



TE TAI ŌHANGA
THE TREASURY

Reference: 20210244

22 July 2021



Dear [redacted]

Thank you for your Official Information Act (OIA) request, received on 26 May 2021. You requested the following:

- *Treasury Report T2020/3713: Screen Sector Indemnity Scheme: First Tranche*
- *Treasury Report T2020/3761: Upcoming Issues Briefing for the Minister - 10 December 2020*
- *Treasury Report T2020/3672: Finance Portfolio: Guardians of New Zealand Superannuation: Update and Letters*
- *Reserve Bank of New Zealand Briefing to the Minister 5772: House prices and the role of the Reserve Bank*
- *Treasury Report T2020/3529: Outline of measures to moderate house price growth*
- *Joint Report by the Treasury and New Zealand Infrastructure Commission T2020/3605: Finalising the COVID-19 settlement for Transmission Gully*
- *Inland Revenue Report IR2020/457: Transformation status update: October / November 2020*
- *Treasury Report T2020/3656: Upcoming Issues Briefing for the Minister - 03 December 2020*
- *Treasury Report T2020/3350: Overseas Investment Act Forestry Review: Process Update*
- *Treasury Report T2020/3652: Update on ACC Investments Approach to Climate Change*
- *Treasury Report T2020/3429: New Zealand Post: Investment Consultation and Letter of Expectations for 2021/22*
- *Aide Memoire T2020/3631: Minister's Meeting with New Zealand Post (10 December 2020)*
- *Inland Revenue Report IR2020/510: Decommissioning petroleum exploration wells*
- *Treasury Report T2020/3798: Decommissioning Tui Oil Field: Options for ensuring compliance with the Maritime Transport Act 1994*

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<https://treasury.govt.nz>

- *Joint Report by the Treasury and Ministry of Business, Innovation and Employment T2020/3678: Future of Work Tripartite Forum Governance Group Meeting, 14 December 2020*
- *Treasury Report T2020/3756: Advanced Vaccine Purchasing: Entering Definitive Agreement - Pfizer*

On 8 June 2021, the following documents were transferred to either Inland Revenue or the Reserve Bank of New Zealand respectively:

- *Reserve Bank of New Zealand Briefing to the Minister 5772: House prices and the role of the Reserve Bank*
- *Inland Revenue Report IR2020/457: Transformation status update: October / November 2020*
- *Inland Revenue Report IR2020/510: Decommissioning petroleum exploration wells*

On 18 June 2021, I extended the time frame for responding to your request by 20 working days.

Information being released

Please find enclosed the following documents:

Item	Date	Document Description	Decision
1.	2 December 2020	Treasury Report T2020/3429: New Zealand Post: Investment Consultation and Letter of Expectations for 2021/22	Release in part
2.	2 December 2020	Treasury Report T2020/3652: Update on ACC Investments Approach to Climate Change	Release in part
3.	3 December 2020	Treasury Report T2020/3350: Overseas Investment Act Forestry Review: Process Update	Release in part
4.	3 December 2020	Treasury Report T2020/3656: Upcoming Issues Briefing for the Minister - 03 December 2020	Release in part
5.	7 December 2020	Joint Report by the Treasury and MBIE T2020/3678: Future of Work Tripartite Forum Governance Group Meeting, 14 December 2020	Release in part
6.	8 December 2020	Aide Memoire T2020/3631: Minister's Meeting with New Zealand Post (10 December 2020)	Release in part
7.	10 December 2020	Treasury Report T2020/3672: Finance Portfolio: Guardians of New Zealand Superannuation: Update and Letters	Release in part
8.	10 December 2020	Treasury Report T2020/3761: Upcoming Issues Briefing for the Minister - 10 December 2020	Release in part
9.	15 December 2020	Treasury Report T2020/3713: Screen Sector Indemnity Scheme: First Tranche	Release in part
10.	15 December 2020	Treasury Report T2020/3798: Decommissioning Tui Oil Field: Options for ensuring compliance with the Maritime Transport Act 1994	Release in part
11.	18 December 2020	Treasury Report T2020/3756: Advanced Vaccine Purchasing: Entering Definitive Agreement - Pfizer	Release in part

I have decided to release the documents listed above, subject to information being withheld under one or more of the following sections of the OIA, as applicable:

- personal contact details of officials, under section 9(2)(a) – to protect the privacy of natural persons, including that of deceased natural persons,
- commercially sensitive information, under section 9(2)(b)(ii) – to protect the commercial position of the person who supplied the information, or who is the subject of the information,
- sensitive information, under section 9(2)(ba)(i) – to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to 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,
- sensitive information, under section 9(2)(ba)(ii) – to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely otherwise to damage the public interest,
- advice still under consideration, section 9(2)(f)(iv) – to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials,
- certain sensitive advice, under section 9(2)(g)(i) – to maintain the effective conduct of public affairs through the free and frank expression of opinions,
- names and contact details of officials, under section 9(2)(g)(ii) – to maintain the effective conduct of public affairs through protecting Ministers, members of government organisations, officers and employees from improper pressure or harassment,
- privileged information, under section 9(2)(h) – to maintain legal professional privilege,
- confidential information, under section 9(2)(i) – to enable ... [the Crown] to carry out commercial activities without prejudice or disadvantage,
- confidential information, under section 9(2)(j) – to enable the Crown to negotiate without prejudice or disadvantage, and
- staff direct telephone numbers, under section 9(2)(k) – to prevent the disclosure of official information for improper gain or improper advantage.

Direct dial phone numbers of officials have been redacted under section 9(2)(k) in order to reduce the possibility of staff being exposed to phishing and other scams. This is because information released under the OIA may end up in the public domain, for example, on websites including Treasury's website.

Information publicly available

The following information is also covered by your request and is publicly available on the Treasury or the NZ Transport Agency websites:

Item	Date	Document Description	Website Address
1.	4 December 2020	Joint Report by the Treasury and New Zealand Infrastructure Commission T2020/3605: Finalising the COVID-19 settlement for Transmission Gully	www.nzta.govt.nz/tg-covid-settlement
2.	7 December 2020	Treasury Report T2020/3529: Outline of measures to moderate house price growth	https://www.treasury.govt.nz/sites/default/files/2021-04/tax-housing-4380109.pdf

Accordingly, I have refused your request for the documents listed in the above table under section 18(d) of the OIA – the information requested is or will soon be publicly available.

Some relevant information has been removed from documents listed in the above table and should continue to be withheld under the OIA, on the grounds described in the documents.

In making my decision, I have considered the public interest considerations in section 9(1) of the OIA.

Please note that this letter (with your personal details removed) and enclosed documents may be published on the Treasury website.

This reply addresses the information you requested. You have the right to ask the Ombudsman to investigate and review my decision.

Yours sincerely

Reubhan Swann
Manager, Ministerial Advisory Service

20210244

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Treasury Report: New Zealand Post: Investment Consultation and Letter of Expectations for 2021/22

Date:	2 December 2020	Report No:	T2020/3429
		File Number:	SE-2-12-1

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	Note NZ Post's consultation on and intention to continue with its network investment. Note the contents of the proposed Letter of Expectations for 2021/22.	Wednesday, 16 December 2020
Associate Minister of Finance (Hon David Parker)	Note NZ Post's consultation on and intention to continue with its network investment. Agree for the Minister of State Owned Enterprises to send the attached Letter of Expectations for 2021/22 to the Chair of NZ Post.	Wednesday, 16 December 2020
Minister for State Owned Enterprises (Hon Dr David Clark)	Note NZ Post's consultation on and intention to continue with its network investment. Agree to send the attached Letter of Expectations for 2021/22 to the Chair of NZ Post.	Wednesday, 16 December 2020

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Madeleine Lock	Senior Analyst, Commercial Performance	s9(2)(k)	s9(2)(g)(ii) <input checked="" type="checkbox"/>
Alice Courtney	Senior Analyst, Commercial Performance		
Shelley Hollingsworth	Manager, Commercial Performance		

Minister's Office actions

All Ministers offices: Return the signed report to the Treasury.

Minister for State Owned Enterprises office: Once signed, send the attached letter to the Chair of New Zealand Post Limited.

Note any feedback on the quality of the report

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Enclosure: Yes (attached)

2021/22 Letter of Expectations for New Zealand Post Limited (enclosed)

[Te Iho Revalidated Business Case - November 2020.pdf](#)

[Introductory Letter to the Incoming SOE Minister from the Chair of NZ Post - 6 November 2020.pdf](#)

Treasury Report: New Zealand Post: Investment Consultation and Letter of Expectations for 2021/22

Executive Summary

This report provides the shareholding Ministers of New Zealand Post Limited (NZ Post) with an overview of NZ Post's business, consultation on NZ Post's revised business case for a significant investment in its parcel processing network, and a proposed Letter of Expectations (LOE) for the next financial year ending 30 June 2022 (2021/22).

This report provides further detail on the below topics, which are reflected in proposed shareholder expectations:

a **Parcel operations and associated investment:**

- i. NZ Post's Board-approved business case for a ^{9(2)(b)(ii)} investment in its parcel

- ii. ^{9(2)(b)(ii)}

You may therefore wish to express expectations to the Board regarding risk management, reporting and performance.

b **Mail operations and the current programme of work:**

- i. Following the appropriation of \$130m in Budget 2020 for transitional funding for NZ Post to continue a minimum level of mail services, the Ministry of Business Innovation and Employment (MBIE) is leading a programme of work (with input from the Treasury) to canvass options for a future sustainable mail service.

- ii. The Treasury considers the key risks for finding an optimal mail solution are:

- for NZ Post, not having a sustainable solution in place by the time funding is exhausted ^{9(2)(b)(ii)} and
- for the Government, facing decisions around further funding for mail in a short timeframe without an appropriately developed cost-benefit analysis for all viable options (i.e. without a clear view of the associated public benefits, versus an accurate estimate of mail costs for all viable service model options).

- iii. Ministers may therefore wish to impart an expectation that NZ Post will consider how it can reduce the net costs of mail and cooperate with the Government to canvass options for a more sustainable service; and that NZ Post's reporting and forecasting presents a reasonable representation of mail costs.

c NZ Post's position regarding its investment in Kiwi Group Holdings (KGH, parent company of Kiwibank):

i. 9(2)(b)(ii)

[REDACTED] s9(2)(g)(i)

ii. s9(2)(f)(iv) and s9(2)(i)

iii.

d Other matters:

Information sharing

i. s9(2)(g)(i)

We have recently discussed the issue with the Chair, and we have reached an agreement with regard to the process for information requests going forward. However, clear messaging of the process could be supported through the LOE.

Repayment of surplus capital

i. \$150m of capital funding was appropriated for NZ Post in Budget 2020, in light of its expected impacts from COVID-19 at that time. The first tranche of \$80m was transferred to NZ Post in June 2020, and a further \$70m is available as an uncalled capital facility.

ii. Given the uncertainty around the negative impacts on the business and its funding needs, and given the magnitude of alternative demands for Crown funding, Ministers expressed an expectation that any surplus capital from the equity injection be returned to the Crown.

iii. NZ Post performed better than it expected through COVID-19, 9(2)(b)(ii)

Ministers may wish to bolster the expectation of repayment of surplus capital in the LOE.

Retail agency network

- i. Almost all of NZ Post's branches have been transitioned to agency outlets with partner businesses. Its outlets provide services which are still valued in many communities. We have proposed that Ministers expect NZ Post to continue to manage the quality of its services provided by third-parties and that it will assist the Government in determining ongoing community needs of these services.

Ministers may wish to consider any amendments to the draft 2021/22 LOE for NZ Post. If Ministers agree with the proposed expectations, we recommend that the Minister for State Owned Enterprises signs the attached letter, to be sent to the Chair by **16 December 2020**.

The Minister for State Owned Enterprises is scheduled to meet with the Chair and Chief Executive of NZ Post at 1pm on **10 December 2020**. We will provide separate talking points to the Minister ahead of this meeting.

Recommended Action

We recommend that you:

- a **note** that the New Zealand Post Board has re-approved an investment of ^{9(2)(b)(ii)} in its parcels operations and this report provides shareholding Ministers with consultation on a revised business case.
- b **note** that the investment is not a major transaction requiring shareholder approval, but signals further significant investment towards its strategy focused in the parcels and logistics industry.
- c **agree** for the Minister for State Owned Enterprises to sign and send the attached Letter of Expectations for 2021/22 to the Chair of New Zealand Post.

Agree/disagree.
Associate Minister of Finance

Agree/disagree.
Minister for State Owned Enterprises

s9(2)(a)



Shelley Hollingsworth
Manager, Commercial Performance

Hon Grant Robertson
Minister of Finance

Hon David Parker
Associate Minister of Finance

Hon Dr David Clark
Minister for State Owned Enterprises

Treasury Report: New Zealand Post: Investment Consultation and Letter of Expectations for 2021/22

Purpose of Report

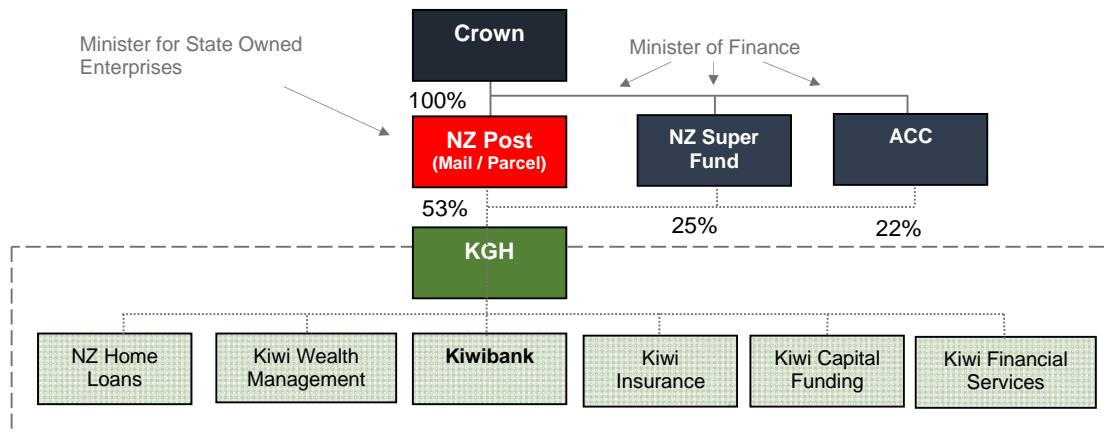
1. This report provides the shareholding Ministers of New Zealand Post Limited (NZ Post) with:
 - a an overview of NZ Post's business, key performance challenges, and upcoming Ministerial decisions from an ownership perspective,
 - b consultation on NZ Post's revised business case for a significant investment in its parcel processing network, per an expectation set out by Ministers alongside the provision of COVID-19 equity support to NZ Post in June 2020, and
 - c a proposed Letter of Expectations (LOE) for the next financial year, ending 30 June 2022 (2021/22), which reflects those key challenges.
2. The draft LOE for NZ Post's Board (the Board) enclosed with this report, is being provided at the same time as the omnibus report for LOEs to be sent to State owned enterprise (SOE) boards for the 2021/22 year (*T2020/3415* refers).

Overview of NZ Post

NZ Post comprises three business components

3. NZ Post has three major business components: (i) parcels, (ii) mail, and (iii) a 53% ownership interest in Kiwi Group Holdings Limited (KGH, parent company of Kiwibank Limited).
4. NZ Post's group structure (including its 53% shareholding in KGH), and relevant shareholdings of NZ Post, and of KGH, are set out in **Figure 1** below.

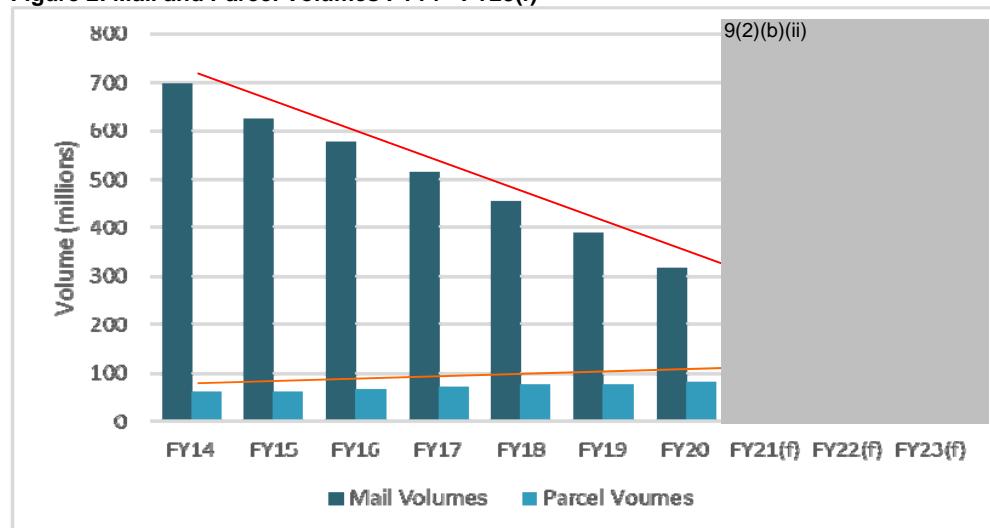
Figure 1: NZ Post's Group Structure



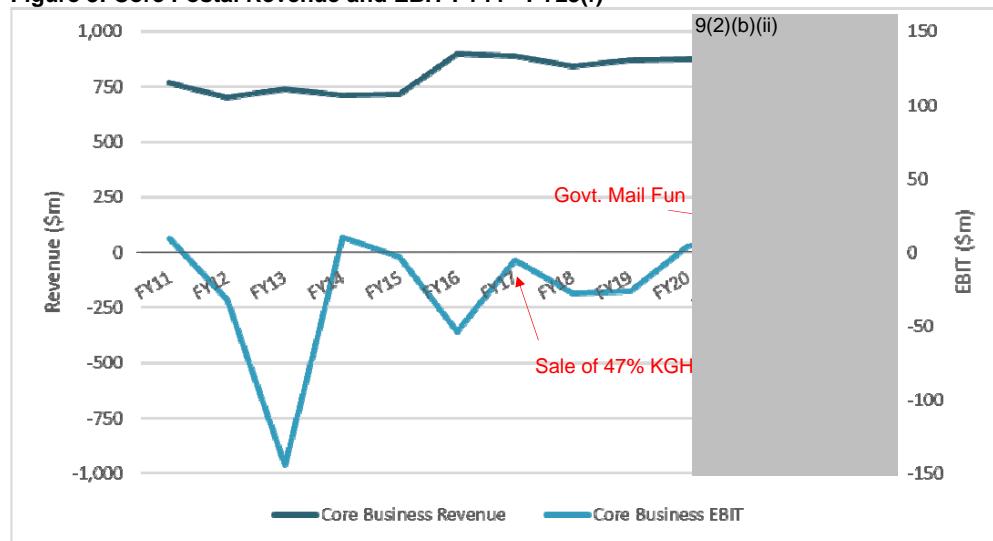
The trajectories of NZ Post's three business components are divergent

5. NZ Post's mail, parcel and banking operations are experiencing different growth trajectories, but overall NZ Post's financial performance has been low or negative for the last decade:
 - a **Mail** volumes are in perpetual decline. NZ Post has the Universal Service Obligation (USO) for mail in New Zealand, which is imparted to NZ Post through its Deed of Understanding (the Deed) with the Crown (through the Minister for the Digital Economy and Communications). Due to falling volumes and relatively fixed costs, the continued delivery of mail services under current settings is no longer commercially viable for NZ Post.
 - b **Parcel** volumes are increasing as a result of growing eCommerce markets, both in New Zealand and internationally. However, strong competition in the parcels market, ^{9(2)(b)(ii)}
 - c **Kiwibank**, which makes up around 80% of the value of KGH, is in strong growth mode, ^{s9(2)(b)(ii)} and ^{s9(2)(g)(i)}
6. **Figure 22** (below) illustrates the trajectories of NZ Post's mail and parcel volumes. Mail volumes have declined from a peak of 1.1 billion items in FY02, to 317 million in FY20 (a 71% decline over two decades). Since FY14, mail volumes have been falling by 12% per year on average, while parcel volumes have been climbing by around 5% per year.

