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.
Cabinet Economic Growth and Infrastructure Committee
Summary of Paper

6 August 2013

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

New Electricity Contract for Tiwai Point Smelter

Portfolios
Finance / State Owned Enterprises

On 5 August 2013, Cabinet considered an earlier version of this paper and invited the Minister of Finance and the Minister for State Owned Enterprises to submit a revised paper to the Cabinet Economic Growth and Infrastructure Committee (EGI) on 7 August 2013 [CAB Min (13) 26/5]. EGI has Power to Act to take decisions on this paper.

The Minister of Finance and the Minister for State Owned Enterprises recommend that the Committee:

Background

1 note that on 29 July 2013, Cabinet:

1.1 noted that the aluminium industry has been in a sustained downturn with low prices and a strong New Zealand dollar threatening the viability of production in New Zealand;

1.2 noted that Pacific Aluminium, a business unit of Rio Tinto (the majority owner of the New Zealand Aluminium Smelter (NZAS) at Tiwai Point), has approached Meridian Energy Limited (Meridian) to renegotiate the electricity agreement between the two parties;

1.3

1.4 noted that, following a year of negotiation, a revised agreement has been reached between NZAS and Meridian that significantly reduces the price paid for electricity by the smelter from approximately \[2.5,6.7\] to \[2.5,6.7\ ];
1.5 noted that in return for the reduction in price, Meridian receives guarantees over the contract from NZAS’s parent companies, Rio Tinto and Sumitomo Chemical, an extension of the earliest possible smelter exit date to 1 January 2017, and a reduction in the contract volume from 572MW to 400MW from either 1 January 2017 or 1 January 2018;

1.6 [2,5,6,7]

1.7 noted that Pacific Aluminium claims that this reduction is not sufficient to return the smelter to viability, and that as a result Pacific Aluminium has approached the government for further support to reduce the price of electricity and the cost of transmission;

1.8 agreed not to support NZAS with a price or transmission-based subsidy;

1.9 agreed that, for the purposes of providing certainty to NZAS workers, the Southland community and the New Zealand electricity market, it would be desirable for NZAS to enter into the revised electricity agreement with Meridian;

1.10 agreed to fund a sign-up incentive to NZAS of $30 million on execution of the revised agreement with Meridian to encourage NZAS to enter into the new agreement with Meridian;

1.11 agreed that a condition of the payment to NZAS is that NZAS will repay the $30 million lump sum in full if an on-going review of the viability of the smelter is publicly announced before 30 June 2015;

1.12 invited the Minister of Finance and the Minister for State Owned Enterprises to report back to Cabinet to seek agreement to the details of the payment and the communication of the payment by 7 August 2013;

[CAB Min (13) 25/5]

2 note that since 29 July 2013, NZAS has elected that the reduction in contracted volume from 572MW to 400 MW will occur on 1 January 2017 (see paragraph 1.5 above);

Financial implications

3 agree to establish a new Non-Departmental Other Expense appropriation “New Zealand Aluminium Smelters – Electricity Agreement Incentive Payment” in Vote Finance;

4 agree that the scope of this appropriation be “This appropriation is limited to the provision of an incentive payment to New Zealand Aluminium Smelters on the execution of a revised electricity agreement with Meridian Energy Limited”;

[END]
5 approve the following changes to appropriations to give effect to the policy decisions agreed by Cabinet on 29 July 2013, with a corresponding impact on the operating balance:

<table>
<thead>
<tr>
<th>Vote Finance Minister of Finance</th>
<th>2013/14</th>
<th>2014/15</th>
<th>2015/16</th>
<th>2016/17</th>
<th>2017/18 &amp; Outyears</th>
</tr>
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<tr>
<td>Non-Departmental Other Expense: New Zealand Aluminium Smelters – Electricity Agreement Incentive Payment</td>
<td>30.000</td>
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6 agree that the change to appropriations for 2013/14 above be included in the 2013/14 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;

7 agree that the expenses incurred under paragraph 5 above be a charge against the between-Budget operating contingency, established as part of Budget 2013;

8 note that Pacific Aluminium has also requested that an exemption from the requirement to disclose the price it pays for electricity under the revised contract in the offer document for the proposed Initial Public Offering (IPO) of Meridian be made to the Financial Markets Authority (FMA);

9 note that Meridian has agreed to request the exemption from the FMA on the basis that this is standard practice;

10 note that the amount offered to NZAS is a net amount, and that as the tax treatment of the payment is unclear, the Minister of Finance will grant NZAS an indemnity over any tax expense incurred as a result of the payment;

11 note that a condition of the incentive payment is that NZAS’s owners will not announce a public review of NZAS’s viability before 30 June 2015;

12 note that Pacific Aluminium has indicated that the offer of an incentive payment will be sufficient for it to accept the revised agreement with Meridian, but that this will be subject to final approval from the Sumitomo Chemical and Rio Tinto Boards in early August 2013;

**Publicity**

13 note that Meridian Energy will take the lead on media enquiries relating to the underlying electricity agreement, beginning by meeting its continuous disclosure obligations to the NZX once an agreement is concluded.

Janine Harvey
Committee Secretary

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