

Hon Carmel Sepuloni

Minister for Arts, Culture and Heritage

Proactive Release of Cabinet Material: Government Indemnity of Light from Tate
exhibition at Auckland Art Gallery

[08/02/2023]

Date: 08 February 2023

Title: Government Indemnity of Light from Tate at Auckland Art Gallery

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 Economic Development Committee paper “Government Indemnity of
Light from Tate exhibition at Auckland Art Gallery”

Minutes of Decision DEV-21-MIN-0309

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.

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 Economic Development Committee

Routine Variation to the Government Indemnity of Touring Exhibitions Scheme limits: *Light from Tate*, Auckland Art Gallery Toi o Tāmaki

Proposal

- 1 This paper seeks agreement to:
 - 1.1 Approve a routine variation under the Government Indemnity Scheme for Touring Exhibitions (the Scheme), to enable indemnification of the exhibition *Light from Tate* at Auckland Art Gallery Toi o Tāmaki in 2023.

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 by ensuring that New Zealanders have access to high-quality international works of cultural significance that enhance 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 Auckland Art Gallery seeks government indemnity for the exhibition *Light from Tate: 1700s to now*, to be shown in New Zealand from 25 March – 25 June 2023. The total indemnity period would be 6 February 2023 to 10 July 2023.
- 5 The Scheme typically supports New Zealanders' access to exhibitions of this nature. The fundamental principle of the Scheme is accessibility: Government wishes to facilitate the public's access to significant exhibitions and does this by assuming a high proportion of the risk, minimising prohibitive commercial insurance costs.
- 6 Under the Scheme, government assesses the indemnity risk as the exhibition's single highest-valued consignment, or, in cases where transit doesn't need to be indemnified, the value of the single item with the highest value.
- 7 The standard limits of the Scheme are \$50 million per consignment value (or single highest-valued object), and concurrent total risk up to \$150 million at

any one time. Total risk is based on the highest consignment (or object) value per exhibition and is articulated as an accrual of likely largest pay-outs.

- 8 The total value of the exhibition is [REDACTED] 9(2)(b)(ii), currently NZD currently [REDACTED] 9(2)(b)(ii). This application is only for the in-situ period of the exhibition, as transit cover is not required. The highest-valued single item in the exhibition is [REDACTED] 9(2)(b)(ii), currently approximately [REDACTED] 9(2)(b)(ii).
- 9 If agreed to by Cabinet, the next step is 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.
- 10 If approved by the Minister of Finance, the Ministry for Culture and Heritage (the Ministry) and the Treasury (Treasury) will finalise the indemnity deed for the Minister of Finance's signature. Once signed, the indemnity will be formally tabled in Parliament, although the dollar amount is not stipulated. The indemnity will appear as a contingent liability in the Crown's financial statements.

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.
- 12 Most visitors to museums and galleries in New Zealand visit for a specific exhibition and the users of the Scheme report an increase in visitor numbers when significant exhibitions are on. According to Treasury's Living Standard Framework the percentage of people participating in the arts is increasing, from 36% in 2011 to 72% in 2020.

Auckland Art Gallery seeks indemnity for an exhibition opening late March 2023

- 13 Auckland Art Gallery seeks government indemnity for the exhibition *Light from Tate: 1700s to now*, toured by the Tate Museum, United Kingdom. The Tate is touring the exhibition through Seoul, South Korea, Melbourne, Australia, Auckland, New Zealand, and Tokyo, Japan. *Light* is currently on display at ACMI Melbourne until mid-November 2022 and will stay in secure storage there until dispatch to New Zealand in February 2023, for the exhibition opening in March.
- 14 Once the exhibition closes in New Zealand it will be deinstalled and condition checked. The National Art Centre in Tokyo will then take over insurance cover of the exhibition including for its outward transit.
- 15 Curated by the Tate in the United Kingdom and drawn from their extensive and prestigious collection, the exhibition will give New Zealand audiences the

opportunity to experience some of the most important artworks in the history of Western art from one of the world's pre-eminent public art collections including works from Claude Monet and Joseph Mallord William Turner. The exhibition consists of 110 objects (refer to Appendix A for the object list). It includes works from iconic artists like the great Romantic painter J.M.W. Turner, John Constable, and ground-breaking works from modern and contemporary artists.

