

Hon Carmel Sepuloni

Minister for Arts, Culture and Heritage

PROACTIVE RELEASE OF CABINET MATERIAL: GOVERNMENT
INDEMNITY OF TOURING EXHIBITIONS SCHEME: APPLICATIONS FOR
EXHIBITIONS IN 2021 AND 2022

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Date: 19 April 2021

Title: Government Indemnity of Touring Exhibitions Scheme: Applications for Exhibitions in 2021 and 2022

Author: Ministry for Culture and Heritage

These documents have been proactively released by the Minister. This package includes the Cabinet paper and other key decision papers, as listed below.

Title: Cabinet Business Committee paper “Government Indemnity of Touring Exhibitions Scheme: Applications for Exhibitions in 2021 and 2022”

Minute of Decision CBC-21-MIN-0042

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the OIA). Where this is the case, the relevant sections of the OIA that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to redactions:

9(2)(b)(ii) – to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.

COMMERCIAL IN CONFIDENCE

Office of the Minister for Arts Culture and Heritage

Office of the Minister of Finance

Cabinet Business Committee

Government Indemnity of Touring Exhibitions Scheme: Applications for Exhibitions in 2021 and 2022

Proposal

- 1 This paper seeks agreement to temporarily lift the standard limits of the Government Indemnity of Touring Exhibitions Scheme (the Scheme) over 2021 and 2022. This would enable indemnification of two exhibitions scheduled to be shown in New Zealand at the Museum of New Zealand Te Papa Tongarewa (Te Papa) and City Gallery Wellington (City Gallery).

Relation to government priorities

- 2 The Scheme is an important part of this Government's priority of laying the foundations for the future. This proposal supports this priority through ensuring that New Zealanders have access to high quality international works of cultural significance that enhance access, participation and innovation in the arts sector.

Executive Summary

- 3 This is a routine variation under the Scheme that requires Cabinet approval. Approval for indemnities is formally given by the Minister of Finance under section 65ZD of the Public Finance Act 1989. Unless the exhibition falls within the financial limits prescribed by Cabinet in 1999, the Minister for Arts, Culture and Heritage and the Minister of Finance report a proposed indemnification to Cabinet prior to approval being given [CAB (99) M 4/2B(1) refers].
- 4 Te Papa and City Gallery seek government indemnity for two separate touring exhibitions in 2021 and 2022. New Zealanders' access to exhibitions of this nature are typically supported by the Scheme. The fundamental principle of the Scheme is accessibility: Government is interested in facilitating the public's access to significant exhibitions and does this by assuming a high proportion of the risk, minimising prohibitive commercial insurance costs.
- 5 Te Papa plans to host *Surrealist Art: Masterpieces from Museum Boijmans Van Beuningen (Surrealist Art)* from 12 June – 31 October 2021
[REDACTED]
9(2)(b)(ii)
- 6 City Gallery plans to host *Hilma af Klint: The Secret Paintings (Hilma af Klint)* from 4 December 2021 – 27 March 2022
[REDACTED]
9(2)(b)(ii)

9(2)(b)(ii)

- 7 The standard limits of the Scheme are \$50 million per consignment value and concurrent total risk up to \$150 million at any one time. Total risk is based on the highest consignment value per exhibition and is articulated as an accrual of likely largest pay-outs.
- 8 As Te Papa's and City Gallery's applications exceed the standard parameters of the Scheme, Cabinet approval is sought to the following short-term variations over May 2021 to April 2022 to enable indemnification of the exhibitions. The variations sought are greater than the highest consignment values to allow for overlapping periods and potential adverse currency fluctuations (a 10% contingency).

9(2)(b)(ii)

9(2)(b)(ii)

9(2)(b)(ii)

- 9 If approved, the Ministry for Culture and Heritage (the Ministry) and the Treasury (Treasury) will finalise the indemnity deeds for the Minister of Finance's signature. Once signed, the indemnities are formally tabled in Parliament, although the dollar amount is not stipulated. The indemnifications will appear as a contingent liability in the Crown's financial statements.
- 10 Ministry officials are working with Treasury to understand if there is any issue with the existing financial parameters of the Scheme.

The Scheme enables significant touring exhibitions to show in New Zealand

- 11 Since the Scheme's inception in 1986, government has supported many touring exhibitions coming to New Zealand. The parameters of the Scheme are set at \$50 million per consignment value and a \$150 million total concurrent loss limit. There is no upper limit for the value of an exhibition. Risk assessment is based on the highest value consignment per exhibition and the loss limit is an accrual of these likely largest pay-outs.