Figure 2: Mail and Parcel Volumes FY14 - FY23(f)



7. Despite the growth in parcel volumes and steady revenue growth, NZ Post has struggled to return positive earnings results. The earnings volatility of NZ Post's core business (excluding NZ Post's share of KGH earnings) is illustrated in **Figure3**.

Figure 3: Core Postal Revenue and EBIT FY11 - FY23(f)

8. Core business EBIT for FY20 was \$4m, including a \$30m Wage Subsidy Scheme payment (EBIT would have otherwise been around -\$26m). The last time NZ Post's core business EBIT was positive was FY14 (at \$10m). Error! Reference source not found. sets out information on NZ Post's key financial performance and position.

A significant amount of Crown funding was appropriated for NZ Post in 2020

9. Regardless of challenges to profitability and substantial planned investment, NZ Post is not facing a near-term liquidity or solvency issue, particularly following the appropriation of \$310m of Crown funding for the company in 2020. The appropriations comprise of:
 - a. \$130m in operating funding for mail services, allocated in Budget 2020 and administered via the Ministry of Business, Innovation and Employment (MBIE) over an (up to) three-year period. **Figure3** shows the impact of the funding in FY21 – FY22, which is expected to be exhausted in FY23,
 - b. \$30m in operating funding from the Wage Subsidy Scheme, and
 - c. \$150m of capital funding as equity support in light of COVID-19. \$80m has been transferred, and a further \$70m is available as an uncalled capital facility.
10. Given NZ Post has performed much better than it expected through COVID-19, the business is now carrying over **9(2)(b)(ii)** as at 30 September 2020).

The future of NZ Post is in parcels, but it needs to manage mail volume decline

11. NZ Post's strategy lies in turning its core business into an efficient courier and parcels business fit for the 21st century, **9(2)(b)(ii)**
12. **9(2)(b)(ii)**

13. An incoming Chief Financial Officer (beginning 1 December 2020) may be beneficial in taking a fresh look at the above aspects. ^{s9(2)(g)(i)}

Proposed shareholder expectations are linked to NZ Post's key challenges

14. The below sections provide more detail on NZ Post's:
 - a parcel operations and associated investment;
 - b mail operations and the current programme of work;
 - c position regarding its investment in KGH; and
 - d other key matters such as its capital structure and retail network.
15. The proposed shareholder expectations relating to these areas which feed into the draft LOE for 2021/22 are then linked to each section outlined below.

Parcel Operations and Investment Consultation

16. In May 2019, the Board approved a long-term network backbone strategy, which comprises around ^{9(2)(b)(ii)} investment over 10 years. The overall strategy aims to increase the processing efficiency and volume capacity of NZ Post's parcel operations, in recognition of the opportunities that ongoing growth in both global and domestic eCommerce activity has for the logistics sector.
17. In November 2019, the Board approved an initial investment of ^{9(2)(b)(ii)} in its Auckland and Christchurch operations. The project, termed "Te Iho", comprises the first key priorities in NZ Post's 10-year investment strategy.
18. The level of investment does not meet the threshold for Ministerial approval, however, consistent with Owners Expectations guidance, NZ Post is required to consult with shareholding Ministers. Initial consultation on the business case for investment took place in December 2019 with NZ Post at that time planning to fund the investment programme from its available cash and cash equivalents.
19. NZ Post was subsequently provided with \$150m of COVID-19-related equity support in June 2020. As part of the support package, the Board and Ministers at that time recognised NZ Post's request for sufficient cash to continue with its parcels investment, as an upgrade to key infrastructure to support the economy in a post COVID-19 environment. Ministers therefore set an expectation that they be re-consulted on a revised business case for the investment, if NZ Post were to continue with the investment, once the impacts of COVID-19 on the market were understood.
20. NZ Post has revalidated its business case assumptions for Te Iho and the Board has approved the ^{9(2)(b)(ii)} investment, conditional on consultation with Ministers.
21. NZ Post is now consulting with Ministers prior to signing key contracts for procurement of the Material Handling System (MHS). This section of this report provides details of the revised business case as consultation with you.

Key elements of the approved investment

22. The Board has approved Te Iho, which includes the components set out in **Table 1**.

9(2)(b)(ii)



23. Progress on the APC has already commenced, with a site having been secured at Wiri (near Auckland Airport) and site construction to start imminently. The site and buildings will be leased. Contract negotiations for the MHS are well underway, with contract signing expected in mid to late-December.

There is still strong rationale for investment in the parcels network

24. NZ Post considers Te Iho is vital to achieving its strategic plan to secure its future as a major parcel and courier business. Key drivers for investment include that:

a existing core network infrastructure is mostly at volume capacity¹ 9(2)(b)(ii)

The need to address capacity constraints and efficiencies in the network was highlighted during COVID-19 Alert Level 3 in April 2020, where NZ Post's processing function failed to operate efficiently and to cost-effectively manage large increases in volume.

b NZ Post expects growth in eCommerce to fuel its parcel volume growth by

9(2)(b)(ii) around [REDACTED] per year for the next 15 years, with a step-change increase in demand fuelled by the events of COVID-19. It has accelerated parcel volume forecasts in the business case. s9(2)(b)(ii) and s9(2)(g)(i)



25. The Board proposes that the investment will deliver economies of scale in line with parcel volume growth, and the platform to deliver to global customer standards, both of which strengthen NZ Post's competitive advantage.

9(2)(b)(ii)



¹ 9(2)(b)(ii)

27. Investment outlay will occur over FY21- FY25, with the majority of spend in FY22 and FY23. ^{9(2)(b)(ii)}

28.

29. ^{9(2)(b)(ii)}

Te Iho meets investment criteria, but the return is sensitive to volume growth

30. NZ Post's calculations of the Net Present Value (NPV) and metrics of each component of the investment are set out in **Table 2** (below). ^{9(2)(b)(ii)}

^{9(2)(b)(ii)}

31. NZ Post undertook scenario testing for its volume growth assumptions, which are the key variables to the success of this project. ^{9(2)(b)(ii)}

32. ^{9(2)(b)(ii)}

^{s9(2)(g)(i)}

33. Further, the business case assumes price increases ^{9(2)(b)(ii)}
— over a 15 year timeframe. ^{s9(2)(g)(i)}

There are a number of risks to NZ Post's success in its parcels strategy

34. The Board acknowledge that a transformation of this size and complexity carries a high risk profile. It remains confident, however, in management's ability to execute the plan. Items identified by NZ Post as having a high residual risk are set out in **Table 3**.

Table 3: Identified Risks and Mitigations

High Risks Identified	Mitigation
Implementation: risk that the transition to a new operating model is poorly executed or accepted.	Incorporating lessons learned from previous projects, effective communication and engagement strategies, workforce transition and capability development plans
Market conditions: risk that external market variations cause adverse fluctuations; for example market disruption, change in product mix or customer demands.	The business case captures expected market variations. Some variations are out of NZ Post's control.

35. We consider there are a number of additional risks, which NZ Post has not explicitly noted in its business case (but they have been discussed with management):
- a Cash reserves may not be sufficient to fund the investment if profitability does not grow as expected over the next three years:
 - i We note that NZ Post's financial plan targets significant volume and profitability growth over the next three years.⁴ The profitability forecasts are ambitious, given its financial performance in parcels to date.⁵
 - ii In the near term there is not a clear strategy as to how parcel volume growth will translate to value to achieve the expected jump in profitability, 9(2)(b)(ii)
 - iii The uncalled capital facility of \$70m is available for draw-down until the end of FY22, providing some level of cash buffer. While we generally would not expect SOEs to rely on Crown capital funding for investment in infrastructure, it is able to draw-down based on a simple cash balance test.
 - b Long-term volume projections assume high, ongoing growth in parcels volumes. If these volumes are impacted, for example, by a recessionary economic environment, or market disruption, the investment will provide lower than anticipated returns. Examples of market disruption are large integrated eCommerce and logistics players like Amazon entering the market, or existing retailers moving to more vertically integrated networks (i.e. delivering the items they sell themselves). While NZ Post notes the risk of market disruption in its business case, we consider that the high assumed annual growth in parcel volumes 9(2)(b)(ii) may not consider the full impact of the risk such disruption could have.
 - c NZ Post is still constrained by the obligation to run a nationwide mail network. This is not a constraint that other logistics businesses operating in New Zealand are subject to and is a potential competitive disadvantage to NZ Post attaining market-comparable returns for its parcel operations. 9(2)(b)(ii)

Link to LOE

36. 9(2)(b)(ii)

However, given its high residual risk profile, you may wish to express shareholder expectations to the Board regarding risk management, reporting and performance. We have included such expectations in the proposed LOE for 2021/22.

⁴ 9(2)(b)(ii)

⁵ Historically NZ Post's EBIT margins have been low or negative.

Mail Operations

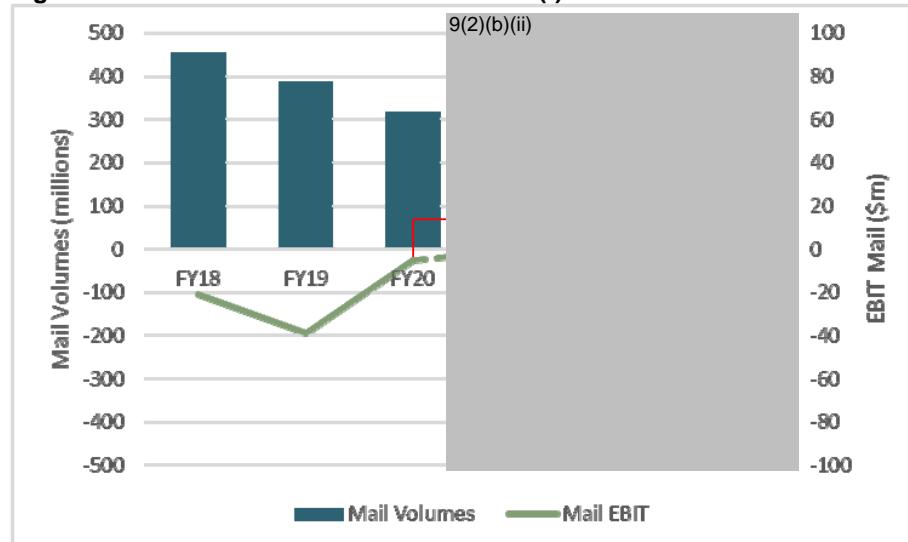
NZ Post's business is constrained due to ongoing decline in mail volume

37. As mail volumes face significant and ongoing decline, providing the USO is now an economic cost to NZ Post. The provision of unfunded non-commercial services is not consistent with NZ Post's mandate as an SOE.
38. As an SOE, NZ Post must make decisions that seek to maximise the company's long-term value. 9(2)(b)(ii)

Transitional mail funding was provided in Budget 2020 in recognition of ongoing social benefits

39. Following work on mail undertaken by the Treasury, MBIE and NZ Post during 2019, it was concluded that there are likely ongoing social benefits associated with senders and receivers of mail who are not yet ready to transition to digital alternatives. Some public senders, for example, have not yet invested in systems that enable alternative forms of communication with the universal reach that mail services offer.
40. It was concluded that there was a rationale for the continued provision of mail services, over a transitional period, while senders and receivers that are still reliant on mail plan for possible changes or the eventual wind-down of services and for NZ Post to adjust its operating model in turn if needed.
41. In Budget 2020, \$130m of operational funding was appropriated to MBIE for the provision of mail services. The \$130m was costed to cover the net losses incurred by NZ Post from mail over three years (FY21 to FY23). MBIE entered into a contract with NZ Post in June 2020, to impart the funding in return for its continued provision of services per the current Deed. **Figure 4** shows the impact of the funding on NZ Post's forecast mail EBIT in FY21 and FY22.

Figure 4: Mail Volumes and EBIT FY18-FY23(f)



A more sustainable solution for NZ Post's mail operations is required from FY23

42. As the number of users of, and uses for, mail decline, its associated social value diminishes. As volume declines, the cost to deliver mail through NZ Post's largely fixed-cost network increases.
43. As part of the advice leading up to the transitional funding, Ministers agreed to commission a cross-agency group to investigate viable long-term solutions for mail. This work is being led by MBIE, as the communications policy agency, ^{s9(2)(f)(iv)}

44. ^{9(2)(b)(ii)}

The impacts of COVID-19 have accelerated mail decline as many senders hastened their own digital transitions and mail marketing slowed. NZ Post thinks the step-change in volume decline is permanent.

45. An allowance of around 12 months for implementation of any changes resulting from the mail policy recommendations is required ^{9(2)(b)(ii)} NZ Post therefore needs to understand changes that it needs to make before the \$130m is exhausted, ^{9(2)(b)(ii)}

There are risks regarding possible mail solutions to both NZ Post and the Government

46. ^{s9(2)(f)(iv) and s9(2)(g)(i)}

47. ^{s9(2)(g)(i)}

48. In our view, the key risks for finding an optimal mail solution are:
 - a for NZ Post, not having a sustainable solution in place by the time funding is exhausted ^{9(2)(b)(ii)} and
 - b for the Government, facing decisions around further funding for mail in a short timeframe without an appropriately developed cost-benefit analysis for all viable options (i.e. without a clear view of the associated public benefits, versus an accurate estimate of mail costs for all viable service model options).
49. NZ Post needs to be able to satisfy its shareholders that its cost allocations are reasonable, so that you can attain assurance that the reported and forecast:
 - a parcel profitably and cost structure is reasonably represented (i.e. profit is not overstated); and
 - b mail costs are reasonably represented (i.e. not overstated), as this will likely feed into the pricing of a potential ongoing Government procurement arrangement if the social value to do so is justified.

50. s9(2)(g)(i)

Link to LOE

51. Ministers may therefore wish to impart an expectation that NZ Post will consider how it can reduce the net costs of mail services and assist the Government in canvassing options for a more sustainable mail service. s9(2)(b)(ii)

Kiwi Group Holdings

s9(2)(b)(ii)

52. The Chair of NZ Post wrote to the Minister for State Owned Enterprises on 6 November 2020, as an incoming shareholder. s9(2)(b)(ii)

NZ Post sold 47% of its shareholding in KGH in 2016

53. KGH is fully owned by the Crown, via the ownership interests of NZ Post (53%), the New Zealand Super Fund (NZSF) (25%) and the Accident Compensation Corporation (ACC) (22%).
54. KGH was established, and wholly owned, by NZ Post until a transaction in October 2016 brought NZSF and ACC into an ownership arrangement. The intention at that time was that the two other Crown-owned financial institutions would provide commercial investment expertise, and that they would be better positioned to provide further capital to KGH, should it be required.
55. It also was foreseen by the Government at that time that NZ Post could continue to divest or dilute its shareholding in KGH to the two other shareholders. However, there is recognition that a reduction in NZ Post's share below 50% would further diminish the Crown's effective influence on ownership decisions relating to KGH via NZ Post.
56. Therefore in the two preceding LOEs to NZ Post, Ministers set an expectation that NZ Post retains its shareholding in KGH s9(2)(b)(ii), s9(2)(i)

s9(2)(b)(ii), s9(2)(i)

Other Business Considerations

70. Three further topics that Ministers may wish to include in the LOE are expectations on:
- information sharing;
 - repayment of surplus capital, and
 - NZ Post's retail network.

Information sharing

71. In general, we have a good working relationship with NZ Post's management. However, there has been high turnover on the Board over the last two years, with a number of directors reasonably new to governance and, in particular, Crown-owned company governance. The Board appears to be still building a full understanding of the unique governance settings and frameworks pertaining to SOEs, which differ from those of the private sector (and in particular, an understanding of the SOEs Act 1986 and Owners Expectations guidance).

72. s9(2)(g)(i) [REDACTED]

A transparent relationship between the Board and the Treasury is vital to being able to effectively advise, and to accurately communicate a company's position to, shareholding Ministers.

73. We have sought to understand the Board's concerns around information sharing and have recently discussed this issue with the Chair. We have reached an agreement regarding an information sharing process with the Chair, however, the message to the Board could be supported through the LOE by including a specific expectation on the sharing of key information.
74. Section 18⁶ of the SOEs Act 1986 provides a provision for shareholding Ministers to be able to request any information from an SOE. We do not recommend expressly using the provision at this time, particularly as we are working the issues through with the Chair. We would only recommend applying Section 18 (or, similarly, ministerial directions in Section 13) as a matter of last resort, as this can be disruptive to the goodwill of the important relationship with the Board.

Repayment of surplus capital

75. \$150m of capital funding was appropriated for NZ Post based on the Board's request for support, as it expected the impacts COVID-19 might comprise on the company's liquidity and ability to effectively operate. The first tranche of \$80m was transferred to NZ Post in June 2020, and a further \$70m is available as an uncalled capital facility if NZ Post's cash balance falls below [REDACTED] (and this uncalled capital facility is available 9(2)(b)(ii) until 30 June 2022).
76. Given the uncertainty around the negative impacts on the business and the funding needs, shareholding Ministers expressed an expectation that any surplus capital from the equity injection will be returned to the Government.
77. The negative projections forecasted by NZ Post during March – April 2020 did not eventuate, and the business has performed much better than expected through COVID-19. Based on the closing cash balance at the end of the first quarter of FY20 (to 30 September 2020) NZ Post was carrying 9(2)(b)(ii) [REDACTED]
78. s9(2)(b)(ii) and s9(2)(g)(i) [REDACTED]
79. s9(2)(g)(i) [REDACTED]. Ministers may therefore wish to bolster the expectation of repayment of surplus capital in the LOE.

Retail agency network

80. The majority of NZ Post's 976 corporate-owned branches have now been transitioned to agency outlets with partner businesses. NZ Post is still seeking suitable host agencies for one remaining store, in Whangaparoa, to be transitioned during 2021.
81. NZ Post's retail outlets provide core services such as bill payments (for example, for utility payments where users don't have access to internet banking and vehicle licencing) passport services, and social welfare collections. These services are valued in many communities, particularly by more vulnerable or senior patrons.
82. The Deed requires NZ Post to provide a minimum of 880 retail outlets nationally. However, NZ Post has signalled that the provision of some of the ancillary services

⁶ Subsection 18(2): "A shareholding Minister may request information to be supplied whether or not the supply of the information is required for the purposes of, or is contemplated by, this Act."

provided by those retail outlets are now a net cost to NZ Post, as the use of these services (particularly bill payment services) declines.

