



Approval to issue call for data notice for New Zealand Aluminium Smelters Limited

Date Submitted:	20 December 2022	Tracking #: BRF-2622	
Security Level	Policy and Privacy In-Confidence	MfE Priority:	Urgent

	Action sought:	Response by:
Hon James SHAW, Minister of Climate Change	Sign the attached notice	20 December 2022

Actions for Minister's Office Staff	Return the signed report to MfE. Submit the signed Gazette notice to the House of Representatives within 16 sitting days (early February) of the Gazette notice being made.
Number of appendices and attachments 1	Titles of appendices and attachments: 1. Call for the Provision of Electricity Contract Related Information (Aluminium Smelting) Notice 2022

Key contacts

Position	Name	Cell phone	1st contact
Principal Author	Dave Hodson		
Responsible Manager	Kate Whitwell	s 9(2)(a)	✓
Director	Melody Guy		

Approval to issue call for data notice for New Zealand Aluminium Smelters Limited

Purpose

1. This briefing asks you to sign the attached New Zealand Gazette notice issuing a call for information from New Zealand Aluminium Smelters Limited (NZAS) on its electricity purchases. This information is called for annually and is used to calculate its bespoke allocative baseline. This baseline is then used to calculate its industrial allocation to reduce the cost impact of the New Zealand Emissions Trading Scheme (NZ ETS).
2. We are seeking your signature on the Gazette notice attached in Appendix 1 today, 20 December 2022, to enable publication of the notice in the New Zealand Gazette this year.

Context

NZAS receives industrial allocation

3. Industrial allocation is the provision of free New Zealand Units (NZUs) to firms who carry out emissions-intensive¹ and trade-exposed² activities. This reduces the cost impact of the NZ ETS and the risk of emissions leakage.
4. The production of aluminium is prescribed as an eligible industrial activity and NZAS is therefore eligible to receive an industrial allocation. Historically the majority of NZAS' emissions costs have been associated with its electricity use, however a recent renegotiation of its main contract means it does not currently face emissions costs in the price it pays for electricity through its main contract.
5. The main NZ ETS cost impact on NZAS now is due to direct onsite emissions from aluminium smelting as well as small amounts of natural gas and liquid fossil fuel use. NZAS also faces some emissions costs passed on for electricity purchased outside of its main electricity contract. These sources of NZ ETS costs are included in its allocative baseline.
6. The annual update to NZAS's allocative baseline ensures that its allocation reflects the actual emissions costs from its operation, which varies primarily from how much electricity is consumed from the grid and under its main contract with Meridian Energy Limited.

¹ A significant portion of their revenue is emissions costs that have been passed on to the consumer.

² The activity is exposed to international trade.

A Gazette notice is required to update NZAS's baseline

7. The first step in updating the allocative baselines for aluminium smelting is to issue a notice in the New Zealand Gazette that requests data on purchases of electricity under section 161D(1)(e) of the Climate Change Response Act 2002. The data will be used to calculate the final allocative baseline for aluminium smelting for 2022 and the provisional allocative baseline for aluminium smelting for 2023. Section 161D(4) of the Act requires the Gazette notice to be presented to the House of Representatives no later than 16 sitting days after publication in the NZ Gazette.
8. Issuing this Gazette notice now will allow NZAS to apply for its correct allocation of emissions units before 30 April 2023. This is a key deadline to meet because the Climate Change Response Act does not allow applications to be accepted after this date.

Risks and mitigations

9. The notice calling for data needs to be published in the New Zealand Gazette in the week of 20 December 2022 in order to meet the timelines set out below. This will ensure NZAS's allocative baseline is updated in regulations and published in the New Zealand Gazette by 31 March 2023. In previous years, NZAS has submitted the required data well before the New Zealand Gazette deadline, further mitigating timeline risks.
10. The Gazette office is not expecting this notice, so there could be some delays in publication. We are working with the Gazette office to facilitate publication of this notice this year.
11. If publication of the notice calling for data is delayed until next year, it will be difficult to complete the required processes in time for NZAS to apply for its industrial allocation using an accurate allocative baseline. This might be able to be mitigated if Cabinet approves the waiver of the standard 28-day delay before regulations enter into force.

