



9(2)(a)

Dear 9(2)(a)

Thank you for your email of 31 May 2021 requesting the following under the Official Information Act 1982 (the Act):

*Can you please supply me with the following items identified in the list:*

*Documents*

- 1. 31/08/2020 Legal Advice: Tiwai Point Remediation*
- 2. 3/09/2020 Joint Report (with MBIE) T2020/3059 - Process for managing engagements with Rio Tinto on the closure of the New Zealand Aluminium Smelter*
- 3. 10/09/2020 Aide Memoire: T2020/3103 - Negotiation options for the New Zealand Aluminium Smelter's closure*
- 7. 13/10/2020 Report: 510555-0000-LET-KF-0001*
- 8. 14/10/2020 Report: 510555-0000-LET-KF-0002*
- 9. 14/10/2020 Table: 510555-0000-TAB-KF-0002*
- 12. 16/10/2020 Minutes: P14 – Steering Group*
- 14. 19/10/2020 Report: 510555-0000-LET-KF-0003*
- 21. 28/10/2020 Memorandum: 510555-0000-MEM-KF-0008*
- 23. 30/10/2020 Memorandum: 510555-0000-MEM-KF-0009*
- 24. 30/10/2020 Table 1. Evaluation of Remediation Options*
- 25. 30/10/2020 Letter: Remediation requirements - Tiwai Point Aluminium smelter*
- 27. 30/10/2020 Report: Project 14 - Identification and Evaluation of Remediation Options (Commercial in Confidence)*
- 29. 6/11/2020 Report: Tiwai Point remediation – Tranche Two advice*
- 37. 11/12/2020 Aide Memoire: T2020-3731 - Project 14: Talking Points for potential meeting with Rio Tinto*
- 38. 15/12/2020 Letter: Tiwai Group Ministers letter to Alf Barros*
- 41. 25/01/2021 Report: Draft concept outline of NZAS remediation fund*

## Emails

45. 25/08/2020 FW: search of Treasury records on a sensitive issue
47. 1/09/2020 FW: Tiwai Point remediation advice - legally privileged
50. 4/09/2020 FW: TSY BAG: T2020-3059 Process for managing engagements with Rio Tinto on the closure of the New Zealand Aluminium Smelter
56. 29/09/2020 FW: P14: agenda and docs to support tmrw's call [sensitive commercial]
57. 30/09/2020 RE: P14: agenda and docs to support tmrw's call [sensitive commercial]
58. 2/10/2020 SENSITIVE - Conditions for Tiwai Point
60. 6/10/2020 FW: Steering group arrangements for Tiwai point work [IN-CONFIDENCE]
61. 6/10/2020 FW: SENSITIVE - Conditions for Tiwai Point
63. 20/10/2020 FW: Tiwai Remediation - Second Tranche of Advice [MC-DMS.FID3368372]
94. 27/11/2020 RE: Tonnage estimate of hazardous waste
96. 2/12/2020 Fwd: Commercial-In-Confidence: P14: Urgent Advice Provided
99. 15/12/2020 Commissioning for P14 Tiwai Point Remediation [sensitive]
106. 16/12/2020 FW: Commercial-in-confidence: P14: Draft Ministerial letter to Rio Tinto for Ministerial consultation
112. 23/12/2020 FW: Commercial-In-Confidence: Discussion in January 2021 regarding potential delay of closure: Tiwai Smelter
117. 18/01/2021 RE: P14: outline of upcoming Ministerial advice - negotiation update and next steps, including governance arrangements and project insights [INCONFIDENCE]
120. 26/01/2021 RE: Sensitive - Weekly update agenda item - Tiwai Point
125. 5/02/2021 SEEMail Warning #4A - NOT SEEMAIL: RE: [External] RE: Commercial-In-Confidence: Proposed agenda for 27 January 2021 meeting regarding potential remediation: Tiwai Smelter

On 5 July 2021, the Ministry for the Environment (the Ministry) partially transferred your request for 15 of the 34 documents to Treasury. The Ministry has considered your request for the remaining 19 documents, as listed in the attached document schedule. Some information within these documents has been withheld under the following sections of the Act:

9(2)(a) to protect the privacy of natural persons.

9(2)(b)(ii) to protect information where release would unreasonably prejudice the commercial position of the person who supplied the information.

9(2)(h) to maintain legal professional privilege.

9(2)(g)(ii) to protect Ministers, members of organisations, officers, and employees from improper pressure or harassment.

9(2)(k) to prevent the disclosure or use of official information for improper gain or improper advantage.

9(2)(ba)(i) to protect information where release would likely 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.

9(2)(j) to enable a Minister of the Crown or any public service agency or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).

6(a) to protect information where release would prejudice the security or defence of New Zealand or the international relations of the Government of New Zealand.

Six documents have been withheld in full under section 9(2)(h) and 9(2)(j) of the Act to maintain legal professional privilege, and to enable a Minister of the Crown or any public service agency or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).

In terms of section 9(1) of the Act, I am satisfied that, in the circumstances, the withholding of this information is not outweighed by other considerations that render it desirable to make the information available in the public interest.

You have the right to seek an investigation and review by the Office of the Ombudsman of my decision to withhold information relating to this request, in accordance with section 28(3) of the Act. The relevant details can be found on their website at:

[www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our [OIA responses page](#) shortly

after the response has been sent. If you have any queries about this, please feel free to contact our Ministerial Services team: [ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz).

Yours sincerely

Shaun Lewis  
**Director - Waste and Resource Efficiency**

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the Official Information Act 1982

## Document schedule

Document no.	Document date	Content	Decisions	OIA sections applied
1	31/08/2020	<i>Document 1 - Legal Advice: Tiwai Point Remediation</i>	Withheld in full	S9(2)(h)
2	6/11/2020	<i>Document 29 - Report: Tiwai Point remediation – Tranche Two advice</i>	Withheld in full	S9(2)(h)
3	25/08/2020	<i>Document 45 - FW: search of Treasury records on a sensitive issue</i>	Withheld in full	S9(2)(h)
4	1/09/2020	<i>Document 47 - FW: Tiwai Point remediation advice - legally privileged</i>	Released in part	S9(2)(a) and S9(2)(h)
5	4/09/2020	<i>Document 50 - FW: TSY BAG: T2020-3059 Process for managing engagements with Rio Tinto on the closure of the New Zealand Aluminium Smelter</i>	Released in part	S9(2)(a), S9(2)(h), S9(2)(g)(ii) and 9(2)(k)
6	29/09/2020	<i>Document 56 - FW: P14: agenda and docs to support tmrw's call [sensitive commercial]</i>	Released in part	S9(2)(a)
7	30/09/2020	<i>Document 57 - RE: P14: agenda and docs to support tmrw's call [sensitive commercial]</i>	Released in part	S9(2)(a)
8	2/10/2020	<i>Document 58 - RE: SENSITIVE - Conditions for Tiwai</i>	Withheld in full	S9(2)(j)
9	6/10/2020	<i>Document 60 - FW: Steering group arrangements for Tiwai point work [IN-CONFIDENCE]</i>	Release in full	n/a
10	6/10/2020	<i>Document 61 - SENSITIVE -</i>	Withheld in full	S9(2)(j)

		<i>Conditions for Tiwai Point</i>		
11	20/10/2020	<i>Document 63 - FW: Tiwai Remediation - Second Tranche of Advice [MC-DMS.FID3368372]</i>	Withheld in full	S9(2)(h)
12	27/11/2020	<i>Document 94 RE: Tonnage estimate of hazardous waste</i>	Released in part	S9(2)(a) and S9(2)(j)
13	2/12/2020	<i>Document 96 - Fwd: Commercial-In-Confidence: P14: Urgent Advice Provided</i>	Released in part	S9(2)(a), S9(2)(j), S9(2)(ba)(i) and S6(a)
14	15/12/2020	<i>Document 99 - Commissioning for P14 Tiwai Point Remediation [sensitive]</i>	Released in full	n/a
15	16/12/2020	<i>Document 106 - FW: Commercial-in-confidence: P14: Draft Ministerial letter to Rio Tinto for Ministerial consultation</i>	Released in part	S9(2)(a), S9(2)(j) and S9(2)(b)(ii)
16	23/12/2020	<i>Document 112 - FW: Commercial-In-Confidence: Discussion in January 2021 regarding potential delay of closure: Tiwai Smelter</i>	Released in part	S9(2)(a)
17	18/01/2021	<i>Document 117 - RE: P14: outline of upcoming Ministerial advice - negotiation update and next steps, including governance arrangements and project insights [INCONFIDENCE]</i>	Released in full	n/a
18	26/01/2021	<i>Document 120 - RE: Sensitive - Weekly update agenda item - Tiwai Point</i>	Released in part	S9(2)(a)

19	5/02/2021	<i>Document 125 - SEEMail Warning #4A - NOT SEEMAIL: RE: [External] RE: Commercial-In-Confidence: Proposed agenda for 27 January 2021 meeting regarding potential remediation: Tiwai Smelter</i>	Released in part	S9(2)(a) and S9(2)(b)(ii)
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**Paolo Alejandro**

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**From:** Shaun Lewis <Shaun.Lewis@mfe.govt.nz>  
**Sent:** Tuesday, 1 September 2020 1:11 pm  
**To:** Andrew.Hume (Andrew.Hume@mbie.govt.nz)  
**Cc:** Francesca Bakker  
**Subject:** FW: Tiwai Point remediation advice - legally privileged  
**Attachments:** Tiwai Remediation Initial Advice - Cabinet Overview (Final including annexures).PDF

Kia ora Andrew

Here is the Crown Law advice as discussed. Fran has also provided an overview below. Could you please pass this on to the relevant people, noting legal privilege.

I have also asked Fran to consult with MBIE's legal team re the commissioning of the next piece of advice from CL. Could you please ensure they receive this email and ask them to contact Fran?

Many thanks

Shaun Lewis (he/him)\*  
Waste and Resource Efficiency  
Phone: 64 21 101 2446

\*If you are wondering about the use of the pronouns on this signature, [read this article](#) about how sharing pronouns in this way can help create an inclusive and safe environment for transgender and nonbinary colleagues.

9(2)(h)

**Paolo Alejandro**

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**From:** Shaun Lewis <Shaun.Lewis@mfe.govt.nz>  
**Sent:** Friday, 4 September 2020 4:22 pm  
**To:** Jeremy Corban; Sam Buckle  
**Cc:** Francesca Bakker  
**Subject:** FW: TSY BAG: T2020-3059 Process for managing engagements with Rio Tinto on the closure of the New Zealand Aluminium Smelter  
**Attachments:** T2020-3059 Process for managing engagements with Rio Tinto on the closure of the New Zealand Aluminium Smelter.pdf

Kia ora kōrua

For noting. Briefing from MBIE/TSY re next steps for wider Tiwai negotiations. Note inclusion of minister Parker as MFE are leading on the site closure/remediation aspects.

Kia pai tō ahiahi

Shaun Lewis (he/him)\*  
Waste and Resource Efficiency  
Phone: 64 21 101 2446

\*If you are wondering about the use of the pronouns on this signature, [read this article](#) about how sharing pronouns in this way can help create an inclusive and safe environment for transgender and nonbinary colleagues.

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**From:** S9(2)(a)  
**Sent:** Friday, 4 September 2020 3:56 PM  
**To:** Bruce Croucher <bruce.croucher@mfe.govt.nz>  
**Cc:** Shaun Lewis <Shaun.Lewis@mfe.govt.nz>; Ministerials <ministerials@mfe.govt.nz>; Sam Buckle <Sam.Buckle@mfe.govt.nz>  
**Subject:** FW: TSY BAG: T2020-3059 Process for managing engagements with Rio Tinto on the closure of the New Zealand Aluminium Smelter

Hi Bruce

As discussed the Minister has received the attached briefing.

If you can get any comments back to me by COP Monday then I'll give the paper to the Minister when he's in the office on Tuesday morning.

Thanks!

S9(2)(a)

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**From:** S9(2)(a)  
**Sent:** Friday, 4 September 2020 3:52 PM  
**To:** S9(2)(a)  
**Subject:** FW: TSY BAG: T2020-3059 Process for managing engagements with Rio Tinto on the closure of the New Zealand Aluminium Smelter

Hi S9(2)(a)

See attached a Treasury Report for Minister Parker (his Environment portfolio), as well as MoF and Minister Woods about the closure of Tiwai Point.

Are you the right person in the office?

Note the Sensitive classification.

Thanks  
S9(2)(a)



S9(2)(a) | Private Secretary (Finance)

Office of Hon James Shaw

Minister for Climate Change | Minister of Statistics | Associate Minister of Finance

Level 7, Bowen House, Parliament Buildings, 80 Lambton Quay | Private Bag 18041 | Wellington 6160 | New Zealand

S9(2)(a)

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From: S9(2)(a)

Sent: Friday, 4 September 2020 2:37 PM

To: S9(2)(a)

Subject: FW: TSY BAG: T2020-3059 Process for managing engagements with Rio Tinto on the closure of the New Zealand Aluminium Smelter

Hi S9(2)(a)

Please find attached a TR from TSY to MoF, Minister Parker (in his environment capacity) and Minister Woods. Can you please forward to the relevant Environment secondee? This is classified **sensitive** (so excluded from the clip).