83. NZ Post's store network transition received a lot of media attention over the past four years, however, media coverage appears to have diminished in the past 12 months, as communities adjust to the new arrangements. Ministers have set out expectations in LOEs over the past three years regarding managing impacts to communities when changes are made to retail stores, and NZ Post has largely met these expectations.⁷
84. We have therefore proposed in the draft LOE that Ministers expect NZ Post continues to manage the quality of its services provided by third-party agencies, and that it assists the Government in determining what level of minimum retail outlets might be required, with minimal disruption to communities, as part of current mail policy work.

Next steps

85. Ministers may wish to consider amendments to the proposed LOE for the Board. If Ministers agree with the proposed expectations for NZ Post, we recommend that the Minister for State Owned Enterprises signs the attached letter, to be sent to the Chair of NZ Post by **16 December 2020**.
86. The Minister for State Owned Enterprises is scheduled to meet with the Chair and Chief Executive at 10.30am on **10 December 2020**. We will provide separate talking points to you ahead of this meeting.
87. For transparency and consistent with standard practice, we will share the draft LOE with the Chair ahead of his meeting with you (with the caveat that Ministers are yet to consider and sign the LOE, and that there may be changes requested).

⁷ For example, where a store closed, in almost every instance, postal services were moved to a nearby business; the minimum number of outlets set out in the Deed of Understanding (880) has been maintained; Ministers' offices were notified ahead of any changes occurring; and NZ Post has made media statements ahead of each store substitution.

ANNEX 1: NZ Post's Financial Performance and Position FY13 – FY23 (forecast)

	FY13	FY14	FY15 ⁸	FY16 ⁷	FY17	FY18	FY19 ⁹	FY20 ¹⁰	9(2)(b)(ii)
Summary of Financial Performance									
Post Operations Revenue ¹	1,132	1,039	980	899	890	877	872	876	
Post Operations Net Profit¹	-54	-13	-45	-38	-3	-39	-160	-12	
KGHL Contribution ²	97	108	132	131	72	52	39	18	
Gain on disposal of investments ³	75	0	46	43	24	0	0	0	
Other & Investments ⁴	3	12	10	5	0	0	-1	-4	
Group Net Profit After Tax	121	107	143	141	93	13	-122	2	
Summary of Financial Position									
Cash & Short Term Deposits ⁵	198	164	238	301	286	202	201	272	
Borrowings (short and long-term) ⁶	593	639	388	389	264	209	210	200	
Net Debt	395	475	150	88	-22	-7	-9	72	

¹ Post Operations Revenue & NPAT figures are as per the Segment Information notes in the annual financial statements, and includes Properties, Channels & Digital and Group Functions.

For FY13 & FY14, Post Operations = Mail and Logistics + Shared Services to give a comparable figure to recent years.

² KGHL Contribution

FY13 to FY16 = 100% of KGHL NPAT

FY17 = 100% of KGHL NPAT for July to November ("profit from discontinued operations") and 53% of KGHL NPAT for December to June ("share of net profit of joint ventures")

³ Gain on disposal of investments

FY17 = gain on partial sale of Kiwibank \$24m

FY16 = gain on sale of Converga \$43m

FY15 = gain on sale of Couriers Please \$46m

FY13 = gain on sale of Datacom \$72m

FY13 = Prior year adjustment gain on sale \$3m

⁴ Calculated as the balancing figure to NPAT

⁵ For FY13 to FY16, cash includes Kiwibank cash balances

⁶ Total borrowings excludes intercompany loans

⁷ FY16 figures are as per the restated figures per the FY17 financial statements

⁸ FY15 figures are as per the restated figures per the FY16 financial statements

⁹ FY19 NPAT includes a \$56m impairment of mail assets

¹⁰ FY20 Revenue and NPAT includes a \$30m Wage Subsidy Scheme Payment related to COVID-19 support

9(2)(b)(ii)

Te Iho Revalidated Business Case - November 2020 - withheld under s9(2)(b)(ii)

2021/22 NZ Post letter of expectation refused - s18(d), will be made publicly available



Treasury Report: Update on ACC Investments Approach to Climate Change

Date:	2 December 2020	Report No:	T2020/3652
		File Number:	CM-1-3-1-9-2-4

Action sought

	Action sought	Deadline
Hon Grant Robertson Minister of Finance	s9(2)(h) s9(2)(g)(i)	7 December 2020

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Michael Eyre	Senior Analyst, Financial Institutions	s9(2)(k)	s9(2)(g)(ii) <input checked="" type="checkbox"/>
Joseph Sant	Manager, Financial Institutions		

Minister's Office actions (if required)

Return the signed report to Treasury.

Note any feedback on the quality of the report

Enclosure: Yes

Treasury Report: Update on ACC Investments Approach to Climate Change

Executive Summary

s9(2)(h)



In providing this advice we note that ACC has taken a significant step forward in 2020. This is not to say that the Board's carbon reduction objectives match the intentions of the Government, but we do consider the framework that ACC has put forward is consistent with the Zero Carbon Act as the most relevant Government policy.

s9(2)(g)(i)



Recommended Action

We recommend that you:

- a. s9(2)(h)
- b.
- c. **agree** to forward this briefing to the Minister for ACC
 - Agree/disagree.*
- d. s9(2)(h)
- e.
- f. **note** that ACC utilises the Zero Carbon Act as the current framework for interpreting Government expectations on carbon intensity
- g. s9(2)(h)
- h.
- i.
- j.
- k. s9(2)(g)(i) and s9(2)(f)(iv)

OR

s9(2)(g)(i) and s9(2)(f)(iv)

l.

m.

n.

o.

s9(2)(g)(i)

Joseph Sant
Manager, Financial Institutions

Hon Grant Robertson
Minister of Finance

Treasury Report: Update on ACC Investments Approach to Climate Change

Purpose

1. s9(2)(h)

2.

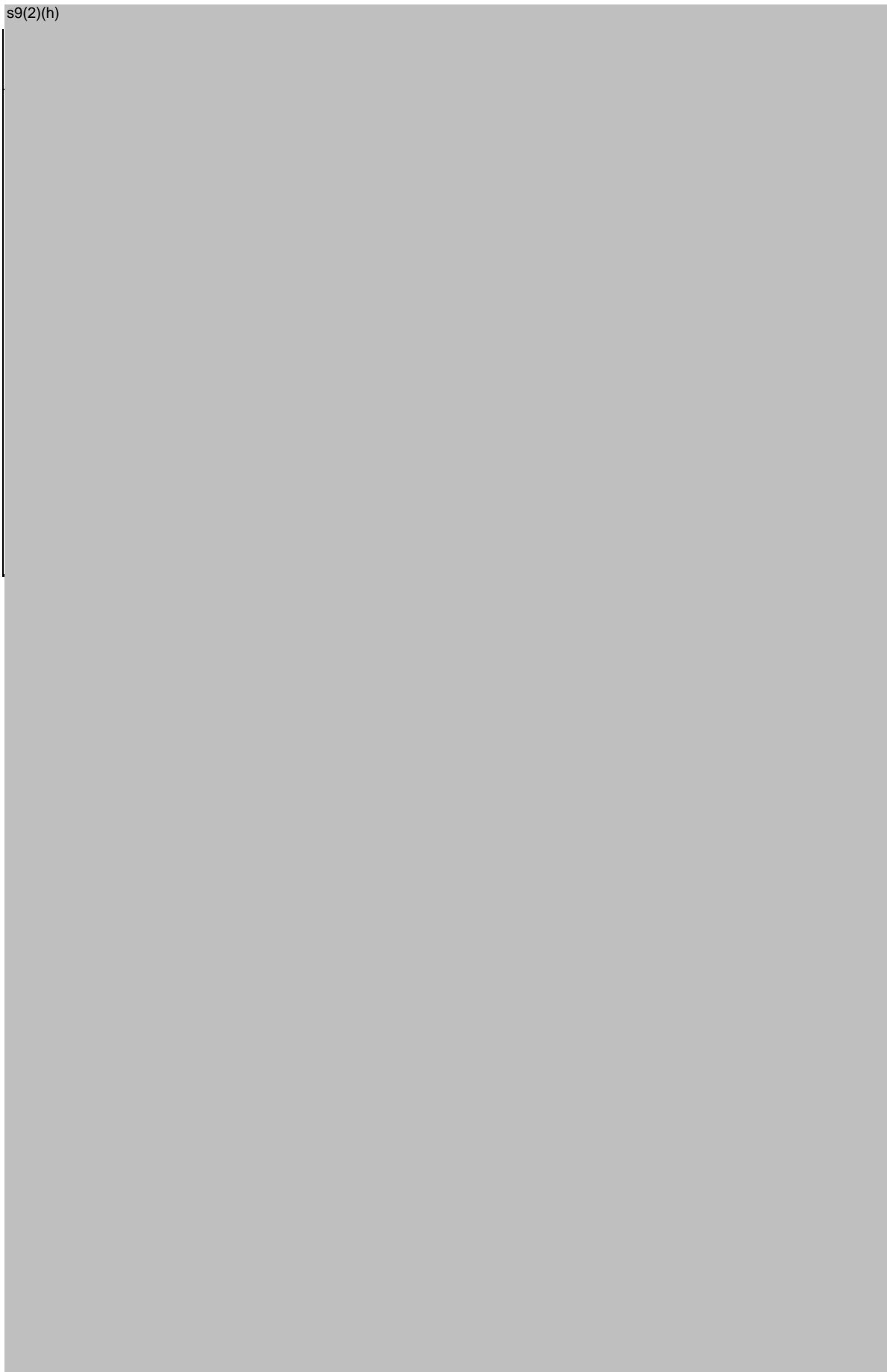
3.

4.

5. There have been significant public announcements today, 2 December 2020, that could change this advice. However, we do not think there is a substantial risk to the advice being quickly out of date.

s9(2)(h)

s9(2)(h)



12. s9(2)(h)

Background on ACC's Responsible Investment Approach

The high level approach to responsible investment is consistent across CFIIs but investment beliefs can create inconsistencies in how this is applied

13. The Crown Financial Institutions (CFIs) have differing investment approaches. This is appropriate and is reflective of the different policy objectives, which drive the investment mandates, risk appetites and organisational values.
14. These differing approaches also apply to the CFI's responsible investing frameworks, including climate change. This can present as inconsistencies across the CFI system. However, responsible investing is an area where there is arguably the most collaboration across the CFIs. A formal resource sharing agreement is in place, which has resulted in a common set of company exclusions across the CFIs as well as other areas of positive influence (engagements).
15. This agreement has been in place since 2009, with the Guardians providing support, information and analytical work to the ACC and Government Superannuation Funding Authority (GSFA) on responsible investing issues. ACC has hired a responsible investment manager in the last year, however, to provide a specific focus in this area.
16. The Guardians approach to exclusions (and by inference ACC's) was recently reviewed by an independent expert and was deemed to adhere to global best practise standards.
17. Factors the CFIs take into account when determining exclusions include:
 - The requirements of their mandate (legislation)
 - New Zealand or other national law
 - International law, including conventions to which New Zealand is a signatory
 - Significant policy positions of the New Zealand Government
 - Impact of exclusion on expected Fund returns
 - Actions of peers
 - Severity of breach/action
 - Likelihood of success of an alternative course of action (engagement)
 - Expert or other advice where relevant,
18. Exclusions are often a last resort of influence. As the Guardians have previously stated, influence could be more powerful by positive engagement: if you don't have a seat at the table you can't influence companies in a positive manner.
19. Decarbonisation of the portfolios (exclusions of fossil fuel producers) has not been triggered by the above exclusion factors. Different CFI approaches have been driven by views on the investment market's pricing of carbon risk. Therefore, this is a difference in investment belief, influenced by the time horizons of investment strategies, and is not purely driven by a responsible investing view.
20. The Guardians believe the market is inefficiently pricing carbon risk, so have removed this risk from the NZ Super Fund to align with its mandate to 'maximise returns without

'undue risk'. They have not undertaken a blanket divestment of all companies involved in the mining or production of fossil fuels.

21. ACC and the GSFA believe the markets are efficient at pricing this risk, or have overstated the pricing of this risk, so have not explicitly divested carbon related exposure.

Significant policy positions of the Government are firming up CFI intentions for carbon

22. The passing of the Zero Carbon Act sets a legal interpretation of Government policy that requires a response from CFIs where there is not already compliance. However, a secondary process is still required to provide the specificity on the Government's expectations for the pace and magnitude of implementation.
23. The Climate Change Commission will produce its first draft emissions budget early in 2021. This will establish a cap of total emissions allowed from 2021 to 2025. The budgets should be consistent with a pathway to meeting the Government's 2050 targets. The emissions budget contributes to decisions about the unit supply for the Emissions Trading Scheme.

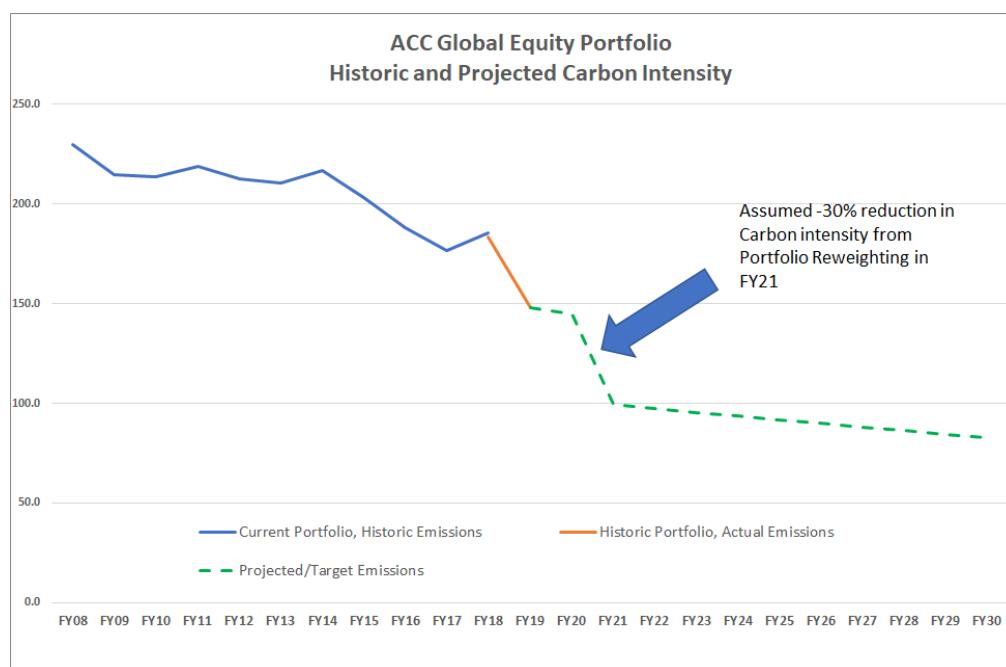
24. s9(2)(g)(i) and s9(2)(f)(iv)

ACC has updated its climate change framework in response to the Zero Carbon Act

25. s9(2)(g)(i)

The approach concluded that the passing of the Zero Carbon Act, with bi-partisan support, reflects that the ethical concerns of New Zealanders are evolving, thus creating a legal obligation on ACC to evolve the investment strategy to align with the Act's intent.
26. ACC announced its climate change strategy in June 2020 and published the overarching framework in August 2020 which sets out its vision and approach to meeting its legal obligation stemming from the Zero Carbon Act.
27. The framework is broadly fit for purpose. It sets out the intention to take a leadership position on climate change to support the Government's objectives. It seeks to move towards zero net emissions by 2050, which includes an interim target to reduce the carbon intensity of the fund's global equity portfolio by at least 50 percent by 2030 compared to 2019 levels.
28. ACC has already taken direct action to deliver against this target by excluding over 50 thermal coal producing companies. It also expects to rebalance the global equity portfolio in 2021 to deliver a 30% reduction in carbon intensity as shown in Figure 1. ACC's aide memoire on its Climate Change Framework is enclosed and its framework is publicly available here:

[ACC Climate Change Framework](#)

Figure 1: ACC Global Equity Portfolio Carbon Intensity

29. For comparison, the Guardians approach has recently set new carbon emissions intensity reductions targets of -40% by 2025, up from a -20% target from 2017 to 2020. So, on face value ACCs interim target is comparable with the Guardians, although the Guardians are more advanced in implementing the strategy.

Consistent engagement with CFI's can form a cross-sector approach to climate objectives

30. s9(2)(g)(i) and s9(2)(f)(iv)

31.

32. Finally, the CFI's have been proactively taking actions to align with New Zealand's commitment to the Paris Accord which they recently signalled to you in the 'CFI Joint Statement on Climate Change', these include:

- Integrating consideration of climate change risks and opportunities into investment decisions. Ensure investment portfolios limit the risks and capture the opportunities these changes present given the objective of maximising returns.

- Engaging companies on the management of climate change risks and opportunities via direct engagements. Engagement can also be via external managers.
- Exercising fund's global voting obligations.
- Reporting on climate change activities in annual reports, via the annual UN Principles for Responsible Investment survey, and in a way that is aligned with the TCFD (Taskforce on Climate-related Financial Disclosures).
- Continuing to collaborate on this topic and share ideas and research.

Options to Accelerate Decarbonisation within ACC Investments

s9(2)(h)



A statement of Government intent can be followed by formalisation of a policy position to ensure transparency of the Government's objectives

36. s9(2)(h)



. As noted already, CFI exclusions reference significant statements of Government policy.

37. While significant statements of Government policy can often be accompanied by legislation, other examples of recent Policy Statements include settings for the Elevate Venture Capital Fund and NZ Transport Agency.

38. s9(2)(g)(i) and s9(2)(f)(iv)

39.

40.

41.

