

The Treasury

Mixed Ownership Model for Crown Commercial Entities: Shares Plus Proposal Information Release

21 December 2012

Release Document

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

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9(2)(a) - to protect the privacy of natural persons, including deceased people

9(2)(b)(i) - to protect trade secrets

9(2)(b)(ii) - to protect the commercial position of the person who supplied the information, or who is the subject of the information

9(2)(f)(ii) - to maintain the current constitutional conventions protecting collective and individual ministerial responsibility

9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials

9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions

9(2)(h) - to maintain professional legal privilege

9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice, or

Not relevant.

Where information has been withheld a reference to the applicable section of the Official Information Act has been made, as listed above.

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



Cabinet

Minute of Decision

CAB Min (12) 36/10

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16



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Government Share Offers: Consultation on Shares Plus

Portfolio: Finance / State Owned Enterprises

On 15 October 2012, Cabinet:

- 1 **noted** that on 3 September 2012, Cabinet:
 - 1.1 **noted** the Waitangi Tribunal's findings that:
 - 1.1.1 the sale of up to 49 percent of shares in power generating State Owned Enterprise companies does affect the Crown's ability to recognise Māori rights in freshwater and geothermal resources and remedy their breach (where such breach is proven) if the Crown fails to first preserve the "shares-plus" remedy proposed by the Tribunal;
 - 1.1.2 the removal of "shares-plus" would be a breach of the Crown's Treaty duty to actively protect Māori rights to the fullest extent reasonably practicable (and its Treaty duty to provide remedy or redress for well-founded Treaty claims);
 - 1.1.3 the recommended Treaty-compliant approach was an urgent national hui where the Treaty partners negotiate a solution with regard to Mighty River Power, Meridian Energy and Genesis Energy prior to the sale proceeding;
 - 1.2 **agreed** to proceed with the Mighty River Power initial public offering (IPO) in March-June 2013 and to undertake consultation with affected parties on "shares plus", concluding on 5 October 2012;
- [CAB Min (12) 31/17]
- 2 **noted** that in response to the Waitangi Tribunal's recommendations, the government carried out a consultation process which closed on 5 October 2012;
- 3 **noted** that an analysis of oral and written submissions does not change the preliminary view of the Minister of Finance and the Minister for State Owned Enterprises that any outcomes from "shares plus" are either replicable after sale, or not workable in practice;
- 4 **agreed** that the government will not implement the Waitangi Tribunal's "shares plus" concept, or engage in negotiations in relation to that concept, before a sale of shares in the mixed ownership companies;

5 **invited** the Minister of Finance to:

- 5.1 issue drafting instructions to the Parliamentary Counsel Office for the Order in Council that will remove Mighty River Power from the State Owned Enterprises Act 1986;
- 5.2 submit the Order in Council to Cabinet for consideration on Tuesday, 23 October 2012, for submission to the Executive Council that day;

6 **directed** officials to continue to work towards a sale of up to 49 per cent of the shares in Mighty River Power in March-June 2013;

7 **agreed** that Cabinet's decisions in paragraphs 4, 5 and 6 above be announced by the Prime Minister at the post-Cabinet press conference on 15 October 2012.

[Not relevant to request]

Secretary of the Cabinet

Reference: CAB (12) 574

Distribution:

[Not relevant to request]