S9(2)(a) | Economic Advisor

Office of Hon Grant Robertson

Minister of Finance

Level 7.6 Executive Wing, Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand

S9(2)(a)

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From: George Wibberley [TSY] [<mailto:George.Wibberley@treasury.govt.nz>]

Sent: Friday, 4 September 2020 2:17 PM

To: S9(2)(a)

Cc: S9(2)(a); Ministerial Services Inbox [TSY]

<[Ministerial.Services@treasury.govt.nz](mailto:Ministerial.Services@treasury.govt.nz)>; COVIDadvice [TSY] <[COVIDadvice@treasury.govt.nz](mailto:COVIDadvice@treasury.govt.nz)>; Jean Le Roux [TSY] <[Jean.LeRoux@treasury.govt.nz](mailto:Jean.LeRoux@treasury.govt.nz)>; Ashley Smith [TSY] <[Ashley.Smith@treasury.govt.nz](mailto:Ashley.Smith@treasury.govt.nz)>; James Shannon [TSY] <[James.Shannon@treasury.govt.nz](mailto:James.Shannon@treasury.govt.nz)>; Alistair Birchall [TSY] <[Alistair.Birchall@treasury.govt.nz](mailto:Alistair.Birchall@treasury.govt.nz)>; Sam King [TSY] <[Sam.King@treasury.govt.nz](mailto:Sam.King@treasury.govt.nz)>; Maureena van der Lem [TSY] <[Maureena.Vanderlem@treasury.govt.nz](mailto:Maureena.Vanderlem@treasury.govt.nz)>; James Beard [TSY] <[James.Beard@treasury.govt.nz](mailto:James.Beard@treasury.govt.nz)>; Andrew Hagan [TSY] <[Andrew.Hagan@treasury.govt.nz](mailto:Andrew.Hagan@treasury.govt.nz)>; Peter Highton [TSY] <[Peter.Highton@treasury.govt.nz](mailto:Peter.Highton@treasury.govt.nz)>; ^MBIE: Andrew Hume <[Andrew.Hume@mbie.govt.nz](mailto:Andrew.Hume@mbie.govt.nz)>; Mark Pickup <[Mark.Pickup@mbie.govt.nz](mailto:Mark.Pickup@mbie.govt.nz)>; ^MFE: Shaun Lewis <[shaun.lewis@mfe.govt.nz](mailto:shaun.lewis@mfe.govt.nz)>; Phillippa Fox <[phillippa.fox@mbie.govt.nz](mailto:phillippa.fox@mbie.govt.nz)>; Bertrand Ngai <[Bertrand.Ngai@mbie.govt.nz](mailto:Bertrand.Ngai@mbie.govt.nz)>; Andrew Rutledge [TSY] <[Andrew.Rutledge@treasury.govt.nz](mailto:Andrew.Rutledge@treasury.govt.nz)>; Chris Mathieson <[Chris.Mathieson@mbie.govt.nz](mailto:Chris.Mathieson@mbie.govt.nz)>

Subject: TSY BAG: T2020-3059 Process for managing engagements with Rio Tinto on the closure of the New Zealand Aluminium Smelter

[SEEMAIL][SENSITIVE]

Hi all,

Please find attached a joint Treasury/MBIE report (T2020-3059) on the process and timelines for engaging with Rio Tinto on the closure of the New Zealand Aluminium Smelter.

MAS—please withhold from the Clip as the content is sensitive.

Please let me know if you have any questions on the report.

Thanks,  
George



**George Wibberley (he/him) | Senior Analyst | Natural Resources/Transitions Regions and Economic Development  
| Te Tai Ōhanga – The Treasury**

Tel: S9(2)(a) | Email/IM: [george.wibberley@treasury.govt.nz](mailto:george.wibberley@treasury.govt.nz)

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**Joint Report:** Process for managing engagements with Rio Tinto on the closure of the New Zealand Aluminium Smelter

<b>Date:</b>	3 September 2020	<b>Report No:</b>	T2020/3059
		<b>MBIE Report No:</b>	2021-0800
		<b>File Number:</b>	SH-11-5-1

**Action sought**

	<b>Action sought</b>	<b>Deadline</b>
Minister of Finance (Hon Grant Robertson)	<p><b>agree</b> to the Treasury being the lead agency for engaging with Rio Tinto on a possible delayed closure for the New Zealand Aluminium Smelter</p> <p><b>agree</b> to the engagement process and timeline set out in this briefing</p>	8 September 2020
Minister of Energy and Resources (Hon Dr Megan Woods)	<p><b>agree</b> to the Treasury being the lead agency for engaging with Rio Tinto on a possible delayed closure for the New Zealand Aluminium Smelter</p> <p><b>agree</b> to the engagement process and timeline set out in this briefing</p>	8 September 2020
Minister for the Environment (Hon David Parker)	<p><b>agree</b> to the Treasury being the lead agency for engaging with Rio Tinto on a possible delayed closure for the New Zealand Aluminium Smelter</p> <p><b>agree</b> to the engagement process and timeline set out in this briefing</p>	8 September 2020

**Contact for telephone discussion (if required)**

<b>Name</b>	<b>Position</b>	<b>Telephone</b>	<b>1st Contact</b>
George Wibberley	Senior Analyst, Transitions Regions and Economic Development, Treasury	9(2)(k) N/A (mob)	✓
Jean Le Roux	Manager, Transitions Regions and Economic Development, Treasury	N/A (mob)	

Andrew Hume	Director, Energy Markets Policy, Ministry of Business, Innovation and Employment	N/A (wk)	S9(2)(g)(ii) [Redacted]	[Redacted]
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**Minister's Office actions** (if required)

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Return the signed report to Treasury.

**Enclosure:** No

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**Joint Report:** Process for managing engagements with Rio Tinto on the closure of the New Zealand Aluminium Smelter

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**Executive summary**

- Rio Tinto has announced the anticipated closure of the New Zealand Aluminium Smelter (NZAS) at Tiwai Point in August 2021. Subsequent public statements by Rio Tinto have signalled that they are open to a delayed closure in exchange for commercial and government concessions.
- Engagement with Rio Tinto on an extended exit of NZAS requires a holistic approach, which the Treasury is best placed to lead, supported by MBIE and MfE.
- NZAS' closure will have wide ranging implications and a series of joint workstreams will determine the Crown's position on site remediation, workforce deployment, energy markets and transmission investments, and commercial considerations.
- We propose the Ministers of Finance and Energy and Resources, and the Minister for the Environment receive ongoing briefings and be jointly responsible for making future decisions about the potential closure.
- We have proposed an initial five-stage engagement process with Rio Tinto which will determine and preserve the Crown's negotiating position. The first steps in this approach will be to communicate this proposed engagement process and timelines to Rio Tinto in the week of 7 September.
- The Treasury intend to commission expert legal and strategic commercial advice and services to help address the financial risks and progress the work programme. This is estimated to cost around \$2 million for the period between now and the conclusion of any negotiated agreement in January 2021.

## Recommended Action

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We recommend that you:

- a **agree** to the engagement process and timeline set out in this briefing, including the proposal for the Crown to produce an Invitation to Treat to Rio Tinto, which will require Rio Tinto to make a submission to the Crown across a range of areas that the Crown requests.

*Agree/disagree.*  
Minister of Finance

*Agree/disagree.*  
Minister of Energy and Resources

*Agree/disagree.*  
Minister for the Environment

- b **agree** that the Ministers of Finance and Energy and Resources, and the Minister for the Environment (together the Tiwai Ministerial Group) will receive ongoing regular briefings and will be jointly responsible for making future decisions on the NZAS delayed closure work programme.

*Agree/disagree.*  
Minister of Finance

*Agree/disagree.*  
Minister of Energy and Resources

*Agree/disagree.*  
Minister for the Environment

- c **note** that the timeline and process set out in this briefing have not been tested with Rio Tinto and that we will provide additional briefing to the Tiwai Ministerial Group, if significant changes to the timelines or process need to be made.

*Noted*

- d **note** that if you approve the approach set out in this briefing, officials will engage in the week of 7 September with Rio Tinto on the proposed engagement process and timelines, while the Crown develops its negotiating positions.

*Noted*

- e **note** that the closure of NZAS exposes the Crown to significant fiscal, commercial and environmental risks, particularly on site remediation which is currently estimated to cost between \$290 million and 9(2)(h) million.

*Noted*

- f **note** that the Treasury intends to commission expert commercial, legal, and potentially environmental advice to support the work programme. This advice is an important input to manage the risks noted in rec e, and will assist officials to both address information gaps (including quantifying risk and reviewing all levers available to the Crown), and negotiate a robust commercial agreement with Rio Tinto.

*Noted*

- g** **note** that officials' initial estimate is that the advice in rec f will cost approximately \$2 million for the period between now and the conclusion of any negotiated agreement in January 2021. Officials are currently investigating the most appropriate method of securing this funding and will provide further advice on this in the next two weeks.

*Noted*

9(2)(k)

Jean Le Roux  
**Manager,  
Transitions, Regions and Economic  
Development  
Treasury**

Andrew Hume  
**Director,  
Energy Markets Policy  
Ministry of Business, Innovation and  
Employment**

Hon Grant Robertson  
**Minister of Finance**

Hon Dr Megan Woods  
**Minister of Energy and Resources**

Hon David Parker  
**Minister for the Environment**

**Joint Report:** Process for managing engagements with Rio Tinto on the closure of the New Zealand Aluminium Smelter

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**Purpose**

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1. This report seeks your approval for Treasury to lead the government work programme and direct engagement with Rio Tinto regarding a possible delayed closure of the New Zealand Aluminium Smelter (NZAS), including communicating the proposed engagement process and timelines in the week of 7 September 2020.

**Proposed approach between agencies**

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***Engagement with Rio Tinto on an extended exit of NZAS requires a holistic, all of government approach, which the Treasury is best placed to lead***

2. The Ministry of Business, Innovation and Employment (MBIE) has been to date the lead agency on issues related to the announced closure of NZAS, with support from officials at the Treasury and the Ministry for the Environment (MfE). MBIE has been leading this work as Rio Tinto is primarily seeking reductions in electricity and transmission costs.
3. However, the closure of the smelter has a range of dimensions including environmental remediation, regional economic development, workforce redeployment, and commercial policy. Officials therefore recommend that the Treasury lead this joint-work programme to promote the Crown's interests. MBIE and MfE support this approach.
4. The Treasury, given its expertise across a range of policy areas and in particular its experience in dealing with commercial issues, is best placed to coordinate the Crown's engagement with Rio Tinto and ensure a holistic approach that balances and preserves the Crown interests. The Treasury will be supported by a cross agency governance group comprising of officials from MBIE and MfE. Given the commercial sensitivity of this work programme, officials will implement information management measures to share information appropriately and securely between agencies.
5. The Treasury will also contract experienced commercial negotiators to support officials during negotiations with Rio Tinto.
6. Given the range of policy areas any agreement might cover, we propose to provide regular briefings on all issues to the Minister of Finance, the Minister of Energy and Resources and the Minister for the Environment, together the 'Tiwai Ministerial Group' (TMG). This will ensure Ministers are kept up to date and the Crown's approach can adapt quickly to changing circumstances. We also propose that the TMG members are jointly responsible for making decisions on the NZAS delayed closure work programme going forwards.

***The closure of NZAS and its implications will be wide ranging. A series of joint workstreams are required to determine the Crown's position on each key component of the negotiations.***

7. The Minister of Energy and Resource's letter to Rio Tinto dated 21 August made clear that the Government would not have a mandate to negotiate the conditions for a delayed closure until after the election. It also encouraged Rio Tinto to work with

officials to draft a Heads of Agreement in the meantime, which would set out the high level terms of any arrangement.

8. Before the Crown can negotiate with Rio Tinto, there are a number of key information gaps to fill to confirm the Crown's negotiating positions. The benefits and costs of Crown intervention remain to be determined. We therefore propose to engage with Rio Tinto at a high level through an Invitation to Treat. This would allow the Crown to identify the areas where it is interested in better understanding Rio Tinto's position, before entering into negotiations. The Treasury will coordinate the overall work programme to identify, secure and analyse the information needed. This will include the following four workstreams:
- **Site remediation responsibility and standards** (MfE lead) – 9(2)(h) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
  - **Extension of the duration and level of operations** (Treasury lead) – the Crown will develop a position on the ideal duration of any extension and the level of operations during the period of that extension, which will impact site remediation, workforce retention and transmission investments.
  - **Energy markets and transmission considerations** (MBIE lead) – the effect of the closure on wholesale, commercial and residential electricity and transmission users, transmissions investments, and alternative uses, will be assessed, and affect the Crown's position on the delayed closure.
  - **Workforce redeployment** (MBIE lead) – the impact of the closure on the smelter's workforce, and consequences for broader regional economic development, and transitions for Southland also need to be factored into the Crown's approach.