Next Steps

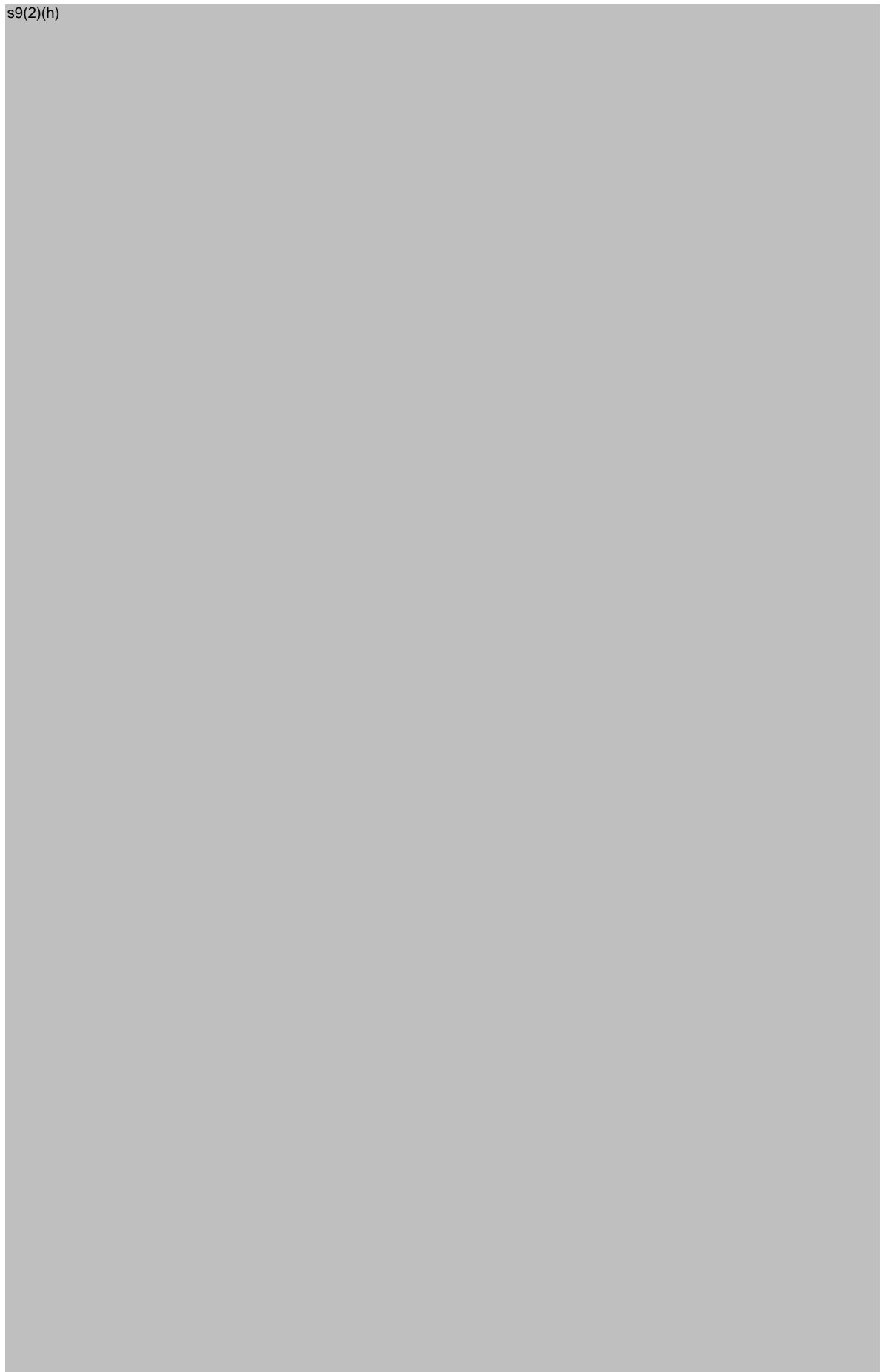
42. We believe the best approach to provide clarity and consistency, and avoid unintended consequences, is through the development of a Government Responsible Investing framework, as indicated in the pre-election manifesto and your recent conversation with the Guardians Board.

43. s9(2)(g)(i) and s9(2)(f)(iv)

s9(2)(h)



s9(2)(h)



s9(2)(h)



s9(2)(h)



s9(2)(h)





Treasury Report: Overseas Investment Act Forestry Review: Process Update

Date:	3 December 2020	Report No:	T2020/3350
		File Number:	IM-5-8-4

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	Note the contents of this report.	N/A
Associate Minister of Finance (Hon David Parker)	<p>Agree to the proposed timeframe for the statutory review of the 2018 forestry-related changes made to the Overseas Investment Act.</p> <p>Agree to hold the fourth and final meeting of the Forestry Reference Group.</p>	10 December 2020

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Jemma Jackson	Analyst, International	s9(2)(k)	
Thomas Parry	Manager, International		N/A (mob) s9(2)(g)(ii)

Minister's Office actions (if required)

Return the signed report to Treasury.

Note any feedback on the quality of the report

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Enclosure: No

Treasury Report: Overseas Investment Act Forestry Review: Process Update

Purpose of Report

1. This report seeks your agreement to a proposed **timeline** for the statutory review of the forestry-related changes made to the Overseas Investment Act in 2018 (Forestry Review). This includes proposed dates to take the Terms of Reference (ToR) to Cabinet.
2. We also seek your agreement to hold the fourth and final Reference Group on Overseas Investment Changes (Forestry) (also known as the **Forestry Reference Group**) meeting.

Undertaking a Forestry Review

3. In 2018, the Government changed the way that forestry investments are screened under the Overseas Investment Act 2005 (the Act). The changes brought forestry cutting rights into the overseas investment screening regime and established streamlined consent pathways for forestry investments.
4. There is a statutory obligation for a review of the operation and effectiveness of those changes to commence within two years of them being introduced (by 22 October 2020).¹
5. In February 2020, officials provided you with a draft ToR [T2020/13 refers]. At a meeting with your colleagues (Hon Jones and Sage) in March, you agreed to conduct a narrowly scoped Forestry Review that excluded consideration of:
 - a) the first principles question of the role of overseas investment in achieving the Government's forestry priorities,
 - b) whether investments in permanent forestry should be able to access the special forestry test, and
 - c) whether applications to convert farmland to forestry should be unable to access the special forestry test.
6. On c), you agreed that concerns about farmland conversions were better addressed through broader changes to land use policy. We note that separately this issue has been frequently raised in submissions on the Overseas Investment Act Amendment Bill (No 3) (No 3 Bill).

¹ The Forestry Review is mandated by Clause 10, Schedule 1AA of the 2005 Overseas Investment Act. Your office confirmed that you were satisfied the work completed to date meets the statutory deadline for commencement of the Forestry Review.

Revised timeline

7. As a result of delays caused by the COVID-19 pandemic, the draft ToR were not taken to Cabinet in May 2020, which was the planned target date on the original Forestry Review timeframe. Officials have prepared a proposed updated timeframe for the Forestry Review, for your consideration.
8. This timeline also takes into account the competing work pressure to service Select Committee consideration of the Overseas Investment No 3 Bill.

Proposed timeline	
Date	Milestone
Mid-February 2021	Final Forestry Reference Group meeting
Late February 2021	Provide Minister with draft Cabinet paper and ToR, for Ministerial consultation
Early March 2021	Cabinet consideration of ToR
April – June 2021	Interagency and targeted stakeholder engagement on how changes are functioning
May – August 2021	Analysis of feedback, development of a discussion document

s9(2)(f)(iv)

Forestry Reference Group

9. The Forestry Reference Group was established to allow for continued dialogue with the Māori forestry sector about the impact of the 2018 changes to the forestry consent pathways in the Act [CAB-18-MIN-0288 refers].

10. In 2018, the Ministers for Crown/Māori Relations, Māori Development, Forestry, and Land Information, the Associate Minister for Crown/Māori Relations and yourself agreed to the membership of the group [T2018/2009 refers]. You formally appointed the members on 22 October 2018 [T2019/325 refers]. See **Annex 1** for a list of the members and further details on the Group.
11. Of the four mandated meetings [T2018/1714 refers], three Forestry Reference Group meetings have taken place. The first informal meeting took place on 13 December 2018 and the second and third substantive meetings on 22 May 2019 and 25 September 2019 respectively. The fourth and final mandated meeting was scheduled to take place on 25 March 2020, however, this was cancelled as a result of the COVID-19 pandemic.
12. We recommend reconvening the group (virtually) to have its fourth and final meeting in February 2021. This will enable discussion and evidence from the Group to inform Ministerial consideration of the ToR for the Forestry Review in early 2021. To support discussion, we would again ask the Group to canvas their forestry networks for feedback on the forestry changes.
13. We will provide you with advice early in 2021 on what kind of engagement with iwi/Maori interests would be most appropriate for the Forestry Review.
14. Agencies were consulted on this report.

Recommended Action

We recommend that you:

- a **agree** to the proposed timeframe for the Forestry Review
agree/disagree.
- b **note** that officials plan to provide you with the draft Terms of Reference and a draft Cabinet paper in late February 2021
- c **agree** that the Treasury holds the fourth and final meeting of the Forestry Reference Group meeting in February 2021, if possible
agree/disagree.
- d **note** that as part of advice on the Forestry Review in early 2021, officials will provide you with possible approaches to iwi/Maori interests

Thomas Parry
Manager, International

Hon Grant Robertson
Minister of Finance

Hon David Parker
Associate Minister of Finance

Annex 1: Forestry Reference Group

By area, and possibly by value, forest land is the single largest commercial asset class transferred to Māori through Treaty settlements and many groups rely on forestry income streams from overseas investors to grow their wealth. Māori own at least 30% of the land containing New Zealand's plantation forests (but not always the trees themselves). The proportion of Māori ownership of forests will increase with the remaining Treaty settlements to come. 40% of the \$50 billion Māori asset base is in forestry.

The purpose of the Group is to provide:

- a) input into the implementation of the changes to ensure guidance materials are fit for purpose for Māori land owners and their advisers, and
- b) feedback the impact of the changes on overseas investment in forestry to enable mitigation where necessary of any unintended consequences.

Members were proposed on the basis of their expertise or experience in managing forestry assets, capacity to canvass and represent a broad range of iwi and Māori interests, and to ensure comprehensive representation across different rohe (tribal areas).

Forestry Reference Group	
Name	Organisation
George Asher	Ngati Tuwharetoa & Ngati Pukena
Debbie Birch	Ngati Awa
Olivia Hall	Te Rūnanga o Ngāti Rārua
Temuera Hall	Opepe Farm Trust
Gina Solomon	-
Rawson Wright	Taitokerau Forest Ltd (TFL)
Te Taru White	Toitu Te Waonui Limited (TTW)
Daniel Williams	Ngati Porou Forests Ltd



Treasury Report: Upcoming Issues Briefing for the Minister - 03 December 2020

Date:	3 December 2020	Report No:	T2020/3656
		File Number:	CO-6-2-4

Action sought

	Action sought	Deadline
Hon Grant Robertson Minister of Finance	<p>Note the contents of the attached briefing</p> <p>Indicate where you would like further information in Section 4</p> <p>Agree to not publish updated Fiscal Strategy Model at HYEFU</p>	None

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Clara Rowe	Analyst, Office of the Executive	s9(2)(k)	N/A (mob) <input checked="" type="checkbox"/>
Andrew Rutledge	Chief Advisor to the Secretary		N/A (mob)

Minister's Office actions (if required)

Return the signed report to Treasury.

Note any feedback on the quality of the report

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Enclosure: Yes (attached)

Recommended Action

We recommend that you:

- a **Note** the contents of the attached briefing;

Noted

- b **Provide** any feedback you have on the following sections:

- a. Section 1: Upcoming Minister's Meeting
- b. Section 2: Updates on Key Priorities
- c. Section 4: Short Updates

In relation to Section 4: Short updates:

- c **Indicate** in the attached report whether you would like further information on items 1, 2, and 8.

- d **Agree** to not publish updated Fiscal Strategy Model at HYEFU (*item 3*)

Agreed/Not Agreed

- e **Indicate** whether you would like work to progress on establishing a Parliamentary Budget Office (*item 9*)

Andrew Rutledge
Chief Advisor to the Secretary

Hon Grant Robertson
Minister of Finance

Upcoming Issues Briefing to the Minister of Finance Report

3 December 2020

1. Upcoming Minister Meetings

Upcoming Minister Meetings

Name	Date	Time	Attendees
Te Waihanga / Infrastructure Commission discussion of Briefing to the Incoming Minister	Tuesday 8 December	4:00pm	Andy Hagan, Matt Gilbert, David Taylor
Joint Ministers and officials meeting to discuss report on support for displaced workers/social insurance and next steps. Aim is to: <ul style="list-style-type: none"> o Confirm Government's objectives for reform o Scope the options for further work o Determine process (and engagement) for conducting the work 	Wednesday 9 December	10:30-11:00am	Vicki Plater, Nick Carroll and Richard Baird.
Ministerial Oversight Group for State Sector Employment Relations (MOGSER) meeting	Thursday 10 December	4:00-5:00pm	Nick Carroll and Vicki Plater
Joint Ministers Health Check-up	Tuesday 15 December	9:00am	Carolyn Palmer, Jess Hewat, Hanna Alder Ovenden, Rose Boele van Hensbroek, Jess Jenkins
Budget 2021 Bilateral meetings: <ul style="list-style-type: none"> • Minister Woods (Housing) • Minister Hipkins (Education and COVID-19 Response) • Ministers Sepuloni (Social Development), Davis (Children) and PM (Child Poverty Reduction) • Minister Little (Health) • Minister Nash (Economic and Regional Development) • Border Ministers (Customs, Transport, Immigration, Biosecurity) • Climate Ministers (Climate Change, Environment, Transport, Energy, Agriculture, Conservation) 	Thursday 17 December (TBC)	TBC	TBC – likely Budget Director, Vote Manager and Vote Analyst relevant to portfolio will attend.

Proposed agenda items for upcoming Weekly Agency Meeting

This is a list of potential items for discussion at the Weekly Agency meeting. We will work with your office to incorporate your feedback and to finalise the agenda.

Item	Description	Nature of item	Time
1.	Finance Minister's Process for APEC To seek your decisions on two key aspects of the Treasury's work on the Finance Minister's Process (FMP) as part of NZ's APEC 2021 host year: a. The policy priorities and deliverables for FMP 2021. b. Whether to host an additional early Finance Minister's Meeting in March 2021.	For decision	15 mins
2.	Budget 2021 and HYEFU 2020 <u>Budget 2021</u> – To discuss any intentions for your approach to the upcoming Budget 2021 bilateral meetings. <u>Draft Half Year Economic and Fiscal Update (HYEFU) (Optional)</u> – To discuss any feedback that you may have on the draft HYEFU chapters that you will receive on Friday 4 December. In addition, two new specific fiscal risks (TAB NZ and International Financial Institutions commitments) have been included since our previous engagement with you. A near-final version of the HYEFU will be provided to you on Tuesday 8 December alongside the Statement of Responsibility (for your signature).	For discussion	20 mins
3.	s9(2)(f)(iv)	For discussion	10 mins

Proposed agenda items for upcoming Finance Priorities Meeting

Item	Description	Supporting material	Time
1.	To be confirmed on Monday 7 December. Will cancel meeting if no agenda items.		

Possible items for upcoming meetings

Item	Description	Minister's feedback
1.	Sustainability issues, including insurance, adaptation and mitigation	
2.	Housing advice (following 7 December receipt of advice)	
3.	Interactions between upcoming reforms	
4.	Monetary and fiscal policy interaction	
5.	Minister's requests:	

2. Updates on Key Priorities

Priority Area	State of Play	Upcoming Advice	Minister's Feedback
COVID-19 response	<p>You are taking a paper straight to Cabinet on 14 December seeking agreement to the package of economic support measures that will be available for businesses in the case of further COVID-19 outbreaks in the community, and also an oral item about the package to CBC on 9 December.</p> <p>We have provided you with advice on the introduction of a Resurgence Support Payment (RSP), and amendments to the wage subsidy scheme (WSS). This included a Joint Report on the key parameters of the RSP, including the size of the grant to be provided, and revenue drop firms must declare to qualify (T2020/3583 refers). The Treasury is currently drafting further advice on whether the RSP should be available at Alert Level 3.</p> <p>The Treasury also provided a Joint Report on the Future of the Wage Subsidy (T2020/3581 refers). While we are proposing you retain broadly similar settings to the August Wage Subsidy, we have proposed changes such as aligning the duration of support to the time spent at AL3/4. Policy work is ongoing to determine to what extent the parameters of the WSS and RSP schemes should be aligned.</p> <p>The Treasury will provide a further draft Cabinet paper on 8 December for your comment, and a final draft incorporating your comments for lodgement on 10 December. The Treasury is working under the assumption that you will publicly announce the resurgence package before the summer holidays and has started working on supporting materials.</p> <p>The Ministry of Health and DPMC COVID-19 Group are reporting this week to the COVID-19 Response Minister on a proposed forward work programme for the COVID-19 response, following work refining and improving the elimination strategy for COVID-19. The Treasury is comfortable with the direction of the proposed work programme. We see this as an opportunity to progress work on Alert Level 1 settings, including support incentives and compensation for firms and individuals. There is, however, a significant amount of work proposed: forthcoming conversations on sequencing and prioritisation will be critical to ensuring the programme can be feasibly delivered.</p>	<ul style="list-style-type: none"> • Further advice on Resurgence Support Payment – 3 December • Further advice on Wage Subsidy Scheme – 4 December • Joint report on Leave Support Scheme – 4 December • Report on draft Cabinet paper - economic response to further COVID-19 outbreaks – 8 December 	
COVID-19 recovery	<p>We have provided you with advice on building on your economic strategy, which included our high-level advice on initiatives to support the economic recovery and suggested framing for your strategy around preventing and responding to outbreaks, and recovering and building back better. Based on the feedback and directions you gave us, we will continue iterating your economic strategy, and in the first instance develop a way forward in fleshing out the strategy. The Treasury will also progress work in your stated areas of interest, such as partial expensing and anchors or targets to support your strategy. We discussed the scope and timeframes for further advice with your office, and have agreed to provide further advice early in the New Year.</p> <p>The Treasury met with you to discuss your plans for overseeing the delivery of the Government's key goals. The Treasury will work with your office and DPMC on how to build a system that reports on delivery and value for money, starting with the COVID Response and Recovery Fund and New Zealand Upgrade Programme.</p>		
Wellbeing approach	<p>Public finance system modernisation You received a report on the public finance system modernisation work, [§9(2)(f)(iv)] on 19 November. We sent a further report about implementation on 26 November. A summary Aide Memoire was sent on 27 November (T2020/3601 refers).</p> <p>Budget Policy Statement The first draft of the Budget Policy Statement is underway, including wellbeing objectives and an updated wellbeing outlook to reflect the impact of COVID-19.</p>	<ul style="list-style-type: none"> • Ministry of Justice Baseline Review — Final report. • [§9(2)(f)(iv)] • Budget Policy Statement - Treasury Report with first draft attached on 3 December. 	

