

**Note to Minister of Finance for telephone conversation with John Anderson
Re: Government's relationship with Toll**

Chronology of Government contact with Toll

1. In October 2002, First New Zealand Capital, on contract to Treasury, made contact with Toll Holdings as part of a series of no-prejudice discussions with experienced freight operators who had previously expressed some interest in Tranz Rail.
2. In March 2003, First New Zealand Capital, on contract to Treasury provided Toll with the outline of a potential transaction involving the Crown and a third party whereby the Crown would acquire Tranz Rail's track following a successful takeover of Tranz Rail by a third party.
3. In March 2003, Treasury officials met with Toll employees and had a high level discussion following this letter. This meeting was unproductive because of apparent focus on the part of Toll on potential for Government subsidies.
4. On 16 April 2003 Treasury officials met with Toll employees and had a second discussion. Toll provided a proposal that was not acceptable because it would want to retain exclusive ownership and control of the track.
5. On 6 May Tranz Rail requested Government assistance
6. On 19 May Toll purchased Tranz Rail shares on market.
7. On 20 May 2003, Treasury officials bumped into Toll employees at the offices of Russell McVeagh in Auckland where Treasury officials were meeting with Tranz Rail to discuss the proposed rescue package.
8. On 29 May Toll announced its intention to make a takeover offer for Toll.
9. On 3 June Toll executives met with you where, under constraints of the confidentiality agreement and the Tranz Rail negotiations underway, it was made clear that if the Toll offer proceeded, Toll would be on a collision course with the Government. A later meeting that afternoon with Toll confirmed that message and also confirmed that there was no ability at that stage to produce a joint approach.
10. On 4 June Toll's offer was made
11. On 9-10 June there was an exchange of letters with Toll which were released to the media.
12. On Friday 13 June, a week after the Crown /Tranz Rail Heads of Agreement (HOA) was announced, Toll revised its offer upwards from \$0.75 per share to \$0.95 per share.
13. On 16 June officials from Treasury and your office met to discuss with Toll whether or not there is any scope for Toll and the Crown to come to some sort of arrangement should Toll's offer be successful. The company said it would be comfortable with the Crown owning the track infrastructure but not the 35% equity stake or board representation.

14. Media statements around the time suggested there was some confusion on the part of Toll with regard to what the status of the Crown / Tranz Rail HOA would be should its offer be successful. Mr Little was told that the concessional access charge and the commitment to spend \$100m to refurbish the network are both in the HOA and so would not be forthcoming unless the whole HoA is approved by shareholders as a single package.
15. On 23 June, Toll's offer to Tranz Rail shareholders opened.
16. On 23 June your Office received from Mr Little a letter with his general observations on the HOA. As well as confirming the message from the 16 June meeting, it revealed that Toll was some way apart from the Crown on the HOA. Specifically, Toll opposes the Crown's access pricing approach, and has some issues around the \$1.00 price for the network. Toll is opposed to Crown equity. The letter was vague about the concessional access charge. The Toll proposal is materially worse than the HOA for the Crown.
17. On 25 June, officials from Treasury and your office spoke to Mr Little by phone. Mr Little:
 - advised he would like to put work into seeing if a Crown Toll deal could be reached but serious progress by Friday would be needed.
 - advised that should a deal be possible, as well as confirming the points made above, Toll would not expect to be regulated by financial penalties and incentives on KPIs and benchmarks, but a discretionary component of the access charge and a variation of lease period were possibilities.
 - requested a further meeting with officials and expressed determination to have a meeting with you on Monday/Tuesday next week.
 - wanted to know if the Government was talking to any other parties or whether any alternative models were being considered.
18. Officials agreed a meeting on Monday might be possible if sufficient progress were made before then but were non-committal on the rest of the above. Officials made clear that any deal with Toll would need to be at least as valuable for the Crown as to the HOA.