## 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.



### Office of Hon Bill English

Deputy Prime Minister Minister of Finance MP for Clutha-Southland

[Without Prejudice]

15 July 2013

Mr Phil Baker Chief Financial Officer Pacific Aluminium GPO Box 2435 Brisbane Queensland 4011 AUSTRALIA

Dear Phil Baker

#### NEW ZEALAND ALUMINIUM SMELTERS (NZAS) ELECTRICITY AGREEMENT

Thank you for meeting with Hon Tony Ryall and me on Tuesday 9 July and for the follow up phone conversation between the two of us on Thursday 11 July. This letter puts in writing the New Zealand Government's response to the requests you have made.

As discussed in our phone call, the New Zealand Government is unable to support the smelter by subsidising its electricity price or capping its transmission charges, as you have requested. However, acknowledging the progress that has been made in negotiations with Meridian and the benefit of greater certainty to the New Zealand electricity industry, the Government is offering a \$30 million lump sum payment to NZAS on the terms set out in this letter.

Subject to Cabinet approval, the lump sum will be payable to NZAS on execution of an amended electricity agreement (the Agreement) with Meridian, on terms and a timetable acceptable to Meridian.

NZAS must refund the lump sum in full to the Crown if a review of the on-going viability of the smelter is publicly announced within 2 years from the execution of the Agreement.

This offer reflects the desire of all parties involved in this negotiation to reach a conclusion. If the offer is accepted and the conditions are met, the lump sum will be paid by the Government and appropriated for in the estimates in the normal way. If accepted we would announce this payment at the time of the Agreement being made public and describe the payment as an incentive for certainty for the employees of the Smelter, the local community and for the New Zealand electricity market.

This offer will expire at 5pm (NZ time) on Friday 19 July 2013 unless accepted by you prior to that time.

We also confirm that Meridian will seek, in good faith, an exemption from the Financial Markets Authority (FMA) to withhold the price agreed in the Agreement from disclosure in the Agreement attached to the Meridian offer document as a material contract. As you may be aware, exemptions from disclosing commercially sensitive information in material contracts have been given in the past. However, as previously noted, the FMA is an independent body and the Government has no control over how it will rule on this issue.

I look forward to receiving your response to our offer by no later than 5pm (NZ time) on Friday 19 July 2013.

Yours sincerely

Hon Bill English
Minister of Finance