Priority Area	State of Play	Upcoming Advice	Minister's Feedback
Sustainability	<p>On Wednesday 9 December, CBC will consider a number of papers relating to climate change policy, as described below in section 6 of this briefing. Most significantly, the Minister of Climate Change will present a paper setting out a work programme on all the significant Cabinet decisions he will be seeking in 2021. The Treasury is keen to discuss this paper with you, to understand where across this work programme you will want to focus in order to influence the policy development so that economic trade-offs and costs are clear in any options presented to Cabinet.</p> <p>We also understand you are also meeting with a group of Climate Ministers in the week of Monday 14 December to discuss the approach to climate change in Budget 2021. This will allow you to indicate the extent to which you will invite climate change funding proposals as part of Budget 2021 process, and to be clear that many climate change investments will need to be deferred to future Budgets, when more policy proposals are ready to be implemented.</p> <p>The Minister for the Environment is developing two Cabinet papers for submission in December:</p> <ul style="list-style-type: none"> One on Resource Management, covering the need for reform, policy proposals regarding the purpose of a proposed Natural and Built Environments Act, and the process for reform, aiming for CBC on 9 December. One on the mandate and process for engagement with Treaty Partners on Māori rights and interests in freshwater and water allocation, aiming for CBC on 9 December. <p>To coincide with these two papers on Resource Management Act reform, the Minister of Climate Change will also present a paper at CBC on 9 December with a timeframe for further development of policy options for Adaptation Legislation.</p>	<ul style="list-style-type: none"> We will provide you further advice to support your consideration of the Cabinet paper on Resource Management Act reform. We are working closely with Ministry for the Environment officials developing the Cabinet paper (week of 30 November). Advice to support your consideration on engaging with Treaty partners on freshwater and water allocation (week of 30 November). Treasury advice to support your Budget 2021 multilateral meeting with Climate Ministers (December 10). The Ministry for the Environment is intending to provide Ministers with an overview of the policy issues that the Government will need to consider in 2021 as part of the development of the statutory Emissions Reduction Plan (mid-December TBC). 	
Health reform	<p>The DPMC Transition Unit is continuing weekly discussions with the Minister of Health around key components of health reform including the system operating model, financial sustainability and funding, Māori Health, Tier 1 and Tier 2. We have visibility over these papers and are broadly comfortable with the current scope and ambition of the work.</p> <p>On Monday 30 November the first Ministerial Oversight Group (MOG) will meet to discuss a number of high-level issues and assumptions underpinning early reform advice. The Senior Officials Group (SOG) will meet on Tuesday 8 December.</p>	<ul style="list-style-type: none"> Papers for the Ministerial Oversight Group were provided to your office the week of 23 November. A cover email from Treasury was provided later that week. Cabinet will discuss a paper on 9 December noting progress. Advice on health reform Budget 2021 costs will be provided in Vote Health bilateral advice (timing TBC). 	
Infrastructure	<p>We have provided you with joint advice on City Centre to Māngere and covering advice on the tranche 7 approval report for the Shovel Ready Projects which you received last week from Crown Infrastructure Partners (CIP). We understand that CIP intends to send the next approval report (tranche 8) this week.</p> <p>You have an upcoming meeting with the New Zealand Infrastructure Commission, Te Waihangā (Te Waihangā) to discuss infrastructure and Te Waihangā's Briefing to the Incoming Minister.</p> <p>The Treasury is currently drafting the new Letter of Expectations for Te Waihangā and will provide you with a draft to amend or agree to send in December.</p>	<ul style="list-style-type: none"> Crown Infrastructure Partners report: Infrastructure Reference Group Shovel-ready programme – Crown Infrastructure Partners Approval Report tranche 8 (week of 30 November). Treasury Aide Memoire – advice to support your meeting with Te Waihangā. Joint report on Separation of Watercare from Auckland Council – 3 December. Treasury report - Draft letter of expectations for Te Waihangā – December (TBC). 	

3. Key Decisions this Week

List of reports requiring decisions from you this week.

	Topic	Timeframe for Briefing	Purpose / Action	Deadline for MoF Action (if any)	Minister(s)	Treasury Team and Contact
1.	Addressing Remuneration Cost Pressures at the Ministry of Justice	Week of 30 November	Seeks agreement for a draw-down of funding relating to the collective wage negotiations. We have no concerns with the proposal but will need to check the resubmitted report to ensure an earlier error has been corrected.		Minister of Finance Minister of Justice Minister for Courts Minister for the Prevention of Family and Sexual Violence	Justice, Security and Government Services Colin Hall, s9(2)(k)
2.	s9(2)(j)					Justice, Security and Government Services Colin Hall, s9(2)(k)
3.	Screen Sector Insurance Update - Update	Week of 30 November	Seeks agreement to proposed changes to the design of the screen sector indemnity scheme previously agreed by joint Ministers. We have no concerns with the proposal.	10 December	Minister of Finance Minister for Arts, Culture and Heritage	Justice, Security and Government Services Colin Hall, s9(2)(k)
4.	Advanced Vaccine Purchasing – Starburst Indemnity request	Week of 30 November	Seeks your agreement to a broad indemnity required as part of the most recently concluded APA. Your agreement to indemnities is required in order for the purchase to go ahead. You will be asked to sign a Deed of Indemnity, as well as certain provisions of the negotiated Supply Agreement. This briefing was delayed following MBIE's decision to wait for the most recent science information on trial results for this candidate, expected on Monday 30 November.		Minister of Finance	Health Jess Jenkins, s9(2)(k)
5.	Treasury Report: Tranche four of the 2020/21 District Health Board Annual Plans for approval	Week of 30 November	Seeks approval for the Annual Plans for Auckland, Canterbury, Capital & Coast, Hutt Valley, Waikato and Waitemata District Health Boards (all high risk District Health Boards). Treasury plans to include a comment ultimately supporting approval, while reiterating concerns around the process and outcome of negotiations.	Week of 7 December (TBC)	Minister of Finance Minister of Health	Health Hanna Alder Ovenden, s9(2)(k) s9(2)(k)
6.	HYEFU Core Crown borrowing programme forecasts	Week of 30 November (TBC)	Treasury report outlining the updated core Crown borrowing programme forecasts as a result of changes to cash requirements from PREFU to HYEFU, as well as progress and any changes to the funding strategy. Paper will seek approval for any changes to the 2020/21 New Zealand Government Bond borrowing programme.	10 December	Minister of Finance	Capital Markets Funding Strategy and Engagement Kim Martin, s9(2)(k)
7.	Productivity Commission – release of Frontier Firms inquiry draft report (T2020/3573)	30 November	The draft report of the Productivity Commission's Frontier Firms inquiry will be publicly released on 4 December. The Commission has provided your office with a summary of the report. Our briefing identifies areas of alignment with current Government policy work and provides talking points for your use if desired. We ask you to indicate whether you would like advice on industry policy governance before the final report is published.	4 December	Minister of Finance	Economic Strategy & Productivity Amy Russell, s9(2)(k)
8.	Earthquake Commission	2 December	Update Ministers on Crown funding requirements due to finalisation settlements. A decision will be sought from Ministers on the amount and form of the funding to be provided to the Earthquake Commission.	8 December	Minister of Finance Minister Responsible for the Earthquake Commission	Commercial Performance Shelley Hollingsworth, s9(2)(k)
9.	KiwiRail	2 December	This briefing provides background information to support the meeting between the Minister for State Owned Enterprises, and the Chair and Chief Executive of KiwiRail, on 4 December.	4 December	Minister of Finance Minister for State Owned Enterprises	Commercial Performance Juston Anderson, s9(2)(k)
10.	New Zealand Post	2 December	The briefing provides a draft letter of expectations for the Ministers to amend or agree to send to New Zealand Post. The briefing also outlines the drivers, scope and timeframes of policy work being led by MBIE on options for the future state of national mail services, and looks to consult you on the revised business case of New Zealand Post's investment in its parcel processing infrastructure.	16 December	Minister of Finance Minister for State Owned Enterprises	Commercial Performance Shelley Hollingsworth, s9(2)(k)
11.	Letter of Expectations omnibus briefing - Airports	2 December	This briefing covers Christchurch, Dunedin and Hawke's Bay Airports. It provides draft letters of expectations for the Ministers to amend or agree to send to the companies.	16 December	Minister of Finance Minister for State Owned Enterprises	Commercial Performance Juston Anderson, s9(2)(k)
12.	Letter of Expectations omnibus briefing - State Owned Enterprises	2 December	This briefing covers Airways, Transpower, Kordia, AQ, Orillion and QV. It provides draft letters of expectations for the Ministers to amend or agree to send to the companies.	16 December	Minister of Finance Minister for State Owned Enterprises Associate Minister of Finance (as required)	Commercial Performance Juston Anderson, s9(2)(k)
13.	2021/22 Letter of Expectations to rail entities	2 December	This briefing covers KiwiRail and New Zealand Railways Corporation. It provides draft letters of expectations for the Ministers to amend or agree to send to the companies.	16 December	Minister of Finance Minister for State Owned Enterprises	Commercial Performance Juston Anderson, s9(2)(k)
14.	Letter of Expectations - Crown Irrigation	2 December	Provides a draft letter of expectations for the Ministers to amend or agree to send to the company	16 December	Minister of Finance Minister of Agriculture	Commercial Performance Juston Anderson, s9(2)(k)

	Topic	Timeframe for Briefing	Purpose / Action	Deadline for MoF Action (if any)	Minister(s)	Treasury Team and Contact
15.	Letter of Expectations and investment consultation - Metservice	2 December	Consults with Ministers on investments that Metservice proposes to make and provides a draft letter of expectations for the Ministers to amend or agree to send to Metservice.	16 December	Minister of Finance Minister for State Owned Enterprises	Commercial Performance Shelley Hollingsworth, s9(2)(k)
16.	Letter of Expectation - Lotteries Commission	2 December	Provides a draft letter of expectations for the Minister of Internal Affairs to amend or agree to send to the company.		Minister of Finance Minister of Internal Affairs	Commercial Performance Shelley Hollingsworth, s9(2)(k)
17.	Applying the Fiscal Management Approach to Veterans Disability Entitlement Liability	3 December	Seeks decisions on how the fiscal management approach should be applied to changes in the value of the veterans' disability entitlements liability - for example, whether policy decisions that will have an impact on the liability should be charged against the operating allowances.		Minister of Finance	Justice, Security and Government Services Colin Hall, s9(2)(k)
18.	Letter of Expectations – Education Payroll and Network for Learning	3 December	Provides a draft letter of expectations for the Ministers to amend or agree to send to the company.	16 December	Minister of Finance Associate Minister of Finance Minister of Education	Commercial Performance Shelley Hollingsworth, s9(2)(k)
19.	Letter of Expectations - Crown Infrastructure Partners	3 December	Seeks Ministers' agreement to send the annual letter of expectations and recommends that Ministers' agree to issuing a mid-year (20/21) update to the current letter of expectations to capture Crown Infrastructure Partners' new roles.	16 December	Minister of Finance Minister for State Owned Enterprises	Commercial Performance Juston Anderson, s9(2)(k)
20.	Letter of Expectations - Public Trust	3 December	Provide a draft letter of expectations for the Ministers to amend or agree to send to the company.	16 December	Minister of Justice Minister of Finance	Commercial Performance Shelley Hollingsworth, s9(2)(k)
21.	Crown Infrastructure Partners	3 December	Ask the Minister of Finance to approve the issue of non-market Government securities to Crown Infrastructure Partners for Shovel-Ready Funding.	10 December	Minister of Finance	Commercial Performance Juston Anderson, s9(2)(k)
22.	Southern Response	3 December	Seeks Ministers' approval for Southern Response to make a call on uncalled capital facility and the renewal of a delegation to the Secretary to the Treasury.	17 December	Minister of Finance Minister Responsible for the Earthquake Commission	Commercial Performance Shelley Hollingsworth, s9(2)(k)
23.	Review of fiscal indicators	3 December	This report seeks agreement to the scope of a review of headline fiscal indicators ahead of Budget 2021.	7 December (to confirm HYEFU text)	Minister of Finance	Macroeconomic and Fiscal Policy Angus Hawkins, s9(2)(k)
24.	Draft Budget 2021 Guide for Agencies	3 December	This report provides the Minister a draft of the Budget 2021 guide for agencies and may seek related decisions.	7 December	Minister of Finance	Budget Management Simon Duncan, s9(2)(k)
25.	Follow up report on extension of leave scheme	3 December	This joint report seeks feedback on creating a short-term payment for private sector worker awaiting COVID-19 test results and agreement to seek associated funding. These decisions will then be incorporated into the Resurgence Cabinet Paper planned for 14 December.		Minister of Finance Minister for Social Development and Employment Minister for Workplace Relations and Safety	Welfare and Oranga Tamariki Keiran Kennedy, s9(2)(g)(ii)
26.	Follow up report on the wage subsidy	3 December	This joint report will seek decisions on short-term design issue changes to the Wage Subsidy scheme following on from last week's joint report and feedback from Ministers. These decisions will then be incorporated into the Resurgence Cabinet Paper planned for 14 December.		Minister of Finance Minister for Social Development and Employment Minister for Workplace Relations and Safety	Welfare and Oranga Tamariki Keiran Kennedy, s9(2)(g)(ii)
27.	HYEFU – Early Draft	4 December	The Minister will be provided drafts of the Executive Summary, Economic Outlook and the Risks to the Fiscal Forecasts chapters of the HYEFU for his information ahead of being provided a near-final version of the document as a whole on 8 December. This is an opportunity for the Minister to provide feedback on content to be published.	7 December 2020, should the Minister wish to provide feedback	Minister of Finance	Budget Management Simon Duncan, s9(2)(k)
28.	Draft Cabinet paper on economic response to further COVID-19 resurgences – Ministerial consultation	4 December	Second draft of the Cabinet paper for consultation with your wider Ministerial colleagues and for your final comments. This updated draft reflects decisions taken by Joint Ministers and feedback from consultation with key agencies. Following your comments on the draft, the paper will be finalised for lodgement on 10 December.	Read the paper and provide comments by 7 December. Refer for Ministerial consultation with comments back to Treasury by 9 December ahead of lodgement for Cabinet on 10 December. CBC oral item on 9 December.	Minister of Finance Prime Minister Minister for Social Development and Employment Minister of Revenue Minister for Small Business Minister of Housing Minister of Education Minister of Justice Minister of Workplace Relations and Safety	COVID-19 Policy Alastair Cameron, s9(2)(g)(ii)
29.	Ōtākaro	4 December	Request Ministers' approval of Ōtākaro's Q3 FY20-21 funding request.	17 December	Associate Minister of Finance Minister for Land Information Minister of Finance	Commercial Performance Juston Anderson, s9(2)(k)

	Topic	Timeframe for Briefing	Purpose / Action	Deadline for MoF Action (if any)	Minister(s)	Treasury Team and Contact
30.	AgResearch	4 December	Joint Report between MBIE and Treasury, seeking to draw down a tagged contingency, established through the CRRF, to support AgResearch's Lincoln facility project. [Signed out 30 November]	11 December	Minister of Finance Minister of Research, Science and Innovation	Commercial Performance Juston Anderson, s9(2)(k)
31.	Nelson Marlborough and South Canterbury District Health Board Letter of Comfort Request to support 2019/20 Annual Financial Statements.	December	Seeks approval of Nelson Marlborough and South Canterbury District Health Boards' late request for a Letter of Comfort in recognition of the significant liability for the remediation of the Holidays Act, which is the main contributor to this year's reported deficit. As with the earlier report (T2020/3054 refers) Treasury has included a comment reiterating concerns around this process, viewing the provision of such letters to DHBs as a symptom of wider sector financial sustainability challenges.	December	Minister of Finance Minister of Health	Health Hanna Alder Ovenden, s9(2)(k)
32.	Waikato District Health Board Mental Health & Addiction Service Acute Adult Inpatient Facility Redevelopment Indicative Business Case (Ministry of Health-led joint report)	Early December	Seeks approval for Waikato District Health Board (DHB) to progress to the Detailed Business Case stage for its Acute Adult Mental Health Unit project. This project was prioritised from Budget 2019 with a maximum Crown funding contribution of \$100 million.		Minister of Finance Minister of Health	Health Helen Anderson, s9(2)(k)
33.	Waitematā District Health Board Central Sterile Services Department (Ministry of Health-led joint report)	Early December	Seeks approval to rescind a previous decision requiring Waitematā District Health Board's Central Sterile Services Department project to be built to Importance Level 4 (IL 4) standard.		Minister of Finance Minister of Health	Health Helen Anderson, s9(2)(k)
34.	Omnibus paper for Health Infrastructure Package – approval for 3 projects (Ministry of Health-led joint report)	Early December	Seeks business case and funding approval for three additional health infrastructure projects with a total Crown funding contribution of ~\$30 million as part of the New Zealand Upgrade Programme. \$25 million of this funding is for Auckland District Health Board's Paediatric Intensive Care Unit bed expansion and atrium redevelopment project.		Minister of Finance Minister of Health	Health Helen Anderson, s9(2)(k)
35.	Omnibus paper for Health Infrastructure Package – approval for 12 projects (Ministry of Health-led joint report)	Early December	Seeks business case and funding approval for 12 additional health infrastructure projects with a total Crown funding contribution of ~\$40 million as part of the New Zealand Upgrade Programme.		Minister of Finance Minister of Health	Health Helen Anderson, s9(2)(k)
36.	Auckland and Canterbury District Health Boards – Proposal to purchase Linear Accelerators (Ministry of Health-led joint report)	Early December	Seeks approval to draw down up to \$13.38 million from the Health Capital Envelope to purchase new linear accelerators for radiation treatment at Auckland and Canterbury District Health Boards.		Minister of Finance Minister of Health	Health Helen Anderson, s9(2)(k)

4. Short Updates

Information and process updates. Please indicate if further information is required.