## Engagement process

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### ***A five-stage engagement process with Rio Tinto will determine and preserve the Crown's negotiating position***

9. The following five-stage process will develop the Crown's positions on key conditions for extending the closure of the smelter, while maintaining all options for negotiation:
- a) *September-October 2020 – Information gathering on workstreams*  
The above workstreams will be completed by officials so that the Crown's preliminary negotiating position in each of the key issues is confirmed. We will continue to refine our negotiating positions beyond October, as more information becomes available from both Rio Tinto and other sources. We will also develop an Engagement Framework Agreement which will establish the timeline and methods of engagement with Rio Tinto and enable information requests to be made to Rio Tinto.
  - b) *November 2020 - Invitation to Treat*  
The Crown will share the list of key issues and negotiating parameters with Rio Tinto for a response by mid-November. We will develop an Invitation to Treat document which invites Rio Tinto to make a submission to the Crown about the desired conditions for an extended closure, based on the Crown's stated key objectives, interests and parameters. For example, the Crown could stipulate a requirement for physical onsite environmental inspections to better understand

the remediation needs. It may also wish to include resolution of the off-site Mataura Dross issue as part of the package. This approach will ensure that the Crown is not making any commitments at this stage of the process.

- c) *November 2020 - Rio Tinto is invited to make a submission on the Crown's Invitation to Treat*

Rio Tinto will develop its proposition and conditions within each of the key areas stated in the Invitation to Treat for the Crown to consider. This will include Rio Tinto's proposed undertakings regarding remediation and workforce, and what it seeks from the Crown in return. This step would involve engagement between officials and Rio Tinto to refine expectations and objectives.

- d) *December 2021 - Cabinet mandate secured*

A Cabinet paper will be prepared by early December to seek a mandate from Cabinet to engage in negotiations with Rio Tinto to extend the smelter's operations, including the fiscal envelope required, the mechanism of support, and remediation and workforce requirements. The Cabinet paper will seek approval of a Heads of Agreement, which will stipulate the Crown's negotiating positions and parameters, under which a deal will be negotiated. If required to meet overall timeframes, we believe steps c) and d) could overlap, provided step c) is sufficiently advanced to be described in the Cabinet paper.

- e) *January 2021 - Negotiations start*

Negotiations between the Crown and Rio Tinto will commence in February under the Cabinet approved Heads of Agreement. These negotiations are anticipated to result in a binding legal contract between the Crown and Rio Tinto. It is hard to anticipate the duration of negotiations, but we currently expect them to occur over a two to six week period.

10. The above process and timeline have been developed by officials to bring some structure to engagements with Rio Tinto. The current timeline is very ambitious and has been developed based on our current understanding that NZAS will need to begin making operational decisions in January 2021, for an August 2021 shutdown. We have yet to test the process or timelines with Rio Tinto and these discussions may result in changes to the above timelines. We also welcome your feedback on the proposed timeline and process.
11. There are large fiscal risks associated with the closure of NZAS. The cost of remediation is uncertain but likely to be high (current estimates range between \$290 and 9(2)(1) million). Rio Tinto's liability (if any) may be quite limited and difficult to enforce. The financial cost of Crown support required by Rio Tinto to delay closure is also likely to be significant.
12. To support officials to address these risks and ensure any agreement is in the Crown's interests, the Treasury will commission expert advice and services. This will include strategic commercial and legal advice, and experienced negotiators, as well as technical expertise to assess the scope, process and cost of site remediation. Our estimates suggest this will cost around \$2 million for the period between now and the conclusion of a negotiated agreement in January 2021. Officials are currently investigating the most appropriate method of securing this funding and will provide further advice on this in the next week.
13. There are several options for delivering financial support to Rio Tinto, including using a non-commercial contract under section 7 of the State Owned Enterprises Act via Transpower (as previously recommended in MBIE briefing 2021-0556). We do not think the Crown should commit to a specific delivery mechanism at this stage, as we will need to consider all of the Crown's objectives including enforcement against remediation and workforce requirements before determining the most appropriate option. Once we have resolved the information gaps and developed the Crown's

objectives for the negotiation, we will provide further advice to Ministers on the most effective delivery mechanism for Crown support.

***Officials will engage with Rio Tinto on the proposed engagement process and timelines, while the Crown develops its negotiating positions***

14. While the key workstreams are being progressed, officials will communicate the proposed five-stage process and associated timelines to Rio Tinto in the week of 7 September and will enquire about the timing of their key internal decisions and deadlines. This is likely to impact the proposed timelines set out above. This engagement will indicate at a high level the key areas, beyond transmission charges, in which the Crown has an interest. This approach will also reaffirm the Crown's willingness to engage with Rio Tinto and ensure alignment of the objectives and timing of this process with the Crown's interests.

**Next Steps**

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15. If you agree with the proposed approach set out in this report, officials will start the first stage of the engagement process, by undertaking work to fill the current information gaps. This will involve engaging with Transpower, Environment Southland and Meridian. The Treasury will enter into a confidentiality agreement with Meridian to understand the value of their electricity offer to NZAS, which will also bind Ministers.
16. We will communicate with Rio Tinto on the process and timelines for engagement in the week of 7 September 2020 and subsequently update the TMG on next steps, including any revised timelines.
17. If you do not agree with the proposed process, then please discuss with officials your proposals for an alternative approach.

**Paolo Alejandro**

---

**From:** Shaun Lewis <Shaun.Lewis@mfe.govt.nz>  
**Sent:** Tuesday, 29 September 2020 5:24 pm  
**To:** Francesca Bakker; Annabelle Ellis  
**Subject:** FW: P14: agenda and docs to support tmrw's call [sensitive commercial]

FYI. I asked for the Matura issue to be taken off the agenda as it is a matter before the court. The agenda has been sent out with it included. We will front foot that at the meeting tomorrow.

Shaun Lewis (he/him)\*  
Waste and Resource Efficiency  
Phone: 64 21 101 2446

\*If you are wondering about the use of the pronouns on this signature, [read this article](#) about how sharing pronouns in this way can help create an inclusive and safe environment for transgender and nonbinary colleagues.

---

**From:** James Shannon [TSY] <James.Shannon@treasury.govt.nz>  
**Sent:** Tuesday, 29 September 2020 4:20 PM  
**To:** Alistair Birchall [TSY] <Alistair.Birchall@treasury.govt.nz>; Shaun Lewis <Shaun.Lewis@mfe.govt.nz>; Jean Le Roux [TSY] <Jean.LeRoux@treasury.govt.nz>  
**Cc:** George Wibberley [TSY] <George.Wibberley@treasury.govt.nz>  
**Subject:** RE: P14: agenda and docs to support tmrw's call

My bad – I failed to remove the dross line in the agenda for the Rio call tomorrow. We'll need to talk it back in the call and express that our intention is to exclude it rather than incorporate it. I'll feed Alistair some lines.

Cheers  
James  
S9(2)(a)

---

**From:** Alistair Birchall [TSY] <Alistair.Birchall@treasury.govt.nz>  
**Sent:** Tuesday, 29 September 2020 4:15 pm  
**To:** James Shannon [TSY] <James.Shannon@treasury.govt.nz>  
**Subject:** RE: P14: agenda and docs to support tmrw's call

Hi James – I thought we agreed the dross issue was not being discussed tomorrow?

---

**From:** James Shannon [TSY] <James.Shannon@treasury.govt.nz>  
**Sent:** Tuesday, 29 September 2020 4:09 pm  
**To:** Odel Mulhare [TSY] <Odel.Mulhare@treasury.govt.nz>  
**Cc:** Alistair Birchall [TSY] <Alistair.Birchall@treasury.govt.nz>; George Wibberley [TSY] <George.Wibberley@treasury.govt.nz>  
**Subject:** FW: P14: agenda and docs to support tmrw's call

[SEEMAIL][SENSITIVE]

Hi Odel, could you please send the email below asap today from Maureena's email? You could send it as a response to the email attached (but don't attach the email).

Subject: Agenda for tomorrow's call

Recipients: S9(2)(a) @riotinto.com> S9(2)(a)

CC: Alistair Birchall [TSY] <Alistair.Birchall@treasury.govt.nz>; Jean Le Roux [TSY] <Jean.LeRoux@treasury.govt.nz>; ^MFE: Shaun Lewis <shaun.lewis@mfe.govt.nz> ^MBIE: Andrew Hume <Andrew.Hume@mbie.govt.nz>

Once sent, could you please forward to Project14.

Thanks!

Cheers

James

S9(2)(a)

---

Kia ora S9(2)(a)

Thank you again for your time on the call last Wednesday, and your follow-up email on Friday, including Rio Tinto's initial proposal for a draft Heads of Agreement document. This is helpful input and supports the advancement of our discussions, including the Invitation to Treat as our next step. Maureena is currently on leave this week (it's the school holidays here), so I am responding on her behalf.

From our meeting on 23 September 2020, you asked for more detail about the documentation process through to the end of December 2020 (in particular the proposed Invitation to Treat and Heads of Agreement - HOA). We hope that the attached documentation roadmap will assist you with your internal planning and an understanding of what we see is the documentation process from here. It would be helpful to use tomorrow's meeting to discuss the appropriate approval processes required by NZAS, Rio Tinto and/or Sumitomo for each stage of the process. We will factor this information into the timelines for each piece of documentation.

We had already asked our external advisers to prepare a draft of the Invitation to Treat and now that we have the benefit of the skeleton HOA document that you sent on Friday evening we would look to incorporate relevant aspects from that document into an updated draft for you to consider. We intend to share the draft Invitation to Treat with you on 5 October for a response by 12 October 2020.

We have drafted an agenda below to support tomorrow's call, which Maureena will attend. We look forward to forward to talking to you tomorrow.

#### Agenda

- 1. Confidentiality arrangements and information sharing [5 mins]**
  - a. Update from Rio Tinto on the information it plans to share (requested for 30 September)
  - b. An understanding if there is anything the Crown can do to support the provision of the requested information
- 2. Process steps and timing (please see attached documentation roadmap) [10 mins]**
  - a. Crown to share Invitation to Treat on 5 October, with Rio Tinto submission requested by 12 October
  - b. With the response to the Invitation to Treat, we will develop the first draft of the Heads of Agreement, for further mutual development
- 3. Next step: Invitation to Treat and the associated questions we would like Rio Tinto to answer in this process [40 mins]**
  - a. Discussion of your draft HOA, which we are leveraging to develop the Invitation to Treat
  - b. The Invitation to Treat will require a further level of detail, and we will include specific questions in the document
  - c. We will run through some of the questions on the call (topics below), for your feedback, before including them in the Invitation to Treat to be sent on Monday 5 October
    - i. Electricity and transmission
    - ii. Deal structure
    - iii. Remediation

iv. Workforce and transition

**4. Other matters [5 mins]**

- a. Can Rio Tinto provide an update on the Mataura dross issue, and thoughts about how it might be incorporated into the Tiwai process?

[Signature]

---

Cheers  
James



**James Shannon** (he/him) | Te Tai Ōhanga – The Treasury

S9(2)(a) | Email: [james.shannon@treasury.govt.nz](mailto:james.shannon@treasury.govt.nz)

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**Paolo Alejandro**

---

**From:** Francesca Bakker <Francesca.Bakker@mfe.govt.nz>  
**Sent:** Wednesday, 30 September 2020 8:44 am  
**To:** Shaun Lewis; Annabelle Ellis  
**Subject:** RE: P14: agenda and docs to support tmrw's call [sensitive commercial]

Thanks Shaun, I think that is probably wise given we are waiting for NZAS to work things through from their end – we wouldn't want to undermine their internal processes?

I've also sent Cat some of the materials as she has now signed the confidentiality undertaking, so she will be able to provide you support whilst I'm on leave from tomorrow (returning Wednesday next week).

