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.

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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 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.

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25 March 2013

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Rt Hon John Key Prime Minister Parliament Buildings Private Bag 18888 Wellington 6160 NEW ZEALAND

Dear Prime Minister

RE: NEW ZEALAND ALUMINIUM SMELTER LTD (NZAS)/MERIDIAN ENERGY LTD (MEL) ELECTRICITY CONTRACT NEGOTIATIONS

I write to you on a matter of considerable concern regarding the contract negotiations for the supply of electricity to the Tiwai Point Aluminium smelter. On Thursday 21 March, we received an ultimatum from Meridian Energy Limited (MEL) that, unless the Boards of Rio Tinto and Pacific Aluminium unconditionally and without modification accepted MEL's terms by 9.00am on Monday 25 March, MEL's offer would be withdrawn. This deadline was subsequently extended to 9.00am on Tuesday 26 March. Following the withdrawal of their offer, Meridian has advised us it intends to make a public statement that, in its opinion, the parties are unlikely to reach a commercial agreement to revise the electricity arrangements for NZAS.

As you foreshadowed to me in our meeting in June last year, we should expect a spirited and challenging negotiation as we aim to bring this to a successful outcome. Whilst that has certainly been true, the fact is that the parties have made more progress towards agreement in the past two weeks than they have in the previous nine months. It has therefore surprised and disappointed us that such an ultimatum has been issued at this time and the statement made that the parties are far apart and that agreement is unlikely. This is certainly not our view and we remain committed and optimistic that a successful outcome can be negotiated relatively quickly.

We have made it clear to Meridian that their unilateral decision to break off negotiations is unfair and unreasonable. It has also surprised us that the Meridian timing is also driven by an external matter; the impending float of Mighty River Power. This has never been considered relevant to the negotiations between Meridian and Pacific Aluminium.

In your own public statement last year when you foreshadowed the timetable for the Mighty River Power float for the June 2013 quarter, you acknowledged you did not expect the electricity contract for Tiwai Point would be resolved by that time.

PACIFIC ALUMINIUM

Just today, Meridian has informed us it is considering withdrawing its ultimatum yet still proposes to issue a public statement that the parties are unlikely to reach a commercial agreement. Given recent progress in negotiations it is both confusing and not helpful in working towards a successful outcome.

Prime Minister, Pacific Aluminium have not ended negotiations because we believe an agreement is in sight, but arbitrarily imposing a two-day deadline on us to consider MEL's counter offer is unreasonable. We would ask you to do everything in your power to encourage MEL not to break off negotiations, and come back to the table to continue the negotiations in good faith. We believe an outcome that is in the best interests of the two negotiating parties and all other stakeholders is within our grasp. Given the concerns raised my Meridian regarding the Mighty River Power float we wholeheartedly welcome Government involvement in the discussions.

I would appreciate the opportunity to put our perspective directly to you, either at a meeting in Wellington, or by telephone. I would welcome your consideration on the matter and your assistance in bringing this to a mutually satisfactory conclusion.

Yours sincerely

Sandeep Biswas CEO Pacific Aluminium