Next steps

12. Once the allocative baseline is calculated following provision of the information from NZAS, we will ask you to consider the analysis and issue drafting instructions to the Parliamentary Counsel Office for amendment regulations to amend the Climate Change (Eligible Industrial Activities) Regulations 2010. The amendment regulations will then need to be considered by the Cabinet Legislation Committee early next year.
13. Cabinet delegated decisions to you, in consultation with the Minister of Finance, the Minister of Energy and Resources, and the Minister for the Environment, relating to annual regulation changes to NZAS's allocation of emission units per unit of production in December 2018 [ENV-18-MIN-0051 refers].
14. This process is routine and has been undertaken each year since 2010. The proposed timetable for updating the allocation level for NZAS is below:

Task	Date
Publish Gazette notice calling for data from NZAS	By 23 December 2022
Present Gazette notice to House of Representatives	Early February 2023
Calculate new allocative baselines	Early February 2023
Instruct the PCO to draft regulations	Early February 2023
Circulate draft LEG paper for Ministerial consultation	Early March 2023
Lodge LEG paper	Mid - March 2023
LEG considers regulations	Mid - Late March 2023
Cabinet and Executive Council	Late March 2023
Notification of amendment regulations in the NZ Gazette	Week of 29 March 2022
NZAS applies to EPA for its allocation of NZUs using new allocative baselines	By 30 April 2023


Recommendations

We recommend that you:

- a. Sign the attached New Zealand Gazette notice: *Call for the Provision of Electricity Contract Related Information (Aluminium Smelting) Notice 2022*

Yes/No

Signature

Kate Whitwell, Manager – ETS Policy	
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Hon James SHAW Minister of Climate Change	
Date	

Appendix 1:

Call for the Provision of Electricity Contract Related Information (Aluminium Smelting) Notice 2022

Pursuant to section 161D(1)(e) of the Climate Change Response Act 2002, I, The Honourable James Shaw, Minister of Climate Change, give the following notice.

Notice

1. Title and commencement—

(1) This notice may be cited as the Call for the Provision of Electricity Contract Related Information (Aluminium Smelting) Notice 2022.

(2) This notice takes effect from and including 23 December 2022.

2. Interpretation—Unless the context otherwise requires:

aluminium smelting has the meaning given to it in regulation 7(3) of the Climate Change (Eligible Industrial Activities) Regulations 2010.

2015 amended electricity contract means the amended electricity related contract between New Zealand Aluminium Smelters Limited and Meridian Energy Limited dated 31 July 2015.

2018 electricity contract means the electricity related agreement between New Zealand Aluminium Smelters Limited and Meridian Energy Limited dated 30 April 2018.

2021 amended electricity contract means the amended electricity related contract between New Zealand Aluminium Smelters Limited and Meridian Energy Limited dated 13 January 2021.

NZAS means the company registered as New Zealand Aluminium Smelters Limited.

3. Electricity contract related information required to be provided—

(1) NZAS must provide the Ministry for the Environment, within 30 working days of the date of this notice, with the information specified in paragraphs 3(3)(a) to 3(3)(e) of this notice.

(2) NZAS must provide the information specified in paragraphs 3(3)(a) to 3(3)(e) in respect of the activity of aluminium smelting and for the period 1 January 2022 to 31 December 2022.

NZAS must provide actual values for historic time periods where such information is known.

For time periods in the future, or where such actual information is not known, NZAS must provide its best estimate of the most likely values as at the date of this notice.

(3) NZAS must provide:

- (a) the total amount of electricity consumed (in GWh) by NZAS each month under NZAS's 2015 amended electricity contract from 1 January 2022;
- (b) the total amount of electricity consumed (in GWh) by NZAS each month under NZAS's 2021 amended electricity contract from 1 January 2022;
- (c) the total amount of electricity consumed (in GWh) by NZAS each month that was purchased on the electricity spot market or purchased under any electricity supply contract other than the 2015 amended electricity contract or 2021 amended electricity contract;
- (d) the total amount of electricity consumed (in GWh) by NZAS each month under NZAS's 2018 electricity contract from 1 January 2022; and
- (e) any other changes to contract parameters relevant to determining the NZAS allocative baseline for 2022 and 2023, including whether NZAS has entered into any other electricity supply contracts whose term extends beyond two years from the date of this notice.

4. NZAS may provide any additional information that it believes will assist the Minister in making a determination.

Dated at Wellington this day of December 2022.

HON JAMES SHAW, Minister of Climate Change