Cheers,  
Fran

**Francesca Bakker**  
**Senior Solicitor**  
Phone: 022 010 7675  
Ministry for the Environment – Manatū Mō Te Taiao

*Please note the content of this email may be legally privileged and confidential - please check with the author before forwarding any of this content outside the Ministry for the Environment*

---

**From:** Shaun Lewis <Shaun.Lewis@mfe.govt.nz>  
**Sent:** Tuesday, 29 September 2020 5:24 PM  
**To:** Francesca Bakker <Francesca.Bakker@mfe.govt.nz>; Annabelle Ellis <Annabelle.Ellis@mfe.govt.nz>  
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S9(2)(a)

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Recipients: S9(2)(a) <[S9\(2\)\(a\)@riotinto.com](mailto:S9(2)(a)@riotinto.com)> S9(2)(a)

CC: Alistair Birchall [TSY] <[Alistair.Birchall@treasury.govt.nz](mailto:Alistair.Birchall@treasury.govt.nz)>; Jean Le Roux [TSY] <[Jean.LeRoux@treasury.govt.nz](mailto:Jean.LeRoux@treasury.govt.nz)>;  
^MFE: Shaun Lewis <[shaun.lewis@mfe.govt.nz](mailto:shaun.lewis@mfe.govt.nz)> ^MBIE: Andrew Hume <[Andrew.Hume@mbie.govt.nz](mailto:Andrew.Hume@mbie.govt.nz)>

Once sent, could you please forward to Project14.

Thanks!

Cheers

James

S9(2)(a)

---

Kia ora S9(2)(a)

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*Agenda*

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    - iii. Remediation
    - iv. Workforce and transition
4. **Other matters [5 mins]**
  - a. Can Rio Tinto provide an update on the Mātaura dross issue, and thoughts about how it might be incorporated into the Tiwai process?

[Signature]

---

Cheers  
James



**James Shannon (he/him) | Te Tai Ōhanga – The Treasury**

S9(2)(a) | Email: [james.shannon@treasury.govt.nz](mailto:james.shannon@treasury.govt.nz)

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**Paolo Alejandro**

---

**From:** Vicky Robertson <Vicky.Robertson@mfe.govt.nz>  
**Sent:** Tuesday, 6 October 2020 12:33 pm  
**To:** Shaun Lewis  
**Cc:** Kim Matthews  
**Subject:** FW: Steering group arrangements for Tiwai point work [IN-CONFIDENCE]

**Vicky Robertson – Secretary for the Environment**

(she/her)

Te Tumu Whakarae mō te Taiao

Ministry for the Environment – Manatū Mō Te Taiao

Mobile: 021409992 Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)

Environment House, 23 Kate Sheppard Place, Thorndon, PO Box 10362, Wellington 6143



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Aotearoa – he mātāmua māua kura mō te tangata



---

**From:** Caralee McLiesh [TSY] <Caralee.McLiesh@treasury.govt.nz>  
**Sent:** Tuesday, 6 October 2020 10:18 AM  
**To:** Carolyn Tremain (MBIE) <Carolyn.Tremain@mbie.govt.nz>  
**Cc:** Vicky Robertson <Vicky.Robertson@mfe.govt.nz>  
**Subject:** RE: Steering group arrangements for Tiwai point work [IN-CONFIDENCE]

Hi Carolyn and Vicky - That is great, many thanks for confirming. Carolyn we'll add you and Chris Bunny as an alternate to the Steering Committee. We'll plan to keep it light touch. At this point we are looking at a short fortnightly meeting – most likely Friday mornings, plus ad-hoc meetings for any urgent matters. I'll ask the team to send through a TOR soon. Vicky will let you know if there are any major issues on remediation to draw to your attention, and of course you'll hear through your team's involvement also.

Kind regards  
Caralee

---

**From:** Carolyn Tremain <[Carolyn.Tremain@mbie.govt.nz](mailto:Carolyn.Tremain@mbie.govt.nz)>  
**Sent:** Monday, 5 October 2020 4:38 pm  
**To:** Caralee McLiesh [TSY] <[Caralee.McLiesh@treasury.govt.nz](mailto:Caralee.McLiesh@treasury.govt.nz)>

Cc: ^MFE: Vicky Robertson <[vicky.robertson@mfe.govt.nz](mailto:vicky.robertson@mfe.govt.nz)>

Subject: Re: Steering group arrangements for Tiwai point work [IN-CONFIDENCE]

Thanks CaraLee I would like Mbie representation. If it's ok with you I would like to propose that I attend but realistically I would also appreciate if Chris Bunny could be my alternate for the times I am unable to attend. Happy to discuss. CT

Sent from my iPhone

On 2/10/2020, at 6:04 PM, Caralee McLiesh [TSY] <[Caralee.McLiesh@treasury.govt.nz](mailto:Caralee.McLiesh@treasury.govt.nz)> wrote:

[IN-CONFIDENCE]

Kia ora Vicky and Carolyn

As you are aware, Treasury is leading discussions with Rio Tinto on options for a delayed closure of the NZAS smelter at Tiwai point.

Our teams have formed a working group with Treasury, MFE and MBIE, and we have also appointed S9(2)(a) as advisors. My understanding is that these arrangements are operating effectively – and my thanks to all involved.

I am also establishing a Steering Group for the project, and want to check with you on your preference for involvement in that. I do not think it is essential for you to be there given your teams are engaged in the working group. Nonetheless I want to make sure you have the opportunity to join if you would like to, and you would be very welcome if so. If not I will keep you informed of any significant developments affecting your portfolios and we can arrange ad hoc meetings on issues as needed.

Kind regards

Caralee

<image001.png>

Caralee McLiesh ([she/her](#))

Te Tumu Whakarae mō Te Tai Ōhanga | Secretary and Chief Executive -The Treasury

Tel: S9(2)(a) | Email/IM: [caralee.mcliesh@treasury.govt.nz](mailto:caralee.mcliesh@treasury.govt.nz)

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---

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the Official Information Act 1982

**Paolo Alejandro**

---

**From:** Bruce Croucher <bruce.croucher@mfe.govt.nz>  
**Sent:** Friday, 27 November 2020 9:29 am  
**To:** daniel lawrey  
**Cc:** James Shannon [TSY]  
**Subject:** RE: Tonnage estimate of hazardous waste  
**Attachments:** 2015 NZAS Spent Cell Liners.pdf

Hi Daniel

9(2)(j)  
[Redacted]

[Redacted]

[Redacted]

Cheers

Bruce

---

**From:** Daniel Lawrey [TSY] <Daniel.Lawrey@treasury.govt.nz>  
**Sent:** Friday, 27 November 2020 8:56 AM  
**To:** Bruce Croucher <bruce.croucher@mfe.govt.nz>  
**Cc:** James Shannon [TSY] <James.Shannon@treasury.govt.nz>  
**Subject:** Tonnage estimate of hazardous waste

[IN-CONFIDENCE]

Hi Bruce,

Our commercial advisors are doing some investigation to compare the nature/scale of Tiwai remediation to other smelter closures (see the email below). Would you be able to provide any information on the following request? They have asked:

Following this case study, we would be interested to know whether you had any further detail as to the quantities of items that need to be remediated at Tiwai, so we can benchmark against this smelter i.e. what tonnage of SCL, fluorine / tar waste is on site.

9(2)(j)  
[Redacted]

9(2)(j)

Would be great if you can provide any advice, even just clarifying the best estimate of SCL tonnage and that we don't have any other information on other specific types of hazardous waste.

Daniel

---

**From:** James Shannon [TSY] <[James.Shannon@treasury.govt.nz](mailto:James.Shannon@treasury.govt.nz)>  
**Sent:** Thursday, 26 November 2020 5:14 pm  
**To:** @Project 14 <[project14@treasury.govt.nz](mailto:project14@treasury.govt.nz)>; Daniel Lawrey [TSY] <[Daniel.Lawrey@treasury.govt.nz](mailto:Daniel.Lawrey@treasury.govt.nz)>  
**Subject:** FW: Project 14 - Steg smelter case study

[IN-CONFIDENCE]

FYI

@Daniel Lawrey [TSY] – do you know if we or MFE have any of the information requested below (highlighted)?

Cheers

James

S9(2)(a)

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---

**From:** S9(2)(a)  
**Sent:** Thursday, 26 November 2020 4:48 pm  
**To:** Alistair Birchall [TSY] <[Alistair.Birchall@treasury.govt.nz](mailto:Alistair.Birchall@treasury.govt.nz)>; James Shannon [TSY] <[James.Shannon@treasury.govt.nz](mailto:James.Shannon@treasury.govt.nz)>  
**Cc:** S9(2)(a)  
**Subject:** Project 14 - Steg smelter case study

Alistair, James,

We have been doing some research in to one of Rio Tinto's old smelters, which has been remediated post closure. It is one of the ones included in their case studies of prior closures – the Steg smelter in Switzerland. We were particularly interested in this smelter as it appeared that Rio conducted significant remediation efforts to clear the site, which on our read appears to be driven by the stringent Environmental Protection law in Switzerland.

A few key points to note:

- The smelter was closed in 2006, with remediation only fully being completed in 2018
- Rio Tinto created a separate entity (Metallwerke Refonda AG) as a subsidiary which housed the remediation liability, for what appears to be the purpose of enabling the sale of the casthouse of the Smeg facility to Constellium

- The Environmental Protection Act in Switzerland specifically makes mention on aluminium smelters and the involvement of the Federal government when such plants are being considered / modified

Following this case study, we would be interested to know whether you had any further detail as to the quantities of items that need to be remediated at Tiwai, so we can benchmark against this smelter i.e. what tonnage of SCL, fluorine / tar waste is on site. We note that the summary assessment prepared by Aurecon did not quantify the waste in tonnage, so was wondering whether you had a more detailed report prepared which we may not have seen?

Kind regards,  
S9(2)(a)

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S9(2)(a)

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S9(2)(a)

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Rob Philips - CEO Environ  
SocLL

### Spent Cell liners<sup>1</sup>

- Waste by-product generated in the aluminium smelting process.
- By way of background, Aluminium is extracted from aluminium oxide which occurs within electrolytic cells commonly known as 'pots'. The pots are normally made of steel shells with two linings (outer insulating while the inner is used as the cathode of the electrolytic cell) of refractory and carbon blocks. During the process chemical substances including aluminium and fluorides are absorbed into the cell lining. After a number of years the pot lining reaches the end of its useful life and are removed, it is this material which is known as SCL. It varies in size from fine dust to lumps of up to 1 metre.
- Most SCL is stored at the smelter site until appropriate disposal offsite. For example, as at 8 April 2013, 180,000 tonnes of SCL was stored at NZAS, Tiwai Point. The current industry disposal costs are estimated by an independent expert at around \$1,000 USD per tonne.
- SCL are classified as hazardous waste by the U.S. Code of Federal Regulations. SCL may not be exported out of New Zealand without a permit from the Environmental Protection Authority.<sup>2</sup> Further the Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal applies to SCL. The OECD Decision C(2001)107/FINAL report establishes a framework for the OECD Member countries to control transboundary movements of such wastes destined for recovery operations within the OECD area and this strengthens the Basel Convention.
- As such the Aluminium industry's key environmental concern is the safe disposal of SCL. The properties of SCL include:
  - Reactive with water - releases toxic and explosive gases;
  - Corrosive - exhibiting high pH due to alkali metals and oxides;
  - The presence of cyanide and fluorides at toxic levels which have adverse environmental impacts with the ability to leach.
- From the Safety Data Sheet, SCL is a poisonous substance. Prolonged inhalation may cause lung fibrosis, commonly referred to as silicosis. Beryllium sensitization may result in a serious progressive chronic lung disease called Chronic Beryllium Disease (CBD) or berylliosis. SCL also contains material which may cause cancer. Adverse symptoms as to ingestion may include skeletal malformations and cause harm to breast-fed children. Prolonged contact may also result in skin irritation and rashes. Prevention requires the use of protective equipment and to avoid release to the environment and to not breathe dust.

<sup>1</sup> Also known as Used potliner, Spent cathodes, SCL, Spent Cell Lining, Spent Pot Liner, Pot Bottoms, it is a waste byproduct from aluminium smelting.

<sup>2</sup> See clause 11, Imports and Exports (Restrictions) Prohibition Order (No 2) 2004;



Department of Conservation  
*Te Papa Atawhai*

*With Compliments*

Kia ora Rob,  
Lou Sanson has asked me to forward on "Spent Cell liners"  
for your reference.  
Kōwhiri  
Aletia

**Head Office**

Conservation House – *Whare Kaupapa Atawhai*  
18-32 Manners Street, P.O. Box 10-420, Wellington 6143  
Telephone 04-471 0726, Fax 04-471 1082

**Paolo Alejandro**

---

**From:** Shaun Lewis <Shaun.Lewis@mfe.govt.nz>  
**Sent:** Wednesday, 2 December 2020 6:25 pm  
**To:** Vicky Robertson  
**Cc:** Sam Buckle; Tim Bennetts; Francesca Bakker  
**Subject:** Fwd: Commercial-In-Confidence: P14: Urgent Advice provided

Vicky  
As per my earlier message.

Ka mihi  
Shaun

Sent from phone. Please excuse brevity.