Te Papa and City Gallery seek indemnity for exhibitions in 2021 and 2022

- 12 Te Papa seek government indemnity for the exhibition *Surrealist Art* (12 June – 31 October 2021), toured by Museum Boijmans Van Beuningen, the Netherlands. *Surrealist Art* will be the first time a major exhibition of Surrealist art has been presented in New Zealand and will offer a survey of 180 works by leading Surrealist artists 9(2)(b)(ii)

- 13 City Gallery seek government indemnity for the exhibition *Hilma af Klint* (4 December 2021 – 27 March 2022), toured by the Hilma af Klint Foundation, Sweden. It will be the first showing of Hilma af Klint's works in New Zealand and a rare opportunity for New Zealanders to view the collection of 128 works

9(2)(b)(ii)

9(2)(b)(ii)

As the values exceed the standard limits, Cabinet agreement is necessary

- 15 The exhibition arrangements negotiated between the exhibition partners and the lenders require that the works travel in agreed consignment numbers. While this results in consignment values that are not consistent with the standard limits of the Scheme, the arrangements result from legitimate actuarial analysis and are common internationally. Breaking the exhibition into additional consignments would increase costs substantially.

- 16 *Surrealist Art* will travel to New Zealand in two consignments each valued at approximately 9(2)(b)(ii). Indemnity is required from when the objects are condition reported in the Netherlands and until they are condition reported at a second tour venue in Seoul, South Korea.

9(2)(b)(ii)

- 17 *Hilma af Klint* will travel to New Zealand in one consignment currently valued at 9(2)(b)(ii). Indemnity is required from when the objects are condition reported at the first venue in Sydney, Australia and until they are condition reported on return to the lender in Stockholm.

9(2)(b)(ii)

- 18 The value of the exhibition's consignments exceed the \$50 million per consignment limit and the \$150 million limit on total risk set by the Scheme. Consequently, Cabinet's agreement to the indemnification is necessary. If agreed, the next step will be for the Minister of Finance, on behalf of the Crown, to give the indemnity if it appears to the Minister of Finance to be necessary or expedient in the public interest to do so.

Concurrent exhibition indemnities at New Zealand cultural institutions

- 19 There is an existing indemnity for an exhibition at Tairāwhiti Museum 9(2)(b)(ii) 9(2)(b)(ii) for which an extension has been requested due to the implications of COVID-19. Te Papa's and City Gallery's indemnity periods will overlap with the existing indemnity; and with each other's indemnity

periods during September to November 2021. The Scheme allows for concurrent exhibitions to be indemnified and the overlapping periods are considered reasonable due to their short duration (Te Papa's and City Gallery's), and the lower value of Tairāwhiti Museum's indemnity which by itself is within the Scheme's standard parameters.

New Zealanders will benefit from access to the exhibitions

- 20 The exhibitions demonstrate the significance and cultural value necessary to warrant government indemnity. Both exhibitions are expected to be appreciated by a broad range of people and to offer valuable opportunities for cultural experience, education, and scholarship. Importantly, the exhibitions will provide New Zealanders with access to internationally significant art when they do not have the means to easily travel beyond New Zealand.
- 21 The exhibitions will engage a variety of audiences and enhance learning opportunities through diverse and extensive public and education programmes. The exhibitions will also add to the tourism value proposition in Wellington during the winter and summer seasons. Te Papa forecasts 100,000 domestic visitors will attend the exhibition, while City Gallery forecasts 50,000 domestic visitors. Should New Zealand's border be open to any international tourists or in a bubble arrangement, there will be opportunity to engage additional audiences.

The exhibitions would be prohibitively expensive without indemnity

9(2)(b)(ii)

9(2)(b)(ii)

9(2)(b)(ii)

9(2)(b)(ii)

9(2)(b)(ii)

Government can support the exhibitions through indemnification

- 26 Agreement is sought for the following short-term variations to the standard limits of the Scheme for the outlined periods, to allow for indemnification of the exhibitions.

9(2)(b)(ii)

- 27 The highest values indemnified to date were for *Monet and the Impressionists* shown at Te Papa in 2009.

9(2)(b)(ii)

- 28 If Cabinet declines to approve the variations to the existing parameters of the Scheme, Ministry officials will discuss with Te Papa and City Gallery how commercial insurance may be funded for the exhibitions while minimising the negative impacts on their core services and activities.

Security provisions and ‘first-risk’ insurance protect Government’s interests

- 29 While indemnification or insurance is a necessary prerequisite to loans of high value works, the irreplaceable nature means that lenders are primarily concerned with other risk mitigation arrangements that give comfort that the works will be returned undamaged. This is consistent with government’s own objectives when making an indemnity available. Strict security provisions to mitigate the risk of loss or damage are stipulated in the indemnity deeds and the Crown will have no liability to make any payment unless the applicants have fully complied with their obligations. To date, no claim has ever been made against a Crown indemnity under the Scheme.