Topic	Comment	Team Name and Contact	Recommendations and Minister's Feedback
1.	<p>Update on aviation relief package, including review of International Air Freight Capacity Scheme</p> <p>The key elements of the \$600m package are International Air Freight Capacity Scheme (IAFC), a one-off equity injection to Airways, the aviation Essential Transport Connectivity scheme, and relief for airlines from Airways fees and passenger-based levies [CAB-20-MIN-0131 refers].</p> <p>The fees and levies relief element expires on 31 December 2020, with no plans to extend. The Ministry of Transport are intending to review the Essential Transport Connectivity scheme in early 2021 to inform decisions about government support for aviation and non-aviation transport connection. The IAFC expires on 31 March 2020; the Ministry of Transport will undertake a review in early 2021 to inform Cabinet decisions on its future. There is a forecast surplus of \$17.497m from the relief package at 31 March 2021.</p> <p>The Ministry of Transport had planned to provide a terms of reference (ToR) on the IAFC to you and the Minister of Transport by 30 November 2020 for approval. However, our understanding is that the Ministry of Transport is meeting Hon Wood to discuss the IAFC and aviation recovery more generally on 3 December to seek his direction. Our view is that Ministers need to approve a ToR for the review before significant industry engagement is undertaken on the future of the IAFC, to ensure Ministers' objectives are accurately reflected to industry.</p> <p>The review will need to consider fiscal and economic impacts of the future of IAFC (given its forecast total cost is \$372m over a 12 month period).</p>	<p>National Infrastructure Unit David Taylor, s9(2)(k)</p>	<p>Indicate to officials what your objectives are for the review of the IAFC and for recovery of the aviation industry more generally</p> <p>Discuss with Hon Wood the objectives you wish to be reflected in the review of IAFC and the need for Ministers to approve the Terms of Reference of this review</p>
2.	<p>Estimate for costs for transacting LSAP in secondary market</p> <p>Treasury have estimated potential transaction costs associated with Secondary Market LSAP (also being referred to as banks "clipping the ticket" on government bonds sold by the Treasury and subsequently repurchased by the RBNZ). These are difficult to accurately estimate for a number of reasons; there are differences in bond lines, transaction amounts and timing which requires removing general movements in interest rates to isolate the true costs, if any, associated with Secondary Market LSAP. The two methods used to estimate transactions costs were:</p> <ul style="list-style-type: none"> Using derivative markets to isolate movements in interest rates from time of issuance to repurchase. In practice, derivative transactions would be used by intermediaries when engaging in "clipping the ticket" transactions. Specific NZGBs are matched by assuming only those NZGBs that could be purchased from Treasury and sold to RBNZ within the following two weeks are included. This method estimated a total net cost to the end of October of approximately \$38 million (or 2.7 bps). Since LSAP inception, the estimated cost to the Crown has also trended lower over time, with estimates of more recent activity being closer to zero. An alternative method of controlling for movements in market yields is to calculate the difference between tender prices and the 'secondary market' price at the time of tender close (which is observable but may not be an accurate reflection of the true counterfactual price as tender activity could affect it). Specific NZGBs tendered were then matched with specific NZGB purchases by RBNZ in the following week. This method estimated a net gain to the Crown of around \$6 million for activity from LSAP inception to end-October. We have also looked at adjusting for lags in secondary market yields. This provides an estimated total cost of around 1.75 bps, or \$24 million. <p>Overall, Treasury estimate that the transaction costs to the Crown of Secondary Market LSAP activity, since its inception, could be anywhere from a small gain to a potential cost of \$38 million. These estimates should be considered an upper limit to costs as they assume all in scope issuance and repurchase is subject to "clipping the ticket" activity. In practice only a small proportion will actually be, as intermediaries and investors participate in the NZGB market for other reasons (e.g. investment, market making etc.).</p> <p>Transaction costs of up to \$38 million (or 2.7 bps) are negligible in the context of the overall LSAP programme (\$40 billion to-date), especially given the benefits to LSAP operations and long-term debt management objectives, as previously advised (T2020/1309 refers).</p>	<p>Capital Markets, Funding Strategy and Engagement Kim Martin, s9(2)(k)</p>	<p>Indicate if you would like further information.</p>
3.	<p>Publication of Fiscal Strategy Model at HYEFU</p> <p>The Fiscal Strategy Model projects key fiscal variables for 10 years beyond the end of the forecast period. An updated model is normally published alongside the BPS and HYEFU, incorporating long-run policy assumptions that reflect the Government's fiscal strategy.</p> <p>We propose the publication of the model is aligned to the BPS, when the Government's Fiscal Strategy will be stated, rather than HYEFU. This avoids you having to set long-run policy assumptions outside a major fiscal policy publication; and aligns the release of projections with communication of your fiscal strategy.</p>	<p>Macroeconomic and Fiscal Policy Angus Hawkins, s9(2)(k)</p>	<p>Agree not to publish updated Fiscal Strategy Model at HYEFU.</p>

	Topic	Comment	Team Name and Contact	Recommendations and Minister's Feedback
4.	Employment, Education and Training (EET) Ministers Group resuming	The EET Ministers Group is expected to resume meeting before Christmas, however dates have yet to be confirmed. The membership of the group has been confirmed, with Hon Hipkins as Chair of the group.	Skills and Work Nick Carroll, s9(2)(g)(ii)	
5.	Future of Work (FoW): FoW Governance Group and Social Insurance meetings	The next Future of Work governance group is scheduled for 14 th December and is an opportunity to test with social partners their priorities for the forum next year. Full briefing will be provided by MBIE and Treasury. Ministers are meeting with officials on 9 December ahead of this meeting to discuss social insurance/displaced workers paper (T2020/3457 refers).	Skills and Work Nick Carroll, s9(2)(g)(ii)	
6.	Upcoming Ministerial Oversight Group for State Sector Employment Relations (MOGSSER) meeting on 10 December 2020	We met with you at the Weekly Agency Meeting on 30 December to discuss what role you would like MOGSSER to play in overseeing personnel initiatives in Budget 2021. You indicated you wanted to use MOGSSER to signal key fiscal and employment relations expectations to other Ministers. You did not see MOGSSER's role extending to an advisory or decision-making role. We recommend you discuss these expectations as part of Item 1: Overview at your meeting on 10 December. We will include supporting fiscal and wage context in our joint overview briefing paper with Public Service Commission to reinforce your messaging. Other items on the agenda include: <ul style="list-style-type: none">• Government Expectations on Employment Relations• Update on Education sector and Ministry pay equity claims• Update on Health sector bargaining and pay equity• Update on Living Wage (MBIE) – progress to implement a living wage floor for contractors to the public service.	Skills and Work Nick Carroll, s9(2)(g)(ii)	Discuss your expectation that MOGSSER Ministers communicate key fiscal context messages as part of Item 1: Overview Reinforce this message by relaying your expectations to other Ministers in subsequent items, and by relaying MOGSSER's expectations to Cabinet through the regular oral item at Cabinet regarding MOGSSER.
7.	Border exceptions Ministers Group	Border exceptions officials are meeting this week to prepare advice for the border exceptions Ministers, who will meet for a final time before Christmas. MIQ capacity is significantly constrained for Q1 2021, which will mean hard decisions around prioritisation of migrants for what space there is. Treasury attends the Senior Officials Group and provides and economic view of proposals.	Skills and Work Nick Carroll, s9(2)(g)(ii)	
8.	New HYEFU Specific Fiscal Risks	Since the Minister last engaged with the draft Half Year Update Risks to the Fiscal Forecasts chapter, two risks have been added to the statement of specific fiscal risks. These are detailed below: Finance Government Commitments to International Financial Institutions (Cost Pressure or Variance – Capital) New Zealand has recently agreed to double its commitment under the International Monetary Fund (IMF) New Arrangements to Borrow (NAB) from SDR 340 to SDR 680, and to reduce its commitment under the Bilateral Borrowing Agreements from USD 1 billion to USD 431 million. These changes are likely to come into effect in January 2021, depending on agreement from other participating countries. The IMF has indicated it is likely the NAB will be activated in the next year, based on its current pipeline of requests for finance from members. New Zealand's commitments could be called upon once the NAB are activated. Racing TAB NZ (Cost Pressure or Variance – Revenue, Expenses and Capital) Under provisions of the Racing Industry Act 2020 that came into force on 1 August 2020, the governing body of TAB NZ is appointed by the Minister for Racing and the racing codes retain significant rights to distributions of TAB NZ surpluses and betting profits. As a result of the first of these factors, TAB NZ may now be deemed to be controlled by the Crown and therefore becomes part of the government reporting entity. Until the accounting treatment is resolved, forecasts relating to TAB NZ have not been included in the fiscal forecasts, but may need to be included in future fiscal forecasts once the accounting is confirmed.	Budget Management Simon Duncan, s9(2)(k)	Note the new specific fiscal risks. Indicate if further information is required. Along with the other draft Half Year Update chapters that he will receive on Friday 4 December, the Minister may wish to discuss these new risks with officials at the upcoming Weekly Agency Meeting.
9.	s9(2)(f)(iv)			

5. Regular Updates

Lists regular dashboards and other updates you are provided

	Topic	Timeframe for Briefing	Purpose / Action	Deadline for MoF Action (if any)	Minister(s)	Treasury Team and Contact
1.	Aide Memoire: Weekly Economic Update publication	3 December 10 December 17 December (final one for this year)	Advising of the publication of the weekly economic update report produced by the Forecasting team.	Friday - 9:00am	Minister of Finance	Forecasting Nairn MacGibbon, s9(2)(k)
2.	Fiscal Calculator	Regular – Every Friday before Cabinet	The Fiscal Calculator is provided regularly to the Minister of Finance (on the afternoon of Fridays preceding Cabinet). The Fiscal Calculator summarises the fiscal implications of papers to be considered by Cabinet or Cabinet Committees the following week and includes summary information on the remaining balances of the Between-Budget Contingency (BBC), the Budget 2021 operating allowance, and the multi-year capital allowance.		Minister of Finance	Budget Management Simon Duncan, s9(2)(k)
3.	CRRF Calculator	Semi-regular – Some Fridays alongside Fiscal Calculator	The COVID-19 Response and Recovery Fund (CRRF) Calculator is provided to the Minister of Finance when it contains new charges and, when this is the case, will be provided on Fridays alongside the Fiscal Calculator. This is an Excel workbook that summarises: decisions (with fiscal implications) taken in response to COVID-19; upcoming funding requests to be charged against the CRRF; and summary data of decisions taken, including the remaining CRRF balance.		Minister of Finance	Budget Management Simon Duncan, s9(2)(k)
4.	Firm Support State of Play Report (as at 10 December 2020)	10 December	Economic update, requests received for Crown financial support in response to the impacts of COVID-19 and the policy framework for considering those requests.		Minister of Finance Associate Minister of Finance (Hon Dr Woods) Associate Minister of Finance (Hon Parker)	Firm Support Maureen van der Lem, s9(2)(k)

6. Upcoming Cabinet Papers

List of Cabinet papers upcoming over next two weeks.

Ministerial Portfolio (and lead agency)	Title/topic	Treasury View	Timeframe for Cabinet Committee	Treasury Contact
Minister for COVID-19 Response (Ministry of Foreign Affairs and Trade)	Quarantine-Free Travel between New Zealand and the Realm Countries (The Cook Islands and Niue)	Treasury has not yet been consulted on a final draft of this Cabinet paper.	CAB: 7 December	International Kate Yesberg, s9(2)(g)(ii)
Commerce and Consumer Affairs (Ministry of Business, Innovation and Employment)	Release of merchant service fees issues paper	The Treasury will provide feedback to MBIE and pass on any comments to the Ministers office by Wednesday 2 December	CAB: 7 December	Financial Markets Dasha Leonova, s9(2)(k)
Prime Minister and Cabinet (DPMC)	Release of Report of Royal Commission of Inquiry into the Terrorist Attack on Christchurch Mosques on 15 March 2019	Presents proposals for the Government's initial response to the Royal Commission's report ahead of the proposed public release of the report the following day. The fiscal cost of the initial response proposals is expected to be around \$57 million, with additional proposals to be considered through the Budget 2021 process.	CAB: 7 December	Justice, Security and Government Services Colin Hall, s9(2)(k)
Finance and Minister Responsible for the Earthquake Commission (The Treasury)	Canterbury Earthquake Insurance Claims: Proposed Principles for Proactive Settlement Package	Support.	CAB: 7 December	Commercial Performance Shelley Hollingsworth, s9(2)(k)
Minister for COVID-19 Response, Minister of Health, Minister of Research, Science and Innovation, Minister of Foreign Affairs, (MBIE)	COVID-19 vaccine strategy: update on vaccine purchasing	Treasury supports this paper. The paper seeks to top up the existing vaccines contingency with an additional \$450.59 million to fund vaccine purchasing agreements. Joint vaccine Ministers will continue making decisions on individual purchasing agreements.	CAB: 7 December	Health Hannah Lobb, s9(2)(k)
Minister for COVID-19 Response/Minister of Health, (Ministry of Health)	Update on the COVID-19 immunisation strategy and programme	Treasury supports this paper. The immunisation programme is on track but is highly complex and carries significant risk. The accompanying paper "COVID-19 vaccine strategy: update on vaccine purchasing" paper seeks \$356.98m for the immunisation programme, which we support. Providing funding certainty now will assist in mitigating risks of procurement and delivery delays.	CAB: 7 December	Health Hannah Lobb, s9(2)(k)
Minister of Finance, Minister of Revenue, Minister for Small Business (Treasury, IR and MBIE)	Adjusting eligibility criteria for the Small Business Cashflow Scheme	Treasury supports the proposed changes. These changes are intended to support the SBCS changes that Cabinet agreed on 16 November 2020.	CAB: 7 December	Tax Strategy Jessica Rowe, s9(2)(k) Caleb Morrall, s9(2)(k)
Social Development and Employment, and Revenue (MSD)	Manifesto commitment to lift abatement thresholds and settings for the MFTC	This paper seeks a decision to increase abatement thresholds to \$160 per week as set out in the Labour manifesto. This will be a Budget 2021 pre-commitment of over \$300 million. The paper also seeks agreement to set the MFTC rate for 2021/22.	CAB: 7 December (TBC)	Welfare and Oranga Tamariki Keiran Kennedy, s9(2)(g)(ii)
Social Development and Employment (MSD)	Increase to main benefits	Joint Ministers will discuss this issue on Tuesday 1 December.	CAB: 7 December (TBC)	Welfare and Oranga Tamariki Keiran Kennedy, s9(2)(g)(ii)
Prime Minister/Minister of Health (TBC)	Health and disability system reform: Update on progress	Treasury supports this paper. It provides a high level update on progress to date on health system reform, and signals major work over the coming months.	CAB: 7 December	Health Jill Caughey, s9(2)(k)
Workplace Relations and Safety (MBIE)	Minimum wage review 2020	The Minister for Workplace Relations and Safety is seeking Cabinet agreement to increasing the minimum wage settings to \$20.00 per hour in 2021. This decision is being made in more difficult economic conditions than when the commitment (to increase to \$20 by 2021) was made in 2017 because of the COVID-19 pandemic. We are supportive of the proposal's option for an increase to be deferred until October 2021.	CBC: 9 December	Skills and Work Nick Carroll, s9(2)(g)(ii)
Environment (Ministry for the Environment)	Addressing Māori rights and interests in freshwater and allocation	This paper proposes an approach to engagement with Māori on addressing rights and interests in freshwater and allocation. We are supportive of this work progressing at pace alongside the related Resource Management Reform work. We have not seen a draft of this paper.	CBC: 9 December	Natural Resources Gwen Rashbrooke, s9(2)(k)
Land Information (Land Information New Zealand)	Signing of the deed of settlement for the Maniapoto Treaty settlement	This paper signals the initialling of a deed of settlement with Maniapoto. This will likely have financial implications as the settlement may require remediation of the former Tokanui Hospital site. We have not seen a draft of this paper.	CBC: 9 December	Natural Resources Gwen Rashbrooke, s9(2)(k)
Associate Minister of Agriculture: Animal Welfare (Ministry for Primary Industries)	Urgent regulations on farrowing crates and mating stalls	This paper seeks agreement to make and bring into force regulations on farrowing crates and mating stalls under urgent timeframes. A recent High Court decision found the current regulations unlawful. These	CBC: 9 December	Natural Resources Gwen Rashbrooke, s9(2)(k)

Ministerial Portfolio (and lead agency)	Title/topic	Treasury View	Timeframe for Cabinet Committee	Treasury Contact
		new regulations restore the legality and set up a 10-year transition away from the use of farrowing crates and mating stalls. We recommend that you support this paper.		
Justice (Ministry of Justice)	Proposed Changes to the Incitement Provisions in the Human Rights Act 1993	Seeks Cabinet's agreement to legislative changes that strengthen the protections against hate speech in the Human Rights Act. The paper states there may be additional costs for the courts arising from additional cases, but states it is not possible to estimate this cost. We have suggested Cabinet be provided with some analysis of the potential financial implications, even if a range, in order to inform its decision and agree any necessary funding at the same time as the policy decision.	CBC: 9 December	Justice, Security and Government Services Colin Hall, s9(2)(k)
Treaty of Waitangi Negotiations (Te Arawhiti)	Establishing Ngāpuhi Investment Fund Limited	Seeks agreement to design details of the Ngāpuhi Investment Fund Limited following Cabinet's decision to establish the Fund in June [MCR-20-MIN-0017 refers]. We are awaiting a revised version of the paper to ensure it reflects your recent feedback to explore alternative sources of funding for the \$0.660 million per annum additional operating costs of the Fund.	CBC: 9 December	Justice, Security and Government Services Colin Hall, s9(2)(k)
Treaty of Waitangi Negotiations (Te Arawhiti)	Public Finance (Ngāpuhi Investment Fund Limited) Order 2020	Seeks agreement to submit to the Executive Council an Order in Council adding the Ngāpuhi Investment Fund Limited to Schedule 4A of the Public Finance Act 1989. We have no concerns with this proposal.	CBC: 9 December	Justice, Security and Government Services Colin Hall, s9(2)(k)
Treaty of Waitangi Negotiations (Te Arawhiti)	Ngāpuhi Investment Fund Limited: Board Appointments	Notifies Cabinet of the Minister for Treaty of Waitangi Negotiations' intention to appoint a chairperson and directors to the Ngāpuhi Investment Fund Limited. We have no concerns with the proposed appointments.	CBC: 9 December	Justice, Security and Government Services Colin Hall, s9(2)(k)
Internal Affairs (Department of Internal Affairs)	Fire and Emergency New Zealand (COVID-19 – Fire Safety, Evacuation Procedures, and Evacuation Schemes) Amendment Regulations (No2) 2020	Seeks authorisation for submission to the Executive Council of the Fire and Emergency New Zealand (COVID-19 – Fire Safety, Evacuation Procedures, and Evacuation Schemes) (No 2) Amendment Regulations 2020. Treasury has no concerns with this paper.	CBC: 9 December	Justice, Security and Government Services Colin Hall, s9(2)(k)
Digital Economy and Communications (Department of Internal Affairs)	Detailed policy for a Digital Identity Trust Framework Bill	Seeks approval to detailed policy proposals to implement a digital identity trust framework. The cost of operating the framework is likely to be s9(2)(f)(iv) addressed through cost recovery. s9(2)(f)(iv)	CBC: 9 December	Justice, Security and Government Services Colin Hall, s9(2)(k)
Local Government (Department of Internal Affairs)	Changes to Māori ward provisions for local elections	Seeks agreement to amend local electoral legislation so that local electors no longer have the ability to demand a poll to overturn a decision by a council to establish local Māori wards. We have not yet received a copy of the paper.	CBC: 9 December	Justice, Security and Government Services Colin Hall, s9(2)(k)
Local Government (Department of Internal Affairs)	Government Response to the Interim Report of the Justice Committee Inquiry into the 2019 Local Elections and Liquor Licensing Trust Elections, and Recent Energy Trust Elections	Seeks approval to the Government's response to Interim Report of the Justice Committee's Inquiry into the 2019 local elections. The proposed response notes the government will consider the recommendations of the interim report as other priorities allow. We have no concerns with the paper.	CBC: 9 December	Justice, Security and Government Services Colin Hall, s9(2)(k)
Minister for Economic and Regional Development (Ministry of Business, Innovation and Employment)	Implementing a Fiscally Sustainable Screen Incentive	This paper provides a report back on the fiscal sustainability of the New Zealand Screen Production Grant (NZSPG) and seeks agreement to undertake a robust process to reset the NZSPG in 2021. This will inform decisions in Budget 2021.	CBC: 9 December CAB: 14 December (TBC)	Transitions, Regions, and Economic Development Scott Russell, s9(2)(k) Jean Le Roux, s9(2)(g)(ii)
Minister for Climate Change (Ministry for the Environment)	Enabling a technical reserve price for auctions in the New Zealand Emissions Trading Scheme	This paper seeks agreement to amend the Climate Change Response Act 2002, and associated regulations to set a technical reserve price for auctions in the New Zealand Emissions Trading Scheme (NZ ETS). In order to make the amendments prior to the first auction on 17 March 2021, a highly accelerated and prioritised legislative process is recommended. The Treasury supports this paper.	CBC: 9 December	Transitions, Regions, and Economic Development Tom Wilson, s9(2)(g)(ii)
Minister for Climate Change (Ministry for the Environment)	Climate Change Work Programme: Cabinet Report Backs and key Cabinet dates in 2021	This paper updates on the range of climate change policy work underway and sets out the report-backs to Cabinet for major decisions in 2021. The Treasury supports this paper overall. But we will likely not support the 'agree-in-principle' to tag proceeds from the Emissions Trading Scheme for climate investment.	CBC: 9 December	Transitions, Regions, and Economic Development Udayan Mukherjee, s9(2)(g)(ii)
Minister of Climate Change (Ministry for the Environment)	Adaptation Legislation – proposed timelines and process	This paper seeks agreement to progress policy work for a Managed Retreat and Climate Change Adaptation Act, as a result of the Resource Management Review. It notes that the Minister for Climate Change will seek initial agreement on scope, objectives, and process in March 2021. The Treasury supports this paper.	CBC: 9 December	Transitions, Regions, and Economic Development Florence Reynolds, s9(2)(k) Jean Le Roux, s9(2)(g)(ii)
Minister for Economic and Regional Development (Ministry of Business, Innovation and Employment)	Focused Evolution of Regional Economic Development	This paper seeks in-principle agreement to a general direction within RED, moving towards a more strategic focus. It notes that Minister Nash will return to Cabinet in February 2021 with a paper that comprehensively sets out policy choices for the \$200m Regional Strategic Partnership Fund. The Treasury supports this paper.	CBC: 9 December	Transitions, Regions, and Economic Development Sam Grayling, s9(2)(g)(ii)

Ministerial Portfolio (and lead agency)	Title/topic	Treasury View	Timeframe for Cabinet Committee	Treasury Contact
Minister for the Environment (Ministry for the Environment)	Resource Management Reform	There are significant potential benefits to embarking on resource management reform, and in general we suggest you support it. Briefing T2020/3538 and ministerial consultation briefing (27 Nov) cover suggested talking points on the consultation draft. Treasury advice on housing policies due 7 December will cover the potential impact and timeliness of RM reform and other policies. Treasury will provide advice on the final cabinet paper which we expect to be lodged on Thursday 3 December.	CBC: 9 December CAB: 14 December	Housing and Urban Growth, John Beaglehole, s9(2)(k) Natural Resources Gwen Rashbrooke, s9(2)(k)
Minister for Tourism (Ministry of Business, Innovation and Employment)	Amending Tourism NZ's appropriation scope statement to reflect Tourism New Zealand's pivot to domestic marketing	This paper seeks agreement to establish a new appropriation to allow for Tourism NZ to pivot their marketing activities to the domestic market on an ongoing basis. The current scope only allows for marketing in international markets. The Treasury supports this paper.	CAB: 14 Dec	Transitions, Regions, and Economic Development Alice Ansley, s9(2)(k) Jean Le Roux, s9(2)(g)(ii)

7. Upcoming Reports

List of reports sent this week not covered above.

