

# **The Treasury**

## **Solid Energy Information Release**

### **March 2013**

### **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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- [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 protect the commercial position of the person who supplied the information, or who is the subject of the information; to enable the Crown to carry out commercial activities without disadvantage or prejudice; and to enable the Crown to negotiate without disadvantage or prejudice
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In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

## Solid Energy: Land Disposal Process Response

<b>To</b>	Minister for State Owned Enterprises	<b>Priority</b>	Routine
<b>Date</b>	18 January 2008	<b>Deadline</b>	22 January 2008

### Purpose

attached — This report provides two options for your response to Solid Energy following the letter from its Chair, John Palmer, dated 13 December 2007. Solid Energy has advised that it does not believe that it is appropriate to apply the land disposal process to land that Solid Energy has acquired, on normal commercial terms, other than from the Crown.

### Background

On 28 September 2007, you wrote to all SOEs requesting they confirm they are prepared to comply with the permanent land disposal process. The letter noted it was not a direction under section 13 of the State Owned Enterprises Act 1986, but a request that the Board voluntarily agree to comply with the process.

John Palmer has subsequently responded to you, noting that Solid Energy is prepared to follow the process for land which it administers on behalf of the Crown, and land acquired under the Asset Transfer Agreement of 1988. However, the Board believes it is not appropriate to apply the process to land Solid Energy has acquired through arms-length transactions at market value, as doing so may place an artificial restraint on the disposal process which counterpart commercial entities would not be subject to.

[8]

### Response to Solid Energy

In responding to Solid Energy a risk exists that further letters may not lead to an agreed position over Solid Energy's treatment of land disposals, but rather entrench differing viewpoints on the application of the land disposal process.

It may, therefore, be more appropriate to accept John Palmer's offer to discuss the matter further with him to gain a clear understanding of the Boards view.

If your preference is to respond to the Chair in writing, we have provided a letter to the Chair for your signing, which;

- recognises Solid Energy's concerns about operating under normal commercial conditions, but reiterates Cabinet's position on compensation to SOEs,

- encourages Solid Energy to consider early LINZ reviews for land which the company may wish to dispose of in the future; and
- requests that, if the board is unable to commit to the process, that it provide an assurance that it will do all it can to meet the Governments processes and maintain at all times the no-surprises commitment to land disposals.

If Solid Energy retains its current position for land it has purchased, on normal commercial terms, other than from the Crown, further consideration may be given to providing guidance through the upcoming business planning and Statement of Corporate Intent process, however reaching a mutual acceptable position outside of the planning process would be preferable.

Michael Moore  
**Manager – Energy, Land &  
Environment**  
CCMAU[1]

Hon Trevor Mallard  
**Minister for State Owned Enterprises**



**Hon Trevor Mallard**

Minister for the Environment

Minister of Labour

Minister of Broadcasting

Minister for State Owned Enterprises

Associate Minister of Finance

23 JAN 2008

John Palmer

Chair

Solid Energy New Zealand Ltd

PO Box 1303

Christchurch

Dear John

**Permanent Process for Land Disposal**

Thank you for your letter regarding Solid Energy's position on the adoption of the modified land disposal process for Crown agencies.

It is pleasing that Solid Energy is prepared to adopt the land disposal process for land that is administered on behalf of the Crown and for land that has been acquired pursuant to the Asset Transfer Agreement of 1988.

I have given consideration to the concerns you raise regarding applying the process to land that has been acquired by Solid Energy outside the Asset Transfer Agreement, and particularly that any such sale may be artificially constrained to a level that non-Crown entities would not be subject to.

I accept that adhering to the process will place additional requirements on SOEs that non-Crown entities would not be subject to, and that these may impact on the terms or conditions of such a disposal. I would therefore like to re-iterate, that to allay these concerns, Cabinet has agreed that the Crown will consider, on a case by case basis, compensating SOEs for any reduction in land disposal value that occurs due to the process.

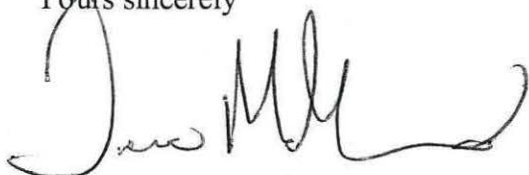
I would encourage Solid Energy to undertake a review of the land it owns which meets the criteria for 'land of potential interest' and consider opting for an early LINZ review where the company is likely to consider disposing of the land in the future. Once the review has been completed, Solid Energy would be better positioned to dispose of the land under normal commercial conditions, or alternatively consider seeking compensation from the Crown.

If the board believes it is unable to commit to the land disposal process, I would ask for your assurance that Solid Energy will do all it can to meet the Government's processes to the maximum extent possible. Furthermore, I would expect that Solid Energy will continue to work closely with officials at all times to maintain its commitment to the no-

surprises policy for all land transactions and in particular, that it will provide adequate advance notice to the Crown if it is considering not following the process for any particular land sale.

I would be happy to take up your offer to discuss this matter further if the board does not find these expectations acceptable.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Trevor Mallard', with a stylized flourish at the end.

Hon Trevor Mallard

**Minister for State Owned Enterprises**

*on behalf of shareholding Ministers*

cc: Dr Don Elder, Chief Executive, Solid Energy