- 16 Auckland Art Gallery will take first-risk insurance of up to [9(2)(b)(ii)] cover, the requisite threshold under the Scheme for an exhibition valued at or above [9(2)(b)(ii)], at a cost of [9(2)(b)(ii)] over and above their current insurance cover.

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

- 17 The exhibition arrangements negotiated between the exhibition venues and the lender mean that indemnity is only required for the period the exhibition is in New Zealand; specifically, from when the artworks are condition reported on arrival from Australia into New Zealand, until they are condition reported prior to leaving New Zealand to carry on to Japan. The dates are 6 February 2023 to around 10 July 2023 (final date to be confirmed).
- 18 Specifically, an agreement is sought for a short-term increase in the standard parameters of the Scheme to an agreed single item value of up to [9(2)(b)(ii)] [9(2)(b)(ii)] is greater than the [9(2)(b)(ii)] value of the item to allow for potential adverse currency fluctuations between now and the end of the indemnity period.

New Zealanders will benefit from access to the exhibition

- 19 *Light from Tate: 1700s to now* demonstrates the significance and cultural value necessary to warrant government indemnity. The exhibition is expected to be appreciated by a broad range of people and to offer valuable opportunities for cultural experience, education, and scholarship. The exhibition will also provide New Zealanders with access to internationally significant cultural heritage material when they do not have the means to easily travel beyond New Zealand.
- 20 The exhibition is expected to engage a variety of audiences and enhance learning opportunities through diverse public and education programmes. *Light from Tate: 1700s to now* will also add to the tourism value proposition in Auckland while on display from March to June 2023. Auckland Art Gallery forecasts approximately 48,000 visitors will attend the exhibition, with further opportunity to engage additional audiences with the international cruise ship season back in full in 2023.
- 21 Auckland Art Gallery has considered potential impacts of public health measures on visitation should restrictions be in place while the exhibition is on display.

The exhibition would be prohibitively expensive without indemnity

- 22 If government indemnity is approved, *Light from Tate: 1700s to now* exhibition budget (refer Appendix B) projects losses of [9(2)(b)(ii)]. Auckland Art Gallery has considered if it would be possible to increase revenue and remove the need for indemnity, however, it would not be financially viable for the Gallery to pay for commercial insurance as set out below.
- 23 Admission charges for the exhibition were calculated by making comparisons with other major paid exhibitions in New Zealand, and Auckland Art Gallery must be careful not to over-price so as not to lose visitors. Increasing ticket prices would reduce access and visitor numbers and would undermine the principle of accessibility that is fundamental to the Scheme.
- 24 Auckland Art Gallery has calculated the cost of insuring through a commercial insurance scheme. This would be [9(2)(b)(ii)] and would reduce by [9(2)(b)(ii)] with government indemnity. The remaining [9(2)(b)(ii)] is the cost for the Gallery to secure first-risk insurance for the exhibition, a requirement of government indemnity. If government indemnity is not approved, the exhibition’s projected losses would increase to approximately [9(2)(b)(ii)].

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

- 25 While indemnification or insurance is a prerequisite to loans of high value works, the works’ irreplaceable nature means that lenders are primarily concerned with other risk mitigation arrangements giving 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 applicant has fully complied with their obligations. To date, no claim has ever been made against a Crown indemnity under the Scheme.
- 26 Applicants must also take out ‘first-risk’ insurance up to a specified amount relative to the total value of the exhibition. Auckland Art Gallery will take first-risk insurance of up to \$500,000 cover.
- 27 While the Auckland Art Gallery application exceeds the usual limits for the Scheme, the heightened risk should be weighed against the benefits to be accrued from the exhibition. It is submitted that risk can be appropriately managed, in support of New Zealanders’ access to these cultural objects.