	Topic	Timeframe for Briefing	Purpose / Action	Deadline for MoF Action (if any)	Minister(s)	Treasury Team and Contact
1.	New Zealand Intelligence Community Joint Ministers Report	Week of 30 November	This report provides a classified update to Ministers on an ongoing project and signals funding will be requested via the Budget 2021 Ministerial response letter. We have yet to review the paper.		Minister for National Security Minister of Finance Minister for GCSB/SIS	Justice, Security and Government Services Colin Hall, s9(2)(k)
2.	Request Crown Consent for the change to the Transmission Gully settlement agreement	Week of 30 November	To address risk raised by the banks, a change must be made to the way the unitary charge is calculated in order to manage the potential impact of negative interest rates. This change is small, though it does increase the liability of Waka Kotahi in the event that the negative interest rate scenario arises. This change, while minor, is material for the purposes of the Reimbursement and Management Agreement (RAMA) and as such it requires Crown consent for the settlement agreement to proceed.	7 December (execution of the settlement is expected on or around 10 December)	Minister of Finance Minister of Transport	Investment Management and Asset Performance Craig Murphy, s9(2)(k)
3.	s9(2)(f)(iv)					
4.	Southern Response additional information on proactive package	30 November	Provide additional information on the proactive package and seek Minister's decision on funding arrangements for a package and agreement on the Terms of Reference for an Independent Oversight Committee.	8 December	Minister of Finance Minister Responsible for the Earthquake Commission Associate Minister of Finance (for noting)	Commercial Performance Shelley Hollingsworth, s9(2)(k) s9(2)(k)
5.	Event briefing for the opening of the Stoke banking hub	2 December	Minister Woods is speaking at the opening of the Stoke banking hub on Thursday, 3 December, in her capacity as Associate Minister of Finance. This briefing provides background for this event.	3 December	Associate Minister of Finance (Hon Dr Woods)	Financial Markets Dasha Leonova, s9(2)(k)
6.	New Zealand Export Credit Annual Report – 1 July 2019-30 June 2020	2 December	This report summarises the transactional and financial performance of the Treasury's New Zealand Export Credit (NZEC) for the 2019/20 financial year	January 2021	Minister of Finance Minister for Trade and Export Growth Minister of Economic Development	New Zealand Export Credit Chris Chapman, s9(2)(k)
7.	Emergency notification regime scope review	3 December	This report seeks decisions on options following a statutory review of whether the emergency notification regime's scope (in the Overseas Investment Act) is broader than necessary.		Associate Minister of Finance (Hon Parker) Minister of Finance (for noting)	International Thomas Parry, s9(2)(g)(ii)
8.	Overseas Investment Act Forestry Review: Process Update	3 December	This report seeks agreement to a new timeframe for the Forestry review, and to hold a final meeting of the Forestry Reference Group meeting.		Associate Minister of Finance (Hon Parker) Minister of Finance (for noting)	International Thomas Parry, s9(2)(g)(ii)
9.	Deposit Takers Act: Approach to Finance Companies	3 December	To seek your agreement to the approach to finance companies under the Deposit Takers Act, specifically whether to establish a separate licence category for 'regulated debt issuers'.	10 December	Minister of Finance	Reserve Bank Act Review Team James Haughton, s9(2)(k)
10.	Separation of Watercare from Auckland Council	3 December	Reporting back on Ministers direction in July 2020 for DIA and Treasury to jointly engage with Auckland Council and Watercare on the potential costs and benefits of separation of Watercare's balance sheet from Auckland Council. Will seek decision on whether or not to proceed with this work.		Minister of Finance Minister of Local Government	National Infrastructure Unit David Taylor, s9(2)(k)
11.	Education Payroll Appointments Shortlisting	3 December	Shortlist of candidates and commencement of 2021 appointment round to be confirmed by Minister of Education.		Minister of Education Minister of Finance	Governance and Appointments Gael Webster, s9(2)(k)
12.	Southern Response Independent Oversight Committee Documentation to Confirm Appointments	3 December	Documentation to confirm appointments to the Southern Response Independent Oversight Committee. Documents to go to CBC.		Minister Responsible for the Earthquake Commission (for decision) Minister of Finance (for noting) Associate Minister of Finance (Hon Dr Woods – for noting)	Governance and Appointments Gael Webster, s9(2)(k)
13.	Reserve Bank Establishment Board Appointments	3 December	Agreement to appointment process for Reserve Bank Establishment Board.		Minister of Finance	Governance and Appointments Gael Webster, s9(2)(k)
14.	Broadcasting Appointments commencement report	3 December	Commencement of Radio New Zealand and Television New Zealand appointment round, decision on reappointments, retirements or new directors.		Minister for Broadcasting and Media (for decision) Minister of Finance (for noting)	Governance and Appointments Gael Webster, s9(2)(k)
15.	Business Finance Guarantee Scheme – June 2020 settings	3 December	Seek agreement for the proactive release of four Treasury Reports relating to Treasury advice on the BFGS. T2020/1811 contains recommendation for removing or loosening	11 December	Minister of Finance	Business Finance Guarantee Peter Rowe, s9(2)(k)

	Topic	Timeframe for Briefing	Purpose / Action	Deadline for MoF Action (if any)	Minister(s)	Treasury Team and Contact
	review Treasury Reports proactive release (T2020/3549)		the exclusion around property developer and investors, the release of this report and Treasury advice may generate interest from this sector.			
16.	Budget Policy Statement – First Draft	3 December	This report will seek your feedback on the first draft of the Budget Policy Statement.	14 December	Minister of Finance	Economic Strategy and Productivity Naomi Bennett, s9(2)(g)(ii)
17.	Drawdown of contingency for "Reducing risk of critical systems – FMIS and Payroll" [Ministry of Social Development and Oranga Tamariki joint paper]	3 December	This joint Ministry of Social Development and Oranga Tamariki report seeks agreement to draw down \$14.5m operating and \$12m capital funding from a contingency established in Budget 2020 to progress work to replace the Ministry of Social Development and Oranga Tamariki's Financial Management Information System (FMIS) and Payroll systems. This funding partially covers the first year of project work, and further funding will be sought through Budget 21.		Minister of Finance Minister for Social Development and Employment Minister for the Digital Economy and Communications Minister for Children	Welfare and Oranga Tamariki Keiran Kennedy, s9(2)(g)(ii)
18.	Drawdown of contingency for "Reducing risk of critical systems – Critical Service Delivery Systems" [Ministry of Social Development paper]	3 December	This Ministry of Social Development report seeks agreement to draw down \$11.5m operating and \$11m capital funding from a contingency established in Budget 2020 to replace or upgrade critical technology assets with a high risk of failure and support the Ministry's Future Operating Model.		Minister of Finance Minister for Social Development and Employment Minister for the Digital Economy and Communications	Welfare and Oranga Tamariki Keiran Kennedy, s9(2)(g)(ii)
19.	Briefing on Ministry of Social Development and Oranga Tamariki key funding issues	4 December	These Treasury reports will outline the key funding issues for Ministry of Social Development and Oranga Tamariki respectively moving forward.		Minister of Finance	Welfare and Oranga Tamariki Keiran Kennedy, s9(2)(g)(ii)
20.	Advanced Purchase of COVID-19 Vaccines 4 x APAs	Throughout November and December	Treasury anticipates the vaccine purchase negotiating team (MBIE-led) to conclude 4x Advance Purchase Agreements ahead of Christmas. Vaccine Ministers will be briefed by MBIE on entering into agreements, and Treasury will brief you separately when your agreement to indemnities is required under the PFA. Where non-binding Heads of Terms are entered, Treasury will provide your office with informal updates on indemnity provisions as they currently stand. After the Starburst agreement this week, we expect decisions will be sought on two further agreements in the week of 7 December and the final agreement in the week of 14 December.	Varying – throughout November and December	Minister of Finance	Health Hannah Lobb, s9(2)(k)
21.	Budget 2021 – Briefing for Vote Health Bilateral	December	This briefing will provide an overview of some key issues that Treasury recommends you discuss with Minister Little at your Budget 2021 bilateral.	December	Minister of Finance	Health Henry Neas, s9(2)(k)
22.	Budget 2021 Advice	December	The Minister will be provided with Vote team advice ahead of his bilateral meetings with select colleagues in the coming weeks. In addition, further advice on the Budget 2021 initiative invite process will follow shortly after these bilateral meetings.	Varies – dependent on scheduled meetings	Minister of Finance and Associate Minister of Finance (Hon Dr Woods)	Budget Management Simon Duncan, s9(2)(k)

Joint Report: Future of Work Tripartite Forum Governance Group Meeting, 14 December 2020

Date:	7 December 2020	MBIE Document No.	2021-1571
Security classification:	In Confidence	Treasury ref:	T2020/3678

Action sought

	Action sought	Deadline
Hon Grant Robertson Minister of Finance	Note the agenda and background material provided for the Future of Work Tripartite Forum Governance Group Meeting on 14 December	14 December 2020
Hon Chris Hipkins Minister of Education	Note that officials will provide the annexes (except Annex Two) to the Council of Trade Unions and BusinessNZ	
Hon Stuart Nash Minister for Economic and Regional Development	Indicate if you want MBIE, in consultation with other agencies, to start developing a Government response to the recommendations of the Productivity Commission inquiry into technological change and the future of work	

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Michael Hampl	Principal Advisor, Transitions Strategy, Ministry of Business, Innovation and Employment	s9(2)(k) s9(2)(g)(ii)	
James Soligo	Manager, Transitions Strategy, Ministry of Business, Innovation and Employment		✓
Patrick Kirkham	Senior Analyst, Skills and Work, The Treasury		
Nick Carroll	Manager, Skills and Work, The Treasury		

Ministers' Office actions (if required)

Return the signed report to Treasury and the Ministry of Business, Innovation and Employment (MBIE)

Note any feedback on the quality of the report



- Enclosure:**
- Annex One: Agenda for the Future of Work Governance Group meeting**
 - Annex Two: Annotated Agenda**
 - Annex Three: Future of Work Status Update**
 - Annex Four: Note on possible Forum priorities for 2021**
 - Annex Five: CTU proposals for Forum priorities**
 - Annex Six: Draft 2021 Meeting Calendar**

Joint Report: Future of Work Tripartite Forum Governance Group Meeting, 14 December 2020

Executive Summary

The Future of Work Tripartite Forum Governance Group (the Governance Group) oversees the operation of the Future of Work Tripartite Forum (the Forum). The Governance Group is meeting on 14 December, for the first time since the election. This meeting provides an opportunity to reconsider the Forum's priorities.

There are three agenda items for the Governance Group (agenda attached as Annex One):

- Progress on Future of Work initiatives
- Forum priorities for 2021
- Timing of meetings for 2021.

Good progress has been made on the Forum's four priorities during 2020 (with the involvement of BusinessNZ and the Council of Trade Unions), creating the possibility of modifying the work undertaken under existing priorities, and introducing new priorities.

Officials consider the four current Forum priorities should remain so. Given its significance, support for displaced workers should remain an area of active focus for the Forum (i.e. regular updates and time on the Forum agenda). The Governance Group could choose to keep the other priority areas (Industry Transformation Plans; better protection for contractors; in-work training and lifelong learning) on the Forum agenda, or move to a 'watching brief' (i.e. retain oversight primarily through the Governance Group). The latter approach would create space to introduce new priorities.

The existing work under the in-work training and lifelong learning theme is close to completion, so the Forum could consider identifying new actions under this priority. Officials would need to do further work to identify clear gaps in what is already a very busy policy space that the Forum could fill.

A number of options for new priorities have been identified. Officials consider the impact of digital technology, and workplace culture and practices, to be the two topics where the Forum can add the most value.

New Zealand is hosting APEC in 2021, and the future of work is one of APEC's focus areas. There may be opportunities for the Forum to learn from and engage with APEC. Officials can provide further advice on these opportunities.

No meetings have been scheduled for 2021 yet. Officials are seeking the Governance Group's view on whether to run three or four Forums, and which parties will chair which Forum meetings in 2021.

Recommended Action

We recommend that you:

- a. **Note** the agenda and background material provided for the Future of Work Tripartite Forum Governance Group Meeting on 14 December

Noted

- b. **Note** that officials will provide the annexes (except Annex Two) to the Council of Trade Unions and BusinessNZ prior to the Governance Group meeting

Noted

- c. **Indicate** if you want MBIE, in consultation with other agencies, to start developing a Government response to the recommendations of the Productivity Commission inquiry into technological change and the future of work

Yes/No

James Soligo
Manager, Transitions Strategy
Ministry of Business, Innovation, and Employment

Nick Carroll
Manager, Skills and Work
The Treasury

Hon Grant Robertson
Minister of Finance

Hon Chris Hipkins
Minister of Education

Hon Stuart Nash
Minister for Economic and Regional Development

Joint Report: Future of Work Tripartite Forum Governance Group Meeting, 14 December 2020

Purpose of Report

1. This report provides you with an agenda and supporting material for the Future of Work Tripartite Forum Governance Group Meeting on Monday 14 December 2020, and advice on the matters under discussion.

Overview

2. The Future of Work Tripartite Forum Governance Group (the Governance Group) oversees the operation of the Future of Work Tripartite Forum (the Forum). The upcoming Governance Group meeting on 14 December provides the first opportunity since the general election for Ministers and social partners (BusinessNZ and the Council of Trade Unions, the CTU) to discuss the Forum's priorities.

3. Details of the Governance Group meeting:

Date: Monday 14 December 2020, 3.30-4.30pm.
Location: Minister of Finance's Office
Participants: Minister of Finance, Hon Grant Robertson (Chair)
Minister of Education, Hon Chris Hipkins
Minister for Economic and Regional Development, Hon Stuart Nash
President of the CTU, Richard Wagstaff
Future of Work Director, CTU, Dr Bill Rosenberg
Chief Executive of BusinessNZ, Kirk Hope
Plus one other from BusinessNZ (to be confirmed)

4. There are three agenda items for the meeting (agenda attached as Annex One):
 - Progress on Future of Work initiatives
 - Forum priorities for 2021
 - Timing of meetings for 2021.
5. This report provides advice on these agenda items. Annex Two provides talking points in the form of an annotated agenda.

Agenda Item 1: Progress on Future of Work initiatives

6. In late 2019, the Forum agreed to the following priorities (and specific pieces of work under those priorities):
 - Industry Transformation Plans (ITPs) – implementing ITPs and developing an industry planning handbook
 - Support for displaced workers – exploring options for financial support for displaced workers (and complementary non-financial support)

- Better protection for contractors – implementing a number of options to make contractors more aware of their rights, and strengthen those rights
 - In-work training and lifelong learning – starting by looking at employer and employee experiences of current settings.
7. Since then, good progress has been made in these areas, in consultation with the social partners. Annex Three provides further detail. In summary:
- The Government is progressing the development of six ITPs. The Government has also agreed to a governance process for the overarching Industry Strategy, which includes a tripartite oversight group, ensuring ongoing social partner involvement in the work.
 - Officials have provided a detailed briefing on financial support for displaced workers to Ministers [Briefing number 2021-1213 (MBIE), T2020/3457 (Treasury)], seeking agreement on whether to proceed with designing a social unemployment insurance scheme. Ministers will discuss this advice on 9 December.
 - Consultation has been completed on a discussion paper on options to improve the protection of contract workers, and policy work is expected to progress in 2021.
 - The piece of work the Forum commissioned on in-work training is close to completion – a report has been prepared, and sent to the social partners for comment.
8. Annex Three also provides updates on a number of other issues of interest to the Forum. Social partners may have questions or comments on this work, specifically:
- They may ask whether the Government plans to respond to the Productivity Commission's recommendations from its inquiry into technological change and the future of work. Officials can provide advice if the Government wants to formally respond to the recommendations.
 - They may ask what we know about the effectiveness of active labour market policies, and progress with the planned review. This work has not progressed as agencies have focused on implementing initiatives to support employment of people affected by the COVID-19 pandemic, but the review remains a priority to progress in 2021.
 - They may express an interest in being directly involved in some of these areas of work (such as the Reform of Vocational Education and Regional Skills Leadership Groups). They may also ask about other areas of work not covered in the status update, such as the initiatives being overseen by the Employment, Education and Training Ministers. You could note that the Employment, Education and Training Deputy Chief Executives group is meeting with BusinessNZ and the CTU on 17 December, to identify particular areas of interest to the social partners and agree mechanisms for ongoing engagement.
9. You may wish to ask the social partners for their impressions of the Forum's progress on priority areas, and whether they are satisfied with the involvement they have had in the work.