---

**From:** Maureena van der Lem [TSY] <Maureena.Vanderlem@treasury.govt.nz>  
**Sent:** Wednesday, December 2, 2020 6:10:00 PM  
**To:** S9(2)(a) Kristine Brown [TSY] <Kristine.Brown@treasury.govt.nz>; Caralee McLiesh [TSY] <Caralee.McLiesh@treasury.govt.nz>; Bryan Chapple (TREASURY) <Bryan.chapple@treasury.govt.nz>; Andrew Hagan [TSY] <Andrew.Hagan@treasury.govt.nz>; Carolyn Tremain (MBIE) <Carolyn.Tremain@mbie.govt.nz>; Chris Bunny (MBIE) <chris.bunny@mbie.govt.nz>; Shaun Lewis <Shaun.Lewis@mfe.govt.nz>  
**Cc:** Alistair Birchall [TSY] <Alistair.Birchall@treasury.govt.nz>; Jean Le Roux [TSY] <Jean.LeRoux@treasury.govt.nz>; James Shannon [TSY] <James.Shannon@treasury.govt.nz>; S9(2)(a)  
**Subject:** Re: Commercial-In-Confidence: P14: Urgent Advice provided

Many thanks S9(2)(a) - valid point - I will pass on that feedback to the Ministers office.

Regards  
Maureena

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---

**From:** S9(2)(a)  
**Sent:** Wednesday, December 2, 2020 6:06:21 PM  
**To:** Kristine Brown [TSY] <Kristine.Brown@treasury.govt.nz>; Caralee McLiesh [TSY] <Caralee.McLiesh@treasury.govt.nz>; Bryan Chapple [TSY] <Bryan.Chapple@treasury.govt.nz>; Andrew Hagan [TSY] <Andrew.Hagan@treasury.govt.nz>; Carolyn Tremain <carolyn.tremain@mbie.govt.nz>; Chris.bunny@mbie.govt.nz <Chris.bunny@mbie.govt.nz>; ^MFE: Shaun Lewis <shaun.lewis@mfe.govt.nz>  
**Cc:** Maureena van der Lem [TSY] <Maureena.Vanderlem@treasury.govt.nz>; Alistair Birchall [TSY] <Alistair.Birchall@treasury.govt.nz>; Jean Le Roux [TSY] <Jean.LeRoux@treasury.govt.nz>; James Shannon [TSY] <James.Shannon@treasury.govt.nz>; S9(2)(a)  
**Subject:** RE: Commercial-In-Confidence: P14: Urgent Advice provided

Hi Team  
Thanks for sending the draft media release.  
I fear that the proposed opening sentence will lead the media to automatically assume 2021 closure, even though the later material clarifies that this is focussed on an environmental package.  
That could risk the wrong message getting out (and even impact on Meridian?).  
Regards, S9(2)(a)

S9(2)(a)

---

**From:** Kristine Brown [TSY] <Kristine.Brown@treasury.govt.nz>

**Sent:** Wednesday, 2 December 2020 5:55 PM

**To:** Caralee McLiesh [TSY] <Caralee.McLiesh@treasury.govt.nz>; Bryan Chapple [TSY] <Bryan.Chapple@treasury.govt.nz>; Andrew Hagan [TSY] <Andrew.Hagan@treasury.govt.nz>; Carolyn Tremain <carolyn.tremain@mbie.govt.nz>; S9(2)(a) Chris.bunny@mbie.govt.nz; ^MFE: Shaun Lewis <shaun.lewis@mfe.govt.nz>

**Cc:** Maureena van der Lem [TSY] <Maureena.Vanderlem@treasury.govt.nz>; Alistair Birchall [TSY] <Alistair.Birchall@treasury.govt.nz>; Jean Le Roux [TSY] <Jean.LeRoux@treasury.govt.nz>; James Shannon [TSY] <James.Shannon@treasury.govt.nz>; S9(2)(a)

**Subject:** Commercial-In-Confidence: P14: Urgent Advice provided

**Importance:** High

[IN-CONFIDENCE]

Dear all,

Please see below the email chain providing urgent advice following today's call with Rio Tinto, together with the draft media release (attached).

Kind regards – Kristine

---

**From:** Maureena van der Lem [TSY] <Maureena.Vanderlem@treasury.govt.nz>

**Sent:** Wednesday, 2 December 2020 5:45 PM

**To:** S9(2)(a)

Maureena van der Lem [TSY] <Maureena.Vanderlem@treasury.govt.nz>;

S9(2)(a)

**Cc:** Jean Le Roux [TSY] <Jean.LeRoux@treasury.govt.nz>; Alistair Birchall [TSY] <Alistair.Birchall@treasury.govt.nz>; ^MBIE: Andrew Hume <Andrew.Hume@mbie.govt.nz>; ^MFE: Shaun Lewis <shaun.lewis@mfe.govt.nz>; Andrew Hagan [TSY] <Andrew.Hagan@treasury.govt.nz>; Andrew Rutledge [TSY] <Andrew.Rutledge@treasury.govt.nz>

**Subject:** Commercial-In-Confidence: P14: Potential delay of closure: Tiwai Smelter

Kia ora koutou

This email:

- i. Provides you with an update on today's negotiating call with Rio Tinto and Sumitomo, where they failed to table a counter proposal and are unwilling to overcome the negotiating impasse (see correspondence with Rio Tinto below). We note that after three months of negotiations **Rio Tinto and Sumitomo will not agree to any site remediation** despite the fact that the Crown negotiating team indicated it was flexible on the mechanism for relief (including transmission) if Rio Tinto and Sumitomo offered remediation commitments/steps.
- ii. Proposes a proactive media strategy (attached).
- iii. Seeks an **urgent meeting with you to discuss the status of negotiations and next steps**, in particular to test the importance of remediation for any Crown deal to extend the closure of Tiwai Point smelter.

**Update from today's call – Rio Tinto and Sumitomo have refused to table a counter proposal and appear unwilling to overcome the negotiating impasse**

- On 18 November 2020 the Crown made an offer that included a payment of S9(2)(j) to NZAS. This payment was available to offset NZAS' operating costs, including transmission. The payment was contingent on NZAS spending at least a minimum amount on remediation linked to their own accounting provision.
- On Wednesday 25 November 2020, Rio Tinto and Sumitomo rejected the Crown's proposal. Rio Tinto undertook to go away and instead consider what they could deliver regarding remediation and committed to verbally table a counter proposal at today's meeting (2 December 2020).

- Today Rio Tinto refused to table any proposal regarding remediation in today's meeting, and instead requested a 'fixed and fair price on transmission' which was their original negotiating position as stated in September 2020.
- Rio Tinto are unwilling to make concessions or to deviate from their insistence on transmission relief, despite repeated attempts to broach the negotiating impasse by making concessions and counter-proposals (including meaningful financial support).
- Rio Tinto also indicated that the smelter is losing workforce and are intending to bring workforce from their Australian smelters. Independently, 9(2)(ba)(i). If confirmed, this suggests that the current workforce have other employment opportunities (negating the employment rationale for a deal supporting the local economy). Furthermore, Rio Tinto may be expecting to fulfil any workforce retention requirements under a Crown deal with overseas personnel.
- Rio Tinto also stated that they were continuing to work towards their end of year deadline.

**Proactive media strategy – we propose informing the public of the current state of negotiations, to manage expectations**

- Given Rio Tinto's use of media and Southland stakeholder opinion as a negotiating tactic, we propose a media statement be issued by the Tiwai Group Ministers. In doing this our primary consideration is for key stakeholders to receive clear and accurate information on events.
- Further, a proactive stance would assist in interrupting any Rio Tinto narrative that the Crown has not acted with intent and haste and would help manage local expectations.
- If Ministers decide to pursue a proactive media strategy, we would recommend that the Crown negotiating team or Ministers advise Ngāi Tahu before publication.
- Additionally, given current market expectations around a Crown deal for extended closure we would recommend any statement to the media is made outside trading hours and Meridian is provided with advance warning.
- We attach a draft press release that covers the following:
  - The Crown has presented a proposal to Rio Tinto and minority shareholder Sumitomo in an effort to delay closure of the Tiwai Point aluminium smelter.
  - Rio Tinto have rejected the proposal and are unwilling to commit to specific remediation outcomes or spending to ensure that the toxic waste and contaminants onsite are appropriately addressed.
  - We are hopeful that Rio Tinto and Sumitomo Chemical can continue to work with the Crown to achieve a holistic deal for a delayed closure of Tiwai.
  - The Government is optimistic that with the commitment of all parties we can achieve certainty for the employees of the smelter, the people of Southland and an appropriate environmental outcome.
  - Negotiations are iterative, and given the current state of discussions, any deal is unlikely to be concluded until 2021.

**We seek an urgent meeting with you to discuss the status of negotiations and next steps**

1. We note:
  - a. Officials first best advice remains not to conclude a Crown deal, due to the profitability afforded by the Meridian deal, and the expectation that the smelter will continue to operate on this basis.
  - b. We previously provided advice about an alternative negotiating proposal – a total payment of 9(2)(j) in exchange for a commitment to legal minimum standards. This option remains available but was not preferred due to the negligible undertakings it achieved for the Crown in exchange for payment.
  - c. The Crown also has the option of deferring negotiation until the New Year, given officials assessment that Rio Tinto's end of year deadline is aspirational and we assess that Rio Tinto must make its operational decision regarding the cessation of operations in the first calendar quarter of 2021.
2. We would like to test with Tiwai Group Ministers the importance of remediation in any potential Crown deal to extend the closure timeframe of Tiwai Point smelter.
3. We suggest the proactive media statement proposed will appropriately inform stakeholders and the wider public, while ensuring that all negotiating options remain available to the Crown.

Regards

Maureena



**Maureena van der Lem | Acting Director, Firm Support Directorate | Te Tai Ōhanga – The Treasury**

Mobile: S9(2)(a) | [Maureena.vanderLem@treasury.govt.nz](mailto:Maureena.vanderLem@treasury.govt.nz)

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---

**From:** Maureena van der Lem [TSY]

**Sent:** Wednesday, 2 December 2020 5:00 PM

**To:** S9(2)(a) <[redacted]@riotinto.com>

**Cc:** S9(2)(a)

^MBIE: Andrew Hume

<[Andrew.Hume@mbie.govt.nz](mailto:Andrew.Hume@mbie.govt.nz)>; ^MFE: Shaun Lewis' <[shaun.lewis@mfe.govt.nz](mailto:shaun.lewis@mfe.govt.nz)>; Jean Le Roux [TSY]

<[Jean.LeRoux@treasury.govt.nz](mailto:Jean.LeRoux@treasury.govt.nz)>; Alistair Birchall [TSY] <[Alistair.Birchall@treasury.govt.nz](mailto:Alistair.Birchall@treasury.govt.nz)>; S9(2)(a)

**Subject:** RE: Commercial-In-Confidence: Proposed agenda for the discussion today on potential delay of closure: Tiwai Smelter

Kia ora S9(2)(a)

Thank you to you and your team for taking the time to meet today.

We were very disappointed that Rio Tinto and Sumitomo declined to table any counter proposal on site remediation for us to consider today as you committed to last week, in relation to an agreement with the New Zealand Government for extension of operations at Tiwai Smelter.

During our meeting on Wednesday 25 November 2020, Rio Tinto and Sumitomo rejected the Crown's proposal for a bond with a balloon payment of S9(2)(j) (that was linked to the NZAS remediation provision spend and could have offset your operating costs in any manner you chose). You undertook to go away and instead consider what you both could deliver regarding remediation. However, you were not able to deliver on this commitment and refused to table any further remediation proposals in today's call.

Officials and Ministers have been clear since the beginning of our discussions on 11 September 2020 that the Government were taking a holistic approach to the negotiations, including workforce, tenure and site remediation commitments from Rio Tinto and Sumitomo, in return for a financial payment from the Government. We have been clear that site remediation commitments have always been a key part of these discussions. Unfortunately, Rio Tinto and Sumitomo have declined to make any substantive remediation commitments prior to finalisation of a preliminary closure plan next year, and has rejected the Government's proposal of a bond payment linked to remediation, without tabling any alternative suggestions.

The Crown negotiating team has remained flexible throughout our discussions with Rio Tinto and Sumitomo and have suggested several different avenues to reach a mutually beneficial agreement between the parties. However, we will now advise Ministers (as we outlined on today's call) you have offered no site remedial components despite the fact that the Crown negotiating team indicated it was flexible on the mechanism for relief (including transmission) if Rio Tinto and Sumitomo offered remediation commitments/steps.

S6(a)

During today's call, you indicated that Rio Tinto and Sumitomo are still committed to reaching an agreement before the end of 2020. However, this timeframe now looks increasingly unlikely given the lack of progress. We remain open and available for further discussions with you, should you wish to make any additional proposals to the Government.

