paid approximately [2,5,6] extra in higher electricity charges to Meridian compared with the revised tariff, part of approximately [2,5,6] excess charges that have been paid by the smelter to Meridian during 2013 ahead of executing a revised agreement. These are the main reasons why the initial feedback is one of disappointment, as we conveyed to you today.

You mentioned this morning that a written proposal would be sent to us today to facilitate consideration by the ultimate owners of a final offer from the Government. To this end, we have asked that you outline the nature of the transaction, noting the Government's desire for it to be transparent, and what the Government will state publicly about this transaction.

We believe it best for you to send through in the first instance a draft letter to provide details of the proposal so that the precise wording, including that relating to the conditions you outlined this morning, can be considered and clarified quickly before a final written offer from your Minister is presented for consideration by the ultimate owners.

You confirmed during our call today that you would ensure the initial feedback is made known to the Deputy PM so I would be grateful if you would discuss this matter with him.

Please contact me if you would care to discuss this further. Of course, I would always be available to take a call from your Minister if this helps.

Sincerely,

Phil

Phil Baker

Chief Financial Officer

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