Financial Implications

- 28 There are no direct financial implications in this paper. However, the maximum possible pay-out would be [9(2)(b)(ii)] (exchange rates at 11 October 2022 apply) in the extremely improbable scenario of multiple major emergencies or other events destroying all the works in the exhibition during the indemnity period. This is the total value of the exhibition.

Legislative Implications

29 The proposals in this paper have no legislative implications.

Impact Analysis

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

Climate Implications of Policy Assessment

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

Human Rights

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

Consultation

33 The Treasury and Auckland Art Gallery Toi o Tāmaki have been consulted in the drafting of this paper.

Communications

34 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 will be confidential between the lenders, exhibition partners, the applicant, and the government.

Proactive Release

35 This paper and associated Cabinet Minute is intended to be proactively released within 30 business days of the Cabinet's decision. Commercially sensitive information and matters relating to security of the items will be redacted in accordance with the relevant sections of the Official Information Act 1982.

Recommendations

It is recommended that the Cabinet:

- 1 **Note** that Auckland Art Gallery has applied for indemnification of the exhibition *Light from Tate: 1700s to now*.
- 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 were special cases which require indemnification outside these parameters [CAB (99) M 4/2B(1) refers].
- 4 **Note** that the indemnity in question is only for the in-situ period of the exhibition with other partner venues covering the transit periods.
- 5 **Agree** to the following exception to the existing parameters of the Scheme for a specified period:
- 5.1 the consignment limit will be raised to 9(2)(b)(ii) for the period 6 February 2023 to 10 July 2023
- 6 **Note** that the variations sought are greater than the highest consignment values of the exhibition to allow for potential adverse currency fluctuations between now and the end of the indemnity period.
- 7 **Note** that the Ministry for Culture and Heritage will negotiate with Auckland Art Gallery to finalise the Indemnity Deed, to be provided to the Minister of Finance for final approval.
- 8 **Note** that following the signing of the Deed, the government 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.

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Arts, Culture and Heritage

Hon Grant Robertson
Minister of Finance

Appendices

9(2)(b)(ii)

Proactively Released



Cabinet Economic Development 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.

Auckland Art Gallery Tate Exhibition: Standard Variation of Government Indemnity Scheme

Portfolios Finance / Arts, Culture and Heritage

On 14 December 2022, the Cabinet Economic Development Committee:

- 1 **noted** that Auckland Art Gallery has applied for indemnification of the exhibition *Light from Tate: 1700s to now*;
- 2 **noted** that the Government Indemnity of Touring Exhibitions Scheme (the Scheme) operates under the following parameters [CAB (99) M 4/2B(1)]:
 - 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, 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 **noted** that under the Scheme, the Minister of Finance and the Minister for Arts, Culture and Heritage would report to Cabinet if there were special cases that require indemnification outside the approved parameters [CAB (99) M 4/2B(1)];
- 4 **noted** that the indemnity being sought is only for the in-situ period of the exhibition, with other partner venues covering the transit periods;
- 5 **agreed** to the following exception to the existing parameters of the Scheme for a specified period:
 - 5.1 the consignment limit will be raised to 9(2)(b)(ii) for the period 6 February 2023 to 10 July 2023;
- 6 **noted** that the variation sought is greater than the highest consignment values of the exhibition to allow for potential adverse currency fluctuations between now and the end of the indemnity period;

- 7 **noted** that the Ministry for Culture and Heritage will negotiate with Auckland Art Gallery to finalise the Indemnity Deed, to be provided to the Minister of Finance for final approval;
- 8 **noted** that following the signing of the Indemnity Deed, the government 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.

Janine Harvey
Committee Secretary

Present:

Hon Dr Megan Woods (Chair)
Hon Carmel Sepuloni
Hon David Parker
Hon Nanaia Mahuta
Hon Damien O'Connor
Hon Stuart Nash
Hon Michael Wood
Hon Meka Whaitiri
Hon Kieran McAnulty
Rino Tirikatene MP
Dr Deborah Russell MP

Officials present from:

Office of the Prime Minister
Officials Committee for DEV