Regards  
Maureena



Maureena van der Lem | Acting Director, Firm Support Directorate | Te Tai Ohanga – The Treasury  
Mobile: S9(2)(a) | [Maureena.vanderLem@treasury.govt.nz](mailto:Maureena.vanderLem@treasury.govt.nz)  
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---

**From:** Maureena van der Lem [TSY]  
**Sent:** Wednesday, 2 December 2020 9:33 AM  
**To:** S9(2)(a) <[redacted]@riotinto.com>  
**Cc:** [redacted]; ^MBIE: Andrew Hume <[Andrew.Hume@mbie.govt.nz](mailto:Andrew.Hume@mbie.govt.nz)>; '^MFE: Shaun Lewis' <[shaun.lewis@mfe.govt.nz](mailto:shaun.lewis@mfe.govt.nz)>; Jean Le Roux [TSY] <[Jean.LeRoux@treasury.govt.nz](mailto:Jean.LeRoux@treasury.govt.nz)>; Alistair Birchall [TSY] <[Alistair.Birchall@treasury.govt.nz](mailto:Alistair.Birchall@treasury.govt.nz)>; S9(2)(a) <[redacted]>  
**Subject:** Commercial-In-Confidence: Proposed agenda for the discussion today on potential delay of closure: Tiwai Smelter

[IN-CONFIDENCE]

Kia ora S9(2)(a)

We look forward to meeting today to hear from you about what Rio Tinto and Sumitomo are willing to commit to regarding remediation in relation to an agreement (for extension of operations at Tiwai Smelter) with the New Zealand Government.

At our last meeting on Wednesday 25 November 2020, Rio Tinto and Sumitomo rejected the Crown's proposal for a bond with a balloon payment of S9(2)(j) (that was linked to the NZAS remediation provision spend and could have offset your operating costs in any manner you chose).

However, at that meeting you undertook to go away and instead consider what you both could deliver regarding remediation. We had hoped you would have taken the opportunity to send us any further material in advance of our meeting. We assume your preference continues to be tabling your counter proposal verbally at today's meeting.

We only have three calls scheduled before the end of the year. We still have a lot of ground still to cover - so we expect your verbal counter proposal today to significantly advance our discussions to enable progress to be made towards your deadline.

As the holiday period is fast approaching, we are looking for you to confirm that Rio Tinto and Sumitomo are still working towards an end of the year deadline or advise us of a revised timeframe.

Proposed agenda for today's call:

1. **Rio Tinto to table counter proposal involving remediation commitments.**
2. **Crown opportunity to ask clarifying questions on the verbal proposal.**
3. **Timing discussion and next steps.**

Regards  
Maureena



**Maureena van der Lem | Acting Director, Firm Support Directorate | Te Tai Ōhanga – The Treasury**

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**Paolo Alejandro**

---

**From:** Shaun Lewis <Shaun.Lewis@mfe.govt.nz>  
**Sent:** Tuesday, 15 December 2020 7:52 am  
**To:** Bruce Croucher; Tim Bennetts  
**Cc:** Catherine Prior  
**Subject:** Commissioning for P14 Tiwai Point Remediation [sensitive]

Kia ora koutou

Last night minister's met with Rio Tinto to discuss progress with the negotiations regarding a managed exit from Tiwai Point. The discussion covered several issues but of most relevance to us is the remediation component. In short Minister Robertson has directed officials to go back to Rio within 24 hours with a clear statement on remediation (amongst other things). Our deadline for getting this to Treasury to include in a wider response is 12pm today.

Tim – could you please draft a response that captures the Ministers' views on the level of remediation required to meet the government's expectations. If possible it would be good to reflect the views of Ngai Tahu. There are several documents that capture our previous attempts to communicate the Crown's position on remediation. They should be in [this folder](#). I'll have a look in my emails and see if there is anything else.

Bruce – yesterday we discussed the feedback to ES on their proposal to investigate the site. I followed up with Andrew McC and the latest letter from the Minister is waiting for the Minister to sign. However I think it is as Tim drafted. Could you please pass on to Treasury ES's proposed plan plus the letter Tim has drafted (making it clear the letter hasn't gone yet). As discussed yesterday we need to provide Treasury with a view, by Friday, of whether we think the proposed investigation is sufficiently thorough to pick up the primary concerns with respect to a contaminated site. Can we note the broad powers the regional council has to investigate where they consider there is potential for non-compliance, over and above reviewing current consents.

I should also note that last night Rio offered to share with us the results of the testing they are carrying out onsite. This activity has already started. I will follow up with them today to find out what their testing regime is and when we can expect to see results.

I'm at home this morning but available if you have any questions.

Many thanks  
Shaun

Shaun Lewis (he/him)\*  
Waste and Resource Efficiency

*Building a low waste economy and a world leading resource recovery and recycling system*

\*If you are wondering about the use of the pronouns on this signature, [read this article](#) about how sharing pronouns in this way can help create an inclusive and safe environment for transgender and nonbinary colleagues.

Ministry for the Environment – Manatū Mō Te Taiao  
Mobile: 64 21 101 2446 Email: [shaun.lewis@mfe.govt.nz](mailto:shaun.lewis@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)  
23 Kate Sheppard Pl, Thorndon, PO Box 10362, Wellington 6143



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*Aotearoa - he whenua mana kura mō te tangata*



[SEEMAIL]

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**Paolo Alejandro**

---

**From:** Shaun Lewis <Shaun.Lewis@mfe.govt.nz>  
**Sent:** Wednesday, 16 December 2020 5:35 pm  
**To:** Tim Bennetts; Bruce Croucher; Catherine Prior  
**Subject:** FW: Commercial-in-confidence: P14: Draft Ministerial letter to Rio Tinto for Ministerial consideration  
**Attachments:** Tiwai Group Ministers' Letter to Rio Tinto 15-12-2020.docx; Tiwai Group Ministers' Letter to Rio Tinto 15-12-2020.pdf

Note the wording for remediation hasn't changed much if at all from what we provided. Also note the reference to a transmission transition payment.

Ka mihi

Shaun Lewis (he/him)\*  
Waste and Resource Efficiency  
Phone: 64 21 101 2446

\*If you are wondering about the use of the pronouns on this signature, [read this article](#) about how sharing pronouns in this way can help create an inclusive and safe environment for transgender and nonbinary colleagues.

---

**From:** S9(2)(a)  
**Sent:** Tuesday, 15 December 2020 4:14 PM  
**To:** Shaun Lewis <Shaun.Lewis@mfe.govt.nz>  
**Subject:** FW: Commercial-in-confidence: P14: Draft Ministerial letter to Rio Tinto for Ministerial consideration

Hey Shaun here is the updated version of the letter, in case you want to check it for any concerns as it looks like it's changed a bit from the version you sent me. If you see any problems please let me know by tomorrow morning.

---

**From:** S9(2)(a)  
**Sent:** Tuesday, 15 December 2020 3:25 PM  
**To:** S9(2)(a)  
**Cc:** S9(2)(a)  
**Subject:** FW: Commercial-in-confidence: P14: Draft Ministerial letter to Rio Tinto for Ministerial consideration

Hi S9(2)(a)

Please find attached letters Treasury has prepared in response to joint Ministers' call with Alf Barrios yesterday evening.

I'll put to the Minister tonight, to be sent tomorrow. Can you please let us know by mid-morning tomorrow if your Minister's have any comments? (I'll send around an updated version in the morning if MoF makes any changes overnight).

Thanks!  
S9(2)(a)

[seemail]

---

**From:** Maureena van der Lem [TSY] [<mailto:Maureena.Vanderlem@treasury.govt.nz>]

**Sent:** Tuesday, 15 December 2020 2:51 PM

**To:** S9(2)(a)

**Cc:** Caralee McLiesh [TSY] <[Caralee.McLiesh@treasury.govt.nz](mailto:Caralee.McLiesh@treasury.govt.nz)>; Andrew Hagan [TSY] <[Andrew.Hagan@treasury.govt.nz](mailto:Andrew.Hagan@treasury.govt.nz)>; Andrew Rutledge [TSY] <[Andrew.Rutledge@treasury.govt.nz](mailto:Andrew.Rutledge@treasury.govt.nz)>; Alistair Birchall [TSY] <[Alistair.Birchall@treasury.govt.nz](mailto:Alistair.Birchall@treasury.govt.nz)>; Jean Le Roux [TSY] <[Jean.LeRoux@treasury.govt.nz](mailto:Jean.LeRoux@treasury.govt.nz)>; James Shannon [TSY] <[James.Shannon@treasury.govt.nz](mailto:James.Shannon@treasury.govt.nz)>

**Subject:** Commercial-in-confidence: P14: Draft Ministerial letter to Rio Tinto for Ministerial consideration

[IN-CONFIDENCE]

S9(2)(a)

Please find attached a draft letter to Rio Tinto that Tiwai Group Ministers' commissioned following the Zoom call yesterday evening.

The attached draft letter incorporates a proposal to secure a deal for extended closure.

Please contact me if you wish to discuss.

Regards  
Maureena



**Maureena van der Lem | Acting Director, Firm Support Directorate | Te Tai Ōhanga – The Treasury**

Mobile: S9(2)(a) | [Maureena.vanderLem@treasury.govt.nz](mailto:Maureena.vanderLem@treasury.govt.nz)

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-

# Hon Grant Robertson

MP for Wellington Central

Deputy Prime Minister

Minister of Finance

Minister for Infrastructure

Minister for Sport and Recreation

Minister for Racing



15 December 2020

Alf Barrios  
Chief Executive  
Rio Tinto Aluminium  
S9(2)(a)

Dear Alf,

On behalf of my colleagues, thank you for meeting with us on 14 December 2020. We share your commitment to finding a mutually agreeable way forward to extend the Tiwai Point aluminium smelter's operation to achieve a managed exit and transition for Southland.

I am pleased that our negotiating teams have reached agreement in principle on the tenure of a potential extension of operations and the agreed workforce level required to continue operations for the duration of the agreement.

As we discussed, gaining certainty about how the site will be remediated is very important to the New Zealand Government. We acknowledge that a reduction in the smelter's transmission charges is a priority for New Zealand Aluminium Smelters Limited (NZAS). This letter sets out our proposal for the remediation and transmission commitments for both parties to secure a mutually acceptable extension to the smelter's operations.

Regardless of how the smelter site is used in the future, addressing the toxic contaminants on site including the spent cathode lining and the contaminants present in the unlined landfill, is a bottom line for the Crown. This is absolutely critical for the intergenerational wellbeing of the Southland community and the environment, particularly given the climate change and coastal erosion risks faced by the site.

We expect that the site will be remediated in a manner, and to standards, which will leave the buildings and land, including soil, sediment, ground water, coastal water and fresh water, in a state where it will not cause short or long-term environmental harm or a risk to the health of any person.

We were encouraged to hear that you have already started your closure process, including engaging consultants to undertake environmental sampling and testing. Thank you for committing to share the outcomes of this sampling and testing with us – we look forward to receiving the results.


To achieve a managed exit for the smelter and in consideration of our respective interests, subject to NZAS agreeing to the commitments outlined below, the New Zealand Government will provide a Transmission Transition payment to NZAS of 9(2)(j) per annum. This would payment would start from January 2021 until December 2024 to align with the tenure of Meridian's offer to NZAS for a revised electricity contract 9(2)(j) NZAS's transmission charges would continue to be allocated using the Transmission Pricing Methodology.

In return for this proposed Transmission Transition payment, NZAS will commit to all of the following:

- Undertake a robust closure planning process which includes partnering with Ngāi Tahu and key stakeholders to identify issues, design processes and develop solutions.
- Remove all spent cathode lining, to be recycled, or disposed of, safely and securely offsite in accordance with modern standards.
- Excavate the smelter's unlined landfill, and ensure all material is either recycled or disposed of safely and securely offsite, at a landfill that complies with modern standards and is not subject to risks of coastal erosion or rising sea levels.
- Continue to provide Environment Southland, the regional authority with the lead responsibility for environmental management, with full access to the site (including to undertake sampling) in order to undertake its monitoring and information gathering obligations.
- Commit to ensuring that appropriate provision is made for post-closure monitoring, maintenance and management of any waste, hazardous substances and contamination that may remain on site following closure.

Rio Tinto and Sumitomo would be required to be parties to the agreement recording these obligations, or otherwise provide a guarantee for these commitments.

9(2)(b)(ii)



We believe the proposals set out above meet Rio Tinto's stated high remediation standards that you have emphasised. We trust this proposal provides the basis for an agreement in principle to be reached before the end of the year to secure an extension to the smelter's operations. Could you please provide a written response to the above proposal by 12:00pm (noon) NZDT Thursday 17 December 2020, including any specific counteroffer outlining how you would deliver on the Government's remediation requirements.

This ambitious timeline is designed to achieve certainty before the end of the year for the Southland community. We look forward to hearing from you and to reaching agreement for the extended operations of the smelter. We share your commitment to provide certainty to the smelter workforce and to achieve an appropriate managed exit and transition for the people of Southland.

