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| Meridian Energy’s process for purchasing property not unreasonable  |
| Legislation Ombudsmen Act 1975, State Owned Enterprises Act 1986Agency Meridian EnergyOmbudsman Dame Beverley WakemCase number(s) 324738 (previously unpublished)Date 2012 |

*Complaint about price Meridian Energy paid for a property—Ombudsman found the process had been reasonable*

Meridian Energy required access to the complainant’s farm, and due to its strategic importance entered discussions to purchase the property. The complainant believed that Meridian Energy had offered a sale price which was below an earlier offer and below the value of the property, and made a complaint to the Ombudsman.

Meridian Energy advised the Ombudsman that a commercial transaction was outside the Ombudsman’s jurisdiction, claiming that it was unclear how the purchase of the property was a ‘matter of administration’ under the Ombudsmen Act. The Ombudsman advised Meridian that its status as a State-Owned Enterprise meant that it had been subject to the OA since its incorporation.[[1]](#footnote-1) The Ombudsman noted that an entity performing functions under the legislation, is acting, for the purposes of the OA, in relation to a matter of administration. That this includes commercial transactions was held to be the case by the Canadian Supreme Court decision in *re British Columbia Development Corporation and Friedman* (1984) 14 DLR (4th) 129), a decision that confirmed the commonly understood position. Furthermore, the Privy Council has observed that while a state owned enterprise is structured so it is separate from the Crown, as its title indicates, it remains very much the Crown’s creature.

The Ombudsman concluded that Meridian Energy’s processes during the purchase negotiations, were not un reasonable. The SOE had made an offer several years earlier, which had subsequently lapsed. When a second offer was on the table, the property owner considered that it should reach the amount suggested at an earlier time. However, as Meridian pointed out, this was not feasible or necessary.

The Ombudsman noted that Meridian had obtained valuations of the property at the time of the second purchase negotiations and had offered the higher of the two prices to the vendor. The Ombudsman concluded that the fact that this offer did not match the property owner’s expectations, (or an amount indicated when the initial offer was being discussed) was not unreasonable or unfair. Meridian noted that if the seller had objected to the valuations, action could have been taken action under the Valuers Act 1948. However the vendor agreed to sell at the price offered.

The complainant maintained that Meridian’s actions were inconsistent with its obligation under section 4(1)(c) of the SOE Act to be ‘an organisation that exhibits a sense of social responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate or encourage these when able to do so.’ The Ombudsman did not agree (Meridian having followed a reasonable process), and the complaint was not sustained.

*This case note is published under the authority of the* [*Ombudsmen Rules 1989*](http://legislation.govt.nz/regulation/public/1989/0064/latest/DLM129834.html?src=qs)*. It sets out an Ombudsman’s view on the facts of a particular case. It should not be taken as establishing any legal precedent that would bind an Ombudsman in future.*

1. Meridian Energy is no longer a State Owned Enterprise subject to the Ombudsman’s jurisdiction. [↑](#footnote-ref-1)