- 30 Applicants must also take out 'first-risk insurance' up to a specified amount relative to the total value of the exhibition.

9(2)(b)(ii)

There is comprehensive planning for exhibiting in the COVID-19 environment

- 31 While the COVID-19 environment increases the potential of disruptions to touring exhibitions, the applicants have undertaken comprehensive risk assessment and contingency planning for the exhibitions' transit and display. If indemnity is approved the documents will be submitted as part of the indemnity deed negotiations that will be provided to the Minister of Finance for final approval. The exhibitions will open to the public in accordance with the COVID-19 Alert Levels, and security for the artworks would not be interrupted at any Alert Level.
- 32 The Scheme requires at least one experienced courier to accompany consignments during transit. The applicants are required to complete any relevant visa and Managed Isolation and Quarantine (MIQ) applications, and all costs associated with travel and MIQ will be carried by the applicants.

Officials are responding to demands on the limits of the Scheme

- 33 The value of touring exhibitions is significantly higher than 32 years ago, and applications are increasingly exceeding the Scheme's financial parameters. In the last 10 years, only one application has been within the standard limits and Cabinet has been required to consider most applications. To address this pressure, the Ministry is working with Treasury to understand the trends and changing demands on the Scheme. Officials will report to their respective Ministers in the first instance.

Conclusion

- 34 While the consignment values and total value of the works involved exceeds the usual limits for the Scheme, the heightened risk should be weighed against the benefits to be accrued from the exhibitions. It is submitted that risk can be appropriately managed, in support of New Zealanders' access to these cultural objects.
- 35 If the variations to enable the indemnifications is approved, the Ministry will negotiate with Te Papa and City Gallery to finalise the details of the indemnity deeds. The deeds will be provided to the Minister of Finance for his signature.

Financial Implications

- 36 There are no direct financial implications in this paper. However, the maximum possible cumulative pay-out would be 9(2)(b)(ii) (current exchange rates apply) in the extremely improbable scenario of multiple major emergencies or other events destroying all the works for all three exhibitions during the respective Te Papa, City Gallery, and Tairāwhiti Museum indemnity periods. This is the total combined value of the three exhibitions.

Legislative Implications

37 The proposals in this paper have no legislative implications.

Impact Analysis

38 A Regulatory Impact Statement is not required for this paper.

Climate Implications of Policy Assessment

39 A Climate Implications of Policy Assessment is not required for this proposal.

Human Rights

40 The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

41 Treasury, Tairāwhiti Museum, Te Papa, and City Gallery have been consulted in the drafting of this paper.

Communications

42 If indemnity is approved, publicity requirements will apply to Government's support, and the applicants will be required to acknowledge the government indemnity in any publicity and marketing for the exhibition. The values of the items will not be made public and are to be confidential between the lenders, exhibition partners, the applicant, and the government.

Proactive Release

43 This paper is intended to be proactively released in the form of a comprehensive summary within 30 business days. A summary is considered appropriate as the proposal includes commercially sensitive information and matters relating to security of the items. The summary will capture the contents of the Cabinet paper in part and exclude any sensitive information.

Recommendations

It is recommended that the Cabinet:

- 1 **Note** that Te Papa and City Gallery have applied for indemnification of two separate exhibitions: *Surrealist Art* at Te Papa and *Hilma af Klint* at City Gallery.
- 2 **Note** that the Government Indemnity Scheme currently operates under the following parameters [CAB (99) M 4/2B(1) refers]:
 - 2.1 Crown risk assessment will be based on the "likely largest pay-out", which will equal the highest value single consignment or, if transit is not indemnified, the highest value single artwork

- 2.2 the Crown will accept risk up to \$150 million at any one time based on an aggregation of likely largest pay-outs
- 2.3 the consignment limit is \$50 million
- 2.4 the level of first-risk insurance that must be procured commercially is to be altered to a banded scale as set out in the submission under STR (99) 9, starting at \$50,000 for an exhibition valued at \$2.5 million through to \$500,000 for an exhibition valued at or above \$275 million.

3 **Note** that Cabinet has agreed that the Minister of Finance and Minister for Arts, Culture and Heritage would report to Cabinet if there are special cases which require indemnification outside these parameters [CAB (99) M 4/2B(1) refers].

4 **Note** that, to reduce travel costs, the exhibitions will come in agreed consignments which will exceed the consignment value limits of the Scheme:

9(2)(b)(ii)

9(2)(b)(ii)

5 **Note** that the total value of the exhibitions 9(2)(b)(ii) are both above the total loss limit of the Scheme.