Yours sincerely,

Hon Grant Robertson  
**Deputy Prime Minister**

Cc: Hon Dr Megan Woods, Minister of Energy and Resources  
Hon David Parker, Minister for the Environment  
Rt Hon Jacinda Ardern, Prime Minister

**Paolo Alejandro**

---

**From:** Shaun Lewis <Shaun.Lewis@mfe.govt.nz>  
**Sent:** Wednesday, 23 December 2020 7:56 am  
**To:** Tim Bennetts; Bruce Croucher  
**Subject:** FW: Commercial-In-Confidence: Discussion in January 2021 regarding potential delay of closure: Tiwai Smelter

FYI and noting

Shaun Lewis (he/him)\*  
Waste and Resource Efficiency  
Phone: 64 21 101 2446

\*If you are wondering about the use of the pronouns on this signature, [read this article](#) about how sharing pronouns in this way can help create an inclusive and safe environment for transgender and nonbinary colleagues.

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**From:** Maureena van der Lem [TSY] <Maureena.Vanderlem@treasury.govt.nz>  
**Sent:** Monday, 21 December 2020 10:40 PM  
**To:** S9(2)(a) <[REDACTED]@riotinto.com>  
**Cc:** S9(2)(a) <[REDACTED]>; ^MBIE: Andrew Hume <Andrew.Hume@mbie.govt.nz>; Shaun Lewis <Shaun.Lewis@mfe.govt.nz>; Jean Le Roux [TSY] <Jean.LeRoux@treasury.govt.nz>; Alistair Birchall [TSY] <Alistair.Birchall@treasury.govt.nz>; S9(2)(a) <[REDACTED]>  
**Subject:** Commercial-In-Confidence: Discussion in January 2021 regarding potential delay of closure: Tiwai Smelter

[IN-CONFIDENCE]

Kia ora koutou S9(2)(a) and colleagues,

I trust you are all well and looking forward to the holiday season starting at the end of the week.

In light of the most recent correspondence between the Minister of Finance and Alf Barrios, we propose that our respective negotiating teams continue discussions early in the New Year regarding the extended closure of the Tiwai Point aluminium smelter, based on the commitments made by Rio Tinto in your letter of 18 December 2020.

We suggest a first meeting at 2pm NZDT on Tuesday 12 January 2021, for 60 minutes. Could you please confirm that this timing works for you?

With regards to any proposed Transitions Transmission payment, it will be important for the Crown to understand on that call what Rio Tinto is specifically proposing in relation to remediation actions (as per the letter of 18 December 2020). We will send a proposed agenda closer to the meeting.

Looking ahead, we propose that we re-establish our weekly negotiating meetings until the end of February 2021, at the revised recurring time of Tuesdays at 2pm NZDT. Please let me know if this is a convenient time for you, and I will have the meeting series sent through.

I hope you all have a restful end of the year, and I look forward to continuing these discussions with you early in the New Year.

Regards  
Maureena



**Maareena van der Lem | Acting Director, Firm Support Directorate | Te Tai Ōhanga – The Treasury**

Mobile: S9(2)(a) | [Maareena.vanderLem@treasury.govt.nz](mailto:Maareena.vanderLem@treasury.govt.nz)

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**Paolo Alejandro**

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**From:** Annabelle Ellis <Annabelle.Ellis@mfe.govt.nz>  
**Sent:** Monday, 18 January 2021 4:25 pm  
**To:** Tim Bennetts  
**Subject:** RE: P14: outline of upcoming Ministerial advice - negotiation update and next steps, including governance arrangements and project insights [IN-CONFIDENCE]

Hi Tim

No problem.

I'm not aware of anyone in climate change who has been working on this and is cleared for P14 but I'll see if I can find out for you.

Cheers

A

---

**From:** Tim Bennetts <Tim.Bennetts@mfe.govt.nz>  
**Sent:** Monday, 18 January 2021 4:07 PM  
**To:** Annabelle Ellis <Annabelle.Ellis@mfe.govt.nz>  
**Subject:** RE: P14: outline of upcoming Ministerial advice - negotiation update and next steps, including governance arrangements and project insights [IN-CONFIDENCE]

Hi Annabelle

I haven't had time to think about this stuff today. I'll deal with it in the morning. The only issue I was scratching my head about with this particular set of advice was the ETS related issues. Is there someone in climate change who has been working on this and is cleared for P14 advice?

Thanks

Tim

---

**From:** Annabelle Ellis <[Annabelle.Ellis@mfe.govt.nz](mailto:Annabelle.Ellis@mfe.govt.nz)>  
**Sent:** Monday, 18 January 2021 3:54 PM  
**To:** Tim Bennetts <[Tim.Bennetts@mfe.govt.nz](mailto:Tim.Bennetts@mfe.govt.nz)>  
**Subject:** FW: P14: outline of upcoming Ministerial advice - negotiation update and next steps, including governance arrangements and project insights [IN-CONFIDENCE]

Were Treasury ok for our addition to be added into this update? Or are you doing a separate update on the investigations?

---

**From:** Mal Frawley <[Malisha.Frawley@mbie.govt.nz](mailto:Malisha.Frawley@mbie.govt.nz)>  
**Sent:** Monday, 18 January 2021 3:13 PM  
**To:** [James.Shannon@treasury.govt.nz](mailto:James.Shannon@treasury.govt.nz)  
**Cc:** Shaun Lewis <[Shaun.Lewis@mfe.govt.nz](mailto:Shaun.Lewis@mfe.govt.nz)>; Bruce Croucher <[bruce.croucher@mfe.govt.nz](mailto:bruce.croucher@mfe.govt.nz)>; Annabelle Ellis <[Annabelle.Ellis@mfe.govt.nz](mailto:Annabelle.Ellis@mfe.govt.nz)>; Tim Bennetts <[Tim.Bennetts@mfe.govt.nz](mailto:Tim.Bennetts@mfe.govt.nz)>; Andrew Hume <[Andrew.Hume@mbie.govt.nz](mailto:Andrew.Hume@mbie.govt.nz)>; Mark Pickup <[Mark.Pickup@mbie.govt.nz](mailto:Mark.Pickup@mbie.govt.nz)>; Dean Ford <[Dean.Ford@mbie.govt.nz](mailto:Dean.Ford@mbie.govt.nz)>; Shane Wilson <[Shane.Wilson@mbie.govt.nz](mailto:Shane.Wilson@mbie.govt.nz)>; Mal Frawley <[Malisha.Frawley@mbie.govt.nz](mailto:Malisha.Frawley@mbie.govt.nz)>; James Soligo <[James.Soligo@mbie.govt.nz](mailto:James.Soligo@mbie.govt.nz)>; Chris Mathieson <[Chris.Mathieson@mbie.govt.nz](mailto:Chris.Mathieson@mbie.govt.nz)>; Tom Lee <[Thomas.Lee2@mbie.govt.nz](mailto:Thomas.Lee2@mbie.govt.nz)>; Libby Gerard <[Libby.Gerard2@mbie.govt.nz](mailto:Libby.Gerard2@mbie.govt.nz)>; Nick Montague <[Nick.Montague@mbie.govt.nz](mailto:Nick.Montague@mbie.govt.nz)>  
**Subject:** RE: P14: outline of upcoming Ministerial advice - negotiation update and next steps, including governance arrangements and project insights [IN-CONFIDENCE]

Kia ora James

Thank you for the opportunity to provide comments on your proposed outline. Appreciate that you're working under tight timeframes to turnaround this advice, and are wondering if it's possible to either send you our content in the form of bullet points to meet the timeframes or could you advise on the next possible due date for us to send you our content?

Please also see our suggested **edits** below.

Ngā mihi  
Mal

**Malisha Frawley** | Policy Advisor | Just Transitions Partnerships | Economic Development and Transitions Ministry of Business, Innovation & Employment | Te Manatū, Auahatanga me ngā Kaupapa ā-Mahi | Level 4, 15 Stout Street, Wellington 6011, PO Box 1473, Wellington 6140

---

**From:** James Shannon [TSY] <[James.Shannon@treasury.govt.nz](mailto:James.Shannon@treasury.govt.nz)>

**Sent:** Monday, 18 January 2021 12:47 PM

**To:** Shaun Lewis <[Shaun.lewis@mfe.govt.nz](mailto:Shaun.lewis@mfe.govt.nz)>; Bruce Croucher <[bruce.croucher@mfe.govt.nz](mailto:bruce.croucher@mfe.govt.nz)>; [annabelle.ellis@mfe.govt.nz](mailto:annabelle.ellis@mfe.govt.nz); Tim Bennetts <[Tim.Bennetts@mfe.govt.nz](mailto:Tim.Bennetts@mfe.govt.nz)>; Andrew Hume <[Andrew.Hume@mbie.govt.nz](mailto:Andrew.Hume@mbie.govt.nz)>; Mark Pickup <[Mark.Pickup@mbie.govt.nz](mailto:Mark.Pickup@mbie.govt.nz)>; Dean Ford <[Dean.Ford@mbie.govt.nz](mailto:Dean.Ford@mbie.govt.nz)>; Shane Wilson <[Shane.Wilson@mbie.govt.nz](mailto:Shane.Wilson@mbie.govt.nz)>; Mal Frawley <[Malisha.Frawley@mbie.govt.nz](mailto:Malisha.Frawley@mbie.govt.nz)>; James Soligo <[James.Soligo@mbie.govt.nz](mailto:James.Soligo@mbie.govt.nz)>; Chris Mathieson <[Chris.Mathieson@mbie.govt.nz](mailto:Chris.Mathieson@mbie.govt.nz)>; Tom Lee <[Thomas.Lee2@mbie.govt.nz](mailto:Thomas.Lee2@mbie.govt.nz)>; Libby Gerard <[Libby.Gerard2@mbie.govt.nz](mailto:Libby.Gerard2@mbie.govt.nz)>

**Cc:** @Project 14 <[project14@treasury.govt.nz](mailto:project14@treasury.govt.nz)>

**Subject:** P14: outline of upcoming Ministerial advice – negotiation update and next steps, including governance arrangements and project insights [IN-CONFIDENCE]

[IN-CONFIDENCE]

Kia ora koutou

Please see below a draft outline of our upcoming P14 advice. The purpose of the advice is to provide the Tiwai Group Ministers with a negotiating update and next steps, including future governance arrangements and insights that have arisen through the project. We are aiming to submit the advice at the end of the first week of Feb, after the next few engagements with Rio. It would be great to have your feedback on the outline by noon Tuesday 19-Jan.

We'll aim to circulate the first draft of the advice for your comment this Friday 22-Jan. The highlighted square brackets below identify areas where we think your agencies are best placed to develop the identified content, which it would be great to include in the first draft advice this week – please let us know if it is not feasible to provide your content by noon this Thursday 21 January.

We have our regularly scheduled P14 management call on Tuesday at 3pm where we can discuss the proposed approach and any feedback you have. We are also happy to set-up separate calls with you to discuss recent developments, the direction of this advice, the input we need from you and next steps.

**P14 advice structure: negotiation update and next steps, including governance arrangements and project insights**

1. Update on recent engagements with Rio and resulting observations [TSY]
  - a. Summary of Rio call 13 Jan
  - b. Rio acceptance of Meridian offer 14 Jan – description of deal parameters and Rio public statements about continued need for govt/transmission intervention
  - c. Summary of call 20 Jan
  - d. Summary of call 27 Jan
  - e. Update on Crown engagement with Rio's closure planning group [MBIE – Shane]

2. Update on other relevant work
  - a. Ngai Tahu's activities, aspirations for their role in the closure process and Southland's regeneration [Gopika to coordinate with MBIE – Nick]
  - b. Environment Southland's activities, expected timing of onsite visit, resulting outputs and next steps [Daniel to coordinate with MFE – Shaun]
  - c. MBIE visit to Southland incl. Southland Mayoral forum (first week of Feb) [MBIE – MaI]
  - d. Transpower update – investment continues, maintenance to commence, last opportunity for Rio to engage on regulatory changes [TSY]
  
3. Implications for Crown and consequences for next steps [TSY]
  - a. Crown involvement in Rio closure planning process and its revised timing / next steps
  - b. Remediation remains a Crown bottom line (SCL, landfill) and pre-xmas offer remains on the table
  - c. Rio unable to make SCL or landfill commitments until closure study completed (timing TBC)
  - d. Crown remains available to meet, but little can be practically achieved until Rio are able to engage on remediation
  - e. As a result, we propose negotiations are put on hiatus until Rio is able to complete their closure study and can then continue negotiations with the Crown on those terms
  - f. Resulting comms strategy (incl. proactive release)
  - g. Continuing to support a Just Transition for Southland (MaI)
    - a. Stakeholder expectations for a just transition
    - b. Update on work to date ie, CE's group, convening of regional officials and support for Iwi
  
4. Ongoing governance and accountability [TSY]
  - a. Propose P14 Steering Group continues to meet as scheduled and stewards the negotiations into hiatus while ensuring Crown's necessary work continues (Group has 3 more meetings in Feb and March)
  - b. Propose that an enduring Crown governance arrangement should replace the temporary negotiation Steering Group, including additional stakeholder representation, eg Ngai Tahu, regional etc
  - c. Propose investigating whether any existing governance arrangements, eg the MSD led Murihiku Regeneration CEs Group, could provide this function – understand that you might add more detail about the purpose of the governance group, but can we make it clear here that given a deal between Rio and Meridian has been finalised, a clear shift of focus from negotiations to regional support, such as Just Transition, needs to occur? A governance group will need to be established to maintain oversight and progress this support for Southland
  - d. Outline the key further work that needs to be progressed and indicative responsibilities (outline the key insights arising from P14 project, identify activities underway to address the issues experienced, and timing / next steps for lead agencies in progressing further work):
 

Watching brief

    - i. Negotiations – if necessary [TSY]
    - ii. Energy transition/implications of alternative site uses (watching brief only) [MBIE energy, could you please do the first draft?]