6 **Agree** to the following exceptions to the existing parameters of the Scheme for specified periods:

9(2)(b)(ii)

9(2)(b)(ii)

9(2)(b)(ii)

- 7 **Note** that the variations sought are greater than the highest consignment values of the exhibitions to allow for overlapping periods and potential adverse currency fluctuations between now and the end of the indemnity periods.
- 8 **Note** that the Ministry for Culture and Heritage will negotiate with Te Papa and City Gallery to finalise the Indemnity Deeds, to be provided to the Minister of Finance for final approval.
- 9 **Note** that following the signing of the Deeds, the government's indemnity is formally tabled in Parliament (although the dollar amount is not stipulated) and the indemnification will appear as a contingent liability on the Crown's financial statements.
- 10 **Note** that the Ministry for Culture and Heritage, in consultation with Treasury, is working to understand the trends and changing demands on the Scheme. Officials will report to their respective Ministers in the first instance.

Authorised for lodgement

Hon Carmel Sepuloni

Minister for Arts, Culture and Heritage

Hon Grant Robertson

Minister of Finance

Proactive release

9(2)(b)(ii)

Proactive release



Cabinet Business Committee

Minute of Decision

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

Government Indemnity of Touring Exhibitions Scheme: Applications for Exhibitions in 2021 and 2022

Portfolio Finance / Arts, Culture and Heritage

On 19 April 2021, the Cabinet Business Committee, having been authorised by Cabinet to have Power to Act [CAB-21-MIN-0134]:

1 **noted** that:

1.1 the Government Indemnity of Touring Exhibitions Scheme (the Scheme) operates under the following parameters:

1.1.1 Crown risk assessment will be based on the 'likely largest pay-out', which will equal the highest value single consignment or, if transit is not indemnified, the highest value single artwork;

1.1.2 the Crown will accept risk up to \$150 million at any one time based on an aggregation of likely largest pay-outs;

1.1.3 the consignment limit is \$50 million;

1.1.4 the level of first-risk insurance that must be procured commercially is a banded scale, starting at \$50,000 for an exhibition valued at \$2.5 million through to \$500,000 for an exhibition valued at or above \$275 million;

1.2 Cabinet agreed that the Minister of Finance and the Minister for Arts, Culture and Heritage would report to Cabinet if there are special cases that require indemnification outside the above approved parameters

[CAB (99) M 4/2B(1)];

2 **noted** that the Museum of New Zealand Te Papa Tongarewa (Te Papa) and City Gallery Wellington (City Gallery) have applied for indemnification of two separate exhibitions:

2.1 *Surrealist Art* at Te Papa; and

2.2 *Hilma af Klint* at City Gallery;

3 **noted** that to reduce travel costs, the above exhibitions will come in agreed consignments that will exceed the consignment value limits of the Scheme:

3.1

9(2)(b)(ii)

3.2

9(2)(b)(ii)

4 **noted** that the total value of the exhibitions, at 9(2)(b)(ii) (Te Papa) and 9(2)(b)(ii) (City Gallery), at current exchange rates, are both above the total loss limit of the Scheme;

5 **agreed** to the following exceptions to the existing parameters of the Scheme for specified periods:

5.1

9(2)(b)(ii)

5.2

9(2)(b)(ii)

5.3

9(2)(b)(ii)

6 **noted** that the variations sought are greater than the highest consignment values of the exhibitions to allow for overlapping periods and potential adverse currency fluctuations between now and the end of the indemnity periods;

7 **noted** that the Ministry for Culture and Heritage will negotiate with Te Papa and City Gallery to finalise the Indemnity Deeds, to be provided to the Minister of Finance for final approval;

8 **noted** that following the signing of the Deeds, the government's indemnity will be formally tabled in Parliament (although the dollar amount will not be stipulated), and the indemnification will appear as a contingent liability on the Crown's financial statements;

9 **noted** that the Ministry for Culture and Heritage, in consultation with Treasury, is working to understand the trends and changing demands on the Scheme, and that officials will report to their respective Ministers in the first instance.

Rachel Clarke
Committee Secretary
Present (see over)

Present:

Rt Hon Jacinda Ardern (Chair)
Hon Grant Robertson
Hon Kelvin Davis
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Carmel Sepuloni
Hon Andrew Little
Hon David Parker
Hon Nanaia Mahuta
Hon Poto Williams
Hon Damien O'Connor
Hon Stuart Nash
Hon Kris Faafoi
Hon Michael Wood
Hon Dr Ayesha Verrall

Officials present from:

Office of the Prime Minister
Department of the Prime Minister and Cabinet

Proactive release