Just Transition for Southland

    - iii. Just transitions [MBIE just transitions, could you please do the first draft?] – we intend to state that once we have conducted further engagements with regional partners (early February), we will continue to work closely with other agencies and update Tiwai Group Ministers on how the region is progressing a locally-led and cohesive transition
    - iv. Remediation [MFE, could you please do the first draft?]
    - v. Alternative use for the Tiwai Point site - we will state that we intend to provide advice about this issue at a later date post stakeholder engagement and closure study meetings with NZAS. The issue here is 1: it is not clear who is mandated to engage on this subject and 2: Remediation process needs to be clarified 3: NZAS's closure study is presumed to cover this as well.

Further (regulatory) work

- v. Transmission Pricing / Energy markets policy [MBIE energy, could you please do the first draft?]
  - vi. Environmental laws and regulations as they relate to large industrials and remediation obligations [MFE, could you please do the first draft?]
  - vii. ETS, particularly the EITE allocation system [MFE, could you please do the first draft?]
  - viii. Meridian [TSY]
  - e. Budget/funding implications of ongoing work
  - f. Propose Tiwai Group Ministers continue to receive briefings on an as needed basis
5. Administrative [TSY]
- a. Proactive release - documents prepared and ready to be released
  - b. OIA – TSY currently answering 1 OIA; future OIAs will be answered by receiving agency, in consultation with TSY, MBIE and MFE etc
6. Next steps [TSY]
- a. Report back on:
    - i. Recommended governance arrangements
    - ii. Refined outline of next steps and key further work
    - iii. Implications for next steps (governance and key further work)
  - b. Lead agencies to provide updates on key further work in due course
  - c. Tiwai Group Ministers option to report back to Cabinet on developments

Cheers  
James



**James Shannon** (he/him) | Te Tai Ōhanga – The Treasury

Mobile: S9(2)(a) | Email: [james.shannon@treasury.govt.nz](mailto:james.shannon@treasury.govt.nz)

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**Paolo Alejandro**

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**From:** Shaun Lewis <Shaun.Lewis@mfe.govt.nz>  
**Sent:** Tuesday, 26 January 2021 12:57 pm  
**To:** S9(2)(a) Sam Buckle  
**Cc:** Vicky Robertson  
**Subject:** RE: Sensitive - Weekly update agenda item - Tiwai Point

Kia ora S9(2)(a)

We can give an update on both Tiwai Point negotiations and Mātaura Dross.

S

**Shaun Lewis (he/him)**

*Director | Ringatohu*

*Waste and Resource Efficiency*

Ministry for the Environment | Manatū Mō Te Taiao  
021 101 2446 | [shaun.lewis@mfe.govt.nz](mailto:shaun.lewis@mfe.govt.nz) | [mfe.govt.nz](http://mfe.govt.nz)

---

**From:** S9(2)(a)  
**Sent:** Tuesday, 26 January 2021 11:26 AM  
**To:** Sam Buckle <Sam.Buckle@mfe.govt.nz>  
**Cc:** Shaun Lewis <Shaun.Lewis@mfe.govt.nz>; Vicky Robertson <Vicky.Robertson@mfe.govt.nz>  
**Subject:** Sensitive - Weekly update agenda item - Tiwai Point

Hi Sam,

The Minister asked to have Tiwai Point added to the agenda for the weekly update. I'm not sure what exactly he wants to discuss, but the request was prompted by him reading the letter from late Dec from Rio Tinto (attached).

I had also let him know that on the weekly conference call last week, Treasury had said that:

- RT had indicated they may table some kind of proposal in relation to remediation with the negotiation team this week
- Officials were intending to brief Ministers over the next week or so

So with the extra 15 minutes we now have available I think adding Tiwai to today's agenda would be useful. Please let me know what you think.

Thanks,

S9(2)(a)  
**Private Secretary**  
**Office of Hon David Parker, Minister for the Environment**  
6.4 Executive Wing | Parliament Buildings

S9(2)(a)

**Paolo Alejandro**

---

**From:** S9(2)(a) @riotinto.com>  
**Sent:** Friday, 5 February 2021 2:49 pm  
**To:** Maureena van der Lem [TSY]  
**Cc:** S9(2)(a) ^MBIE: Andrew Hume;  
^MFE: Shaun Lewis; Jean Le Roux [TSY]; Alistair Birchall [TSY]; S9(2)(a)  
S9(2)(a)  
**Subject:** RE: [External] RE: Commercial-In-Confidence: Proposed agenda for 27 January 2021 meeting regarding potential remediation: Tiwai Smelter

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Kia Ora Maureena,

Thank you for your email of 27 January. Similarly we are encouraged by your undertaking to consult with Ministers in relation to our concept proposal 9(2)(b)(ii)

In this regard there are a number of clarifications I need to make in relation to the points you've raised in your email below.

You have stated that there would be no financial contribution by NZAS' owners in this proposed concept. This is not accurate. NZAS is a tolling company and receives its funding via cash calls from the owners. NZAS payments into the remediation fund would be made by contributions from its owners. These payments would be separate from transmission pricing relief paid to NZAS.

In addition the NZAS Remediation Fund would operate alongside the commitments included in Alf Barrios' letter of 18 December 2020 which reflects what is prudent and sensible for NZAS to make at this time. We understand that remediation outcomes are important to the Government, as they are to the owners of NZAS. Rio Tinto takes its operating and closure responsibilities very seriously and is currently conducting an extensive Closure Study to understand any environmental impacts on the Tiwai Point site. This process is a lengthy one, involving the expertise of several independent environmental scientists. The first phase of this study is due to be completed late this year and includes extensive consultation with officials, our local community and Ngāi Tahu as mana whenua. As we have previously advised it would be imprudent of NZAS, or any business, to firmly commit to unquantifiable remediation outcomes ahead of completing studies to properly assess and quantify the options.

In relation to existing site characterisation data, please consider that NZAS complies with existing monitoring and reporting requirements overseen by Environment Southland. If the Crown has separate monitoring and reporting requirements that go beyond the requirements of the current regulations, this should be discussed with the Closure team as part of that consultation. As we have previously advised, they will want to understand what information the Crown requires, the purpose it will be used for to ensure the information is fit for purpose and, where appropriate, the steps the Crown will take to ensure that confidentiality is maintained.

I trust that this clarifies your understanding of our position.

I look forward to our next meeting on Wednesday 10 February, and receiving your feedback on whether Ministers are prepared to progress towards an agreement based on our proposal, to deliver NZAS a fixed and fair transmission price while addressing the Crown's desire for additional comfort that NZAS' owners will meet appropriate remediation commitments after NZAS closes.

In the meantime I wish you and your colleagues a happy Waitangi day tomorrow.

Kind Regards,  
S9(2)(a)

---

**From:** Maureena van der Lem [TSY] <Maureena.Vanderlem@treasury.govt.nz>

**Sent:** Wednesday, 27 January 2021 2:50 PM

**To:** S9(2)(a) @riotinto.com>

**Cc:** S9(2)(a)

S9(2)(a) ^MBIE: Andrew Hume <Andrew.Hume@mbie.govt.nz>;  
^MFE: Shaun Lewis <shaun.lewis@mfe.govt.nz>; Jean Le Roux [TSY] <Jean.LeRoux@treasury.govt.nz>; Alistair  
Birchall [TSY] <Alistair.Birchall@treasury.govt.nz>; S9(2)(a)

**Subject:** [External] RE: Commercial-In-Confidence: Proposed agenda for 27 January 2021 meeting regarding potential remediation: Tiwai Smelter

Kia ora S9(2)(a) and colleagues

Thank you again for your time on today's call.

We appreciate the overview you provided of your high-level conceptual proposal for transmission pricing and remediation and we are encouraged by the similarities with the balloon payment option the Crown previously proposed. You confirmed that there would be no financial contribution by NZAS' owners in this proposed concept.

As we outlined to you, Ministers have consistently communicated that environmental remediation is a bottom line. For any Crown agreement to be reached, NZAS is expected to make environmental commitments regarding the outcomes that will be achieved or the activities undertaken. We indicated that we do not consider the high-level conditional undertakings provided in Alf Barrios' letter of 18 December 2020 to be capable of forming the basis for a legal agreement in their current form.

You reiterated on today's call that Rio Tinto remains unable to make any environmental commitments until NZAS' closure study process is further advanced. You indicated that NZAS may choose to share preliminary outputs of the closure process with the Crown in Q4 2021. S9(2)(a) undertook to review the relevant closure process timelines, previously shared with the Crown in October 2020, and to re-circulate them to the Crown.

We also discussed the Crown's request for independent onsite assessments. We were encouraged to hear that NZAS already has significant sampling and testing, which could go some way to filling both parties' information gaps regarding the current state of the site. On our call you requested that we provide more specifics about the Crown's proposed independent onsite assessments. The Crown will work with its various agencies to determine the level of information and assessment required that would be incorporated into any Crown/NZAS agreement. Additionally, given the significant sampling and testing that NZAS is planning it would be helpful if NZAS was to provide, on a confidential basis, an overview of the sampling and testing it undertakes and/or is planning.

Finally, we discussed the Crown negotiating team's intention to advise Ministers of your proposal next week, and we accordingly agreed that we would postpone next week's call (3 February 2021) and reconvene negotiations on Wednesday 10 February 2021 at 2pm NZDT. We look forward to continuing discussions with you then.

Regards

Maureena



**Maureena van der Lem | Acting Director, Firm Support Directorate | Te Tai Ōhanga – The Treasury**

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**From:** Maureena van der Lem [TSY]

**Sent:** Tuesday, 26 January 2021 7:21 PM

**To:** S9(2)(a) <[redacted]@riotinto.com>

**Cc:** S9(2)(a)

[redacted] <[redacted]> ^MBIE: Andrew Hume <[Andrew.Hume@mbie.govt.nz](mailto:Andrew.Hume@mbie.govt.nz)>;

'^MFE: Shaun Lewis' <[shaun.lewis@mfe.govt.nz](mailto:shaun.lewis@mfe.govt.nz)>; Jean Le Roux [TSY] <[Jean.LeRoux@treasury.govt.nz](mailto:Jean.LeRoux@treasury.govt.nz)>; Alistair

Birchall [TSY] <[Alistair.Birchall@treasury.govt.nz](mailto:Alistair.Birchall@treasury.govt.nz)>; ^EXT: S9(2)(a)

**Subject:** Commercial-In-Confidence: Proposed agenda for 27 January 2021 meeting regarding potential remediation: Tiwai Smelter

[IN-CONFIDENCE]

Kia ora S9(2)(a)

Thank you for your email and the conceptual proposal for transmission pricing and remediation.

We appreciate your confirmation that NZAS' schedule of smelter closure work remains unchanged, and that NZAS may choose to share appropriate information from the Preliminary Closure Study with the Crown in Q4 2021. Thank you also for confirming that you are unable to make any remediation commitments, be they commitments to outcomes or activities, besides the high-level conditional undertakings provided in Alf Barrios' letter of 15 December 2020.

Thank you for giving consideration to the Crown's request for an independent onsite environmental assessment. While your proposal to contact S9(2)(a) about planned NZAS testing is helpful, we remain unclear whether you are agreeing or declining the Crown's request for permission to conduct an independent onsite environmental assessment (at the Crown's expense). It will be good to discuss this further and confirm your position on tomorrow's call.

We acknowledge receipt of your conceptual proposal for transmission pricing and remediation for the Crown to consider. We can see a lot of similarities with the balloon payment proposal that the Crown previously made. We suggest that your proposal is the focus of our call tomorrow, Wednesday 27 January 2021, and propose the following agenda:

1. Rio Tinto provide an overview of the conceptual proposal for transmission pricing and remediation.
2. Crown opportunity to ask questions, seek clarifications etc.
3. Discussion of the Crown's request for an independent onsite environmental assessment.
4. Timing and next steps, including the next meeting between the negotiating teams.

We look forward to discussing with you further tomorrow.

Regards  
Maureena



**Maureena van der Lem | Acting Director, Firm Support Directorate | Te Tai Ōhanga – The Treasury**  
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