Agenda Item 2: Forum priorities for 2021

Reviewing the status of current priorities

10. Progress with existing priorities (paragraphs 6 and 7) provides an opportunity for the Governance Group to reconsider the Forum's focus in 2021. The Governance Group could:
 - Remove one or more of the priorities
 - Retain the status quo, with regular Forum involvement and significant time on the Forum agenda
 - Retain the priority, but with the Forum adopting a 'watching brief'. Officials would continue to work with the social partners at a working level. The Governance Group and the Forum would provide oversight and discuss matters when required, such as when a key decision cannot be resolved at a working level
 - Retain the priority, but change the associated actions (e.g. because the current work under the priority has been substantially completed, or overtaken by events).
11. Officials consider the four current priorities remain important, and should be retained. However, there is scope to reconsider how the Forum approaches each priority:
 - **Industry Transformation Plans.** The Government is progressing six ITPs, under a governance mechanism (separate from the Forum) that includes social partners. Social partners remain interested in this work, and may like to continue with active Forum involvement at this stage (although the successful operation of the governance mechanism might allow the Forum to shift to a watching brief).
 - **Support for displaced workers.** Ministers are meeting on 9 December to discuss social unemployment insurance scheme. Introducing social unemployment insurance would be a significant policy change, and we expect both social partners will want the Forum to remain actively involved.
 - **Better protection for contractors.** The Government completed a public consultation on a number of proposals earlier in the year, and the incoming Minister for Workplace Relations and Safety expects to progress this work in 2021 once there is space on the work programme. The Forum could take a watching brief and see how this work progresses.
 - **In-work training and lifelong learning.** The work commissioned by the Forum has been largely completed, so the time is right to refresh action in this area. The Government is already progressing several initiatives in this area, through the Reform of Vocational Education (refer to Annex Three) and the response to COVID-19. Officials will need to do further work to identify specific gaps the Forum could fill.

Considering possible new priority areas

12. If Forum partners agree to take a watching brief on any of the current priorities, this would create space to focus on some new priorities. The social partners and officials have identified a number of new areas for consideration by the Governance Group. These are briefly described in Annex Four, and discussed below (in descending order of officials' recommendation). Annex Five provides the CTU's comments on their suggested Forum priorities.

13. Ministers may wish to suggest other areas for discussion. Noting the limited time that the Forum has, it may be difficult for the Forum to do justice to more than one or two new priorities if the current four priorities are retained. Officials consider the Digital technology and Workplace culture and practices priorities to be most likely to be of equal interest to all three Forum partners, and generate practical solutions that address the future of work by complementing existing knowledge and policy programmes.

Digital technology

14. The Forum has previously had discussions about the impact of digital technology on work, but it is not currently prioritising this issue.
15. The CTU has suggested a focus on the impact of digitisation on work, with a possible work programme to:
 - address risks posed by technology as they relate to workers data privacy, surveillance of workers, and potential biases in how algorithms are being used in employment relations, with a view to recommending actions such as codes of practice, regulation or changes in government policy;
 - consider skills and training initiatives (including in-work training) to build the digital capabilities of the workforce in the both the shorter and longer term;
 - recommend protocols for government, employers and unions to deal with such changes including transition arrangements; and
 - consider the impact of platform work.
16. This priority would build on discussions the Forum has previously had, and is consistent with the announcements in the Prime Minister's Speech from the Throne about support to lift the digital capability of businesses, a new Digital Training Programme and work to speed growth in jobs and incomes in the digital technology sector.
17. If this was to become a priority, officials would provide further advice on potential action items, including timing of work and engagement with the Forum, to ensure coordination with other work going on across government.

Workplace management and culture for decent work

18. The CTU has suggested the Forum focus on the impacts of workplace management and culture. They have suggested this in the context of decent work (see paragraphs 25-26 below and Annex Five), although officials consider these could be taken as separate issues.
19. This is an area that the Forum has taken an interest in previously, which led to a high-performance high-engagement pilot between three public sector agencies and public sector unions. There may be value in the Forum giving this issue greater prominence, by sharing examples and identifying further opportunities for pilots, particularly in the private sector. There may also be value in consolidating and disseminating examples of what employers and unions consider to be good practice in developing a workplace culture that supports increased productivity, sustainability and inclusiveness.

Māori perspectives

20. Previous Governance Group and Ministers' meetings have noted the lack of Māori participation in the Forum to date. Given the demographics of the Māori population, the future workforce in New Zealand will be increasingly Māori, so it would be appropriate

for the Forum to consider the implications of this, including whether uniquely Māori responses are required. Some possible topics to consider include:

- What does the future of work mean for Māori?
 - How Māori think about the future of work, and how this might differ from other groups
 - Whether there are uniquely Māori aspects of the future of work challenges and opportunities, and whether that requires uniquely Māori solutions.
21. The Governance Group may also wish to consider increasing Māori representation in the Forum, including as an equal partner. Officials can provide further advice on options for Māori representation. We can also do further work on identifying existing thinking on Māori perspectives on the future of work.

Climate change

22. In 2021, New Zealand will produce its first set of carbon budgets and an Emissions Reduction Plan to achieve them. This will give a sense of the size and nature of the economic changes (and by extension, changes to the labour market) that will be required to achieve our emissions reduction targets.
23. BusinessNZ, through the Sustainable Business Council, has taken an active interest in responding to climate change. This has been less of a focus for the CTU, although they are open to the Forum considering climate change. The Forum could focus its efforts on the labour and skills implications of climate change e.g.
- How we would expect climate change, and our attempts to mitigate and adapt to it, to change the supply and demand for labour, particularly specialised labour, over time
 - What changes, if any, would be required in the broader labour and skills system to respond to the economic changes brought about by climate change.

24. s9(2)(g)(i)
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Decent work

25. The CTU has suggested the Forum could focus on developing a shared understanding of what constitutes good work in New Zealand and assessing the current state of workplaces in this context (Annex Five). Good or decent work builds on minimum employment standards by holding that work should also have other features such as ensuring/enhancing physical and mental well-being, promoting skill development and providing opportunities for personal development.
26. While a considerable amount of work has been done internationally (e.g. by the European Commission, the OECD, the UN, and by the United Kingdom government), decent work remains a contested concept. We would expect that to also be the case for any Forum discussions on the subject.

APEC

27. New Zealand has taken over from Malaysia as host of APEC (Asia-Pacific Economic Cooperation) for the 2021 year. A number of APEC workstreams have a focus on the future of work, and it will be the subject of the centrepiece report of APEC's Economic Committee. New Zealand has also proposed a project on social dialogue, which could showcase the Forum as an example (a decision on whether this project will proceed will be made in mid-December).
28. There may be opportunities for the Forum to learn from the experience and thinking of APEC members, and engage directly in APEC events. If the Governance Group is interested in engaging with APEC, officials will provide further advice on the opportunities (once this becomes clearer).

Decision points

29. The two main decision points for this agenda item are:
 - The status of the current Forum priorities (whether to retain and/or reframe).
 - Which new priorities (if any) to add, and if possible, which specific questions to address under these priorities.
30. If the Governance Group chooses to amend any current or add any new priorities, officials will develop a detailed work programme for each new priority, for sign-off at the first Governance Group meeting in 2021.

Agenda Item 3: Timing of meetings for 2021

31. No Governance Group or Forum meetings have yet been scheduled for 2021.
32. In 2020, the Forum was scheduled to meet three times (March, July and November), but only met once. The Forum met four times in 2019. The CTU wishes to propose four meetings in 2021.
33. Officials consider that three Forum meetings, supported by two Governance Group meetings for each Forum, provides sufficient opportunity for discussion and social partner involvement in policy development. More frequent Forums would leave less time to make substantial progress on work between meetings, and it would be more difficult to schedule meetings around Ministers' busy calendars.
34. Annex Six provides two possible meeting calendars, based on three and four Forums. Once the Governance Group endorses one of these calendars, officials will work with Ministers' offices, parliamentary staff and the social partners to confirm meeting dates, times and locations. Depending on the calendars of attendees and the availability of venues, it may be necessary to shift dates slightly – we will aim to minimise any changes to what the Governance Group has agreed.

Chairing of Forum meetings

35. The chairing of Forum meetings is rotated, reflecting its tripartite nature. The Governance Group needs to confirm which party will chair which Forum meeting in 2021. Based on the rotation prior to the election, the next Forum would be chaired by BusinessNZ, followed by the CTU then the Government. The CTU might argue that they should chair the next Forum, as their last turn was the cancelled March 2020 Forum. Officials see no objection to this if the other parties agree, in which case BusinessNZ would be due to host the following one.

Any other business

36. s9(2)(b)(ii)

37.

Next steps

38. Subject to your decisions, we will prepare a revised Forum work programme and an early draft agenda for the next Forum meeting, for consideration at the next Governance Group meeting. That work programme could include new actions under the in-work training and lifelong learning priority, and possible actions in the digital skills area.
39. Officials will work with Ministers' offices, parliamentary staff and the social partners to schedule the meeting dates agreed by the Governance Group, and book suitable venues.
40. If Ministers agree, MBIE will start developing a Government response to the recommendations of the Productivity Commission on technological change and the future of work, in consultation with other agencies. Depending what the Governance Group decides, officials will provide further advice on:
 - opportunities for engagement with APEC; and
 - Māori perspectives on the future of work, and the inclusion of Māori representatives in the Forum.

Annex One: Agenda for the Future of Work Governance Group meeting**Future of Work Tripartite Forum
Governance Group Agenda**

14 December 2020
3:30-4:30pm
Office of the Minister of Finance

Attendees:

Hon Grant Robertson	Minister of Finance (Chair)
Hon Chris Hipkins	Minister of Education
Hon Stuart Nash	Minister for Economic and Regional Development
Kirk Hope	Chief Executive, BusinessNZ
TBC	BusinessNZ
Richard Wagstaff	President, Council of Trade Unions
Dr Bill Rosenberg	Future of Work Director, Council of Trade Unions

Agenda Items:

	Time	Item	Decisions or actions sought
	3:30pm	Welcome	Note the addition of Hon Stuart Nash to the Governance Group
1	3.35pm	Progress on Future of Work initiatives (Attachment: <i>Future of Work status update</i>)	Note progress Discussion (if required)
2	3:40pm	Forum priorities for 2021 (Attachments: <i>Note on possible Forum priorities for 2021</i> , <i>CTU proposals for Forum priorities</i>)	Confirm status of existing Forum priorities (remove, retain as is, maintain a watching brief, continue with new actions) Confirm any new Forum priority areas for 2021 (and beyond) Indicate whether you wish to engage with APEC during New Zealand's hosting year Indicate which priorities should be the focus of the next Forum meeting
3	4.15pm	Timing of meetings for 2021 (Attachment: <i>Draft 2021 meeting calendar</i>)	Confirm the number and timing of Governance Group and Forum meetings for 2021 Agree which party will chair which Forum meeting in 2021
4	4:25pm	Any other business	N/A

Next meeting: TBC (as per item 3 above)

Annex Two: Annotated Agenda

Time and Information	Speaking notes and questions
3:30 Welcome	<ul style="list-style-type: none"> • Minister Nash has joined the Governance Group as Minister for Economic and Regional Development. In that capacity, he is the Minister responsible for Industry Strategy and Industry Transformation Plans, a Forum priority. <ul style="list-style-type: none"> ◦ He is also Minister for Small Business, of Tourism, and of Forestry • As this is the first meeting for some of the attendees, you may wish to do quick introductions
3:35 Progress on Future of Work initiatives	<ul style="list-style-type: none"> • Officials have provided a status update on the Forum priorities and other projects of interest • Notwithstanding the impact of COVID-19, we have managed to progress work on all of the Forum priorities in 2020. Some of the items on the longer list of topics of interest to the Forum have been on hold during that time as priorities have changed (e.g. first principles review of active labour market policies) • Officials have been talking to incoming Ministers, to confirm the priority of projects of interest to the Forum. As that confirmation occurs, work will be able to proceed. • You may wish to ask social partners for their impressions of progress to date, and their involvement in it. • Social partners may suggest work on active labour market policies needs to proceed urgently, with their active involvement. Officials expect this work to progress in 2021, but need to discuss it with Ministers first. • Social partners may also ask about the Budget 2020 initiatives responding to COVID-19, and express their interest in being actively involved in implementing these initiatives. You can note that Deputy Chief Executives are meeting with the social partners on 17 December to provide an update, identify areas of particular interest to the social partners, and agree how to we will continue to engage with social partners. • Social partners may ask about the Government's response to the Productivity Commission inquiry. This response was not prioritised during the pandemic, but Ministers could indicate that officials will develop a response by the end of 2020/21.
3:40 Forum priorities for 2021	<p>Current priorities</p> <ul style="list-style-type: none"> • The four current priorities still remain important and should be retained. The question for the Governance

	<p>Group is whether we could spend less time at Forum meetings on some of these priorities, which could free up time for the Forum to take on new priorities. Spending less time at Forums does not mean the Forum ceases to take an interest – the Governance Group will continue to oversee this work, officials will continue to engage with the social partners in policy development, and time can be allocated on Forum agendas.</p> <ul style="list-style-type: none">• The Government has re-committed to the Industry Strategy and developing ITPs. The social partners will be involved in the governance process for that work. This might mean that the Forum can spend less time on ITPs in future (while maintaining an eye on progress).• Ministers have agreed to officials continuing work on social unemployment insurance. This would be a significant policy change, and there remains a lot of work to be done. The Government is committed to working with the social partners on this, and regularly engaging with the Forum. (Subject to discussion by Ministers on 9 December)• This work needs to be complemented by work on non-financial support to displaced workers (i.e. active labour market policies). It is likely that work will progress on this in 2021.<ul style="list-style-type: none">○ You may wish to ask social partners what work they would prioritise here• The Minister for Workplace Relations and Safety expects to progress work on better protections for contractors in 2021, as per the consultation earlier in 2020, but this is a busy portfolio area at present.• Under the in-work training and lifelong learning priority, the Forum commissioned research on employer and employee experiences. That work is close to complete. This remains an important part of responding to the future of work, so we should consider prioritising further action in this area.<ul style="list-style-type: none">○ You may wish to ask social partners if they have ideas about work to prioritise <p>Possible new priorities</p> <ul style="list-style-type: none">• If we decide that the Forum can take a watching brief on some of our priorities, we can free up some room to bring new priorities (with associated actions) into the Forum.• Officials and social partners have proposed a number of new priorities the Forum could adopt• Realistically the Forum only has room for one or two new priorities. Of the ones suggested, digital technology seems like the best place to start. While it has long been a central element of future of work discussions, and we have discussed it before, it has taken on greater importance in the response to COVID-19. The Government has announced its intention to increase support to business and training in the digital area, and work to grow the digital sector. It also seems to be a priority for all the Forum partners.
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	<ul style="list-style-type: none"> ○ You may wish to ask social partners where they think the Forum could make the most difference in the area of digital technology (particularly BusinessNZ, which has had less to say about this) • Of the other priorities, workplace management, culture and practices might also be promising. The Forum has already championed the development of a public sector pilot on high performance high engagement workplaces. A further focus on private sector workplaces would be useful. It could also be useful to distinguish between small and larger businesses in terms of use of practices, and identification of barriers and enablers to take-up of such practices. • Consideration of Māori perspectives, and the involvement of Māori in the Forum, has been previously identified as an issue to consider. The three partners should consider how to increase their own Māori representation, but that will not support a discussion that is representative of Māori views <ul style="list-style-type: none"> ○ You could ask social partners for their views on bringing Māori into the Forum, including as a partner ○ Officials could provide further advice on Māori (and Pasifika) thinking about the future of work, and identify who is doing this thinking • You will be aware that New Zealand is hosting APEC in 2021. There may be some opportunities for the Forum to learn from and directly engage with APEC. Officials are following this up, but we think that the Governance Group should agree to taking up opportunities that officials identify
4:15 Timing of meetings for 2021	<ul style="list-style-type: none"> • The Forum was held four times in 2019, and was scheduled to be held three times in 2020. • The CTU has indicated a preference for four Forums in 2021. The Government would prefer to continue with three Forums <ul style="list-style-type: none"> ○ Ministers have a very busy schedule, particularly around Budget time ○ We need to leave sufficient time between meetings for officials to progress work and prepare Forum materials • Officials have tentatively identified meeting dates for 2021. They will work with social partners and Ministers' offices to confirm these arrangements • We have agreed to rotate the chairing of the Forum. BusinessNZ would be next in the rotation to chair, followed by the CTU and the Government <ul style="list-style-type: none"> ○ Do members have any response to continuing that rotation?
4:25 Any other business	N/A

Annex Three: Future of Work Status Update

FORUM PRIORITIES

KEY INITIATIVE	DESCRIPTION OF INITIATIVE	CURRENT STATUS	LEAD
Industry Transformation Plans (ITPs)	<p>The Government's Industry Strategy is an active, partnership-led approach to industry policy, working with businesses, workers and Māori to shape the future of key industries. The two core objectives are to transform industries to lift productivity and to support industries in transition. Focus industries fall into four categories – moving from volume to value; scaling up value; resetting significantly disrupted industries; and strengthening resilience of critical enablers.</p> <p>ITPs bring together all relevant stakeholders in an industry to agree a long-term (20-30 year) vision for the industry, supported by short- and medium-term actions.</p>	<p>There are currently six ITPs underway:</p> <ul style="list-style-type: none"> • Advanced Manufacturing – scoping stage • Agritech – launched, being implemented • Construction – launched, being implemented • Digital Technologies – to be released for consultation in early 2021 • Food and Beverage Manufacturing – scoping stage • Forestry and Wood Processing – scoping stage <p>Governance of the ITPs includes an oversight group comprising senior officials and members from BusinessNZ and the CTU. This ensures that the views of the social partners feed into the oversight of the Industry Strategy and ITPs.</p> <p>Officials and social partners have agreed to develop a handbook to provide guidance to industries that wish to progress their own long-term planning. Progress has been disrupted by COVID-19. Officials and social partners last met in September, and will re-connect early in 2021 on how to take the work forward.</p>	MBIE
Support for	Improving support for displaced workers was a key Future of Work initiative prior to COVID-19. In December 2019, a	Following the Forum's discussion in July, officials have continued to investigate unemployment insurance, and	MBIE/MSD/ Treasury/IRD

displaced workers	scoping paper was produced by MBIE that identified options for improving support for displaced workers, including income smoothing options. At the February Future of Work Ministers Meeting, MBIE was commissioned to undertake further work to scope out three options for progressing this work stream, including minor changes to current settings, statutory redundancy payments, and a social unemployment insurance scheme. The March Forum was cancelled, but there was a discussion of the options at the July Forum.	complementary support, for displaced workers. This work has described and commented on alternative models for enhancing financial support, including social unemployment insurance models. The models illustrate the main choices for enhancing financial support, in particular coverage and delivery choices. Officials have also begun to explore the distributional impacts of unemployment insurance. The purpose of this work is to inform decisions about which models warrant further, detailed, technical development. Ministers met on 9 December to discuss advice from officials.	
Protection for Non-Standard Workers	MBIE has been undertaking work to better protect vulnerable contractors. This work was commissioned to complement projects to reduce the exploitation of temporary migrant workers and to support Fair Pay Agreements. MBIE undertook public consultation on options for protecting vulnerable contractors, which closed on 14 February 2020.	MBIE has summarised the findings from the consultation and will provide initial advice to the incoming Minister for Workplace Relations and Safety in December. Other work (such as sick leave and Fair Pay Agreements) has been the immediate focus in the Workplace Relations and Safety portfolio. Further progress on the contractors project is expected in 2021.	MBIE
Facilitate In-Work Training and lifelong learning	To better understand the status quo of in-work training in New Zealand, the Forum requested MBIE undertake a research project to better understand how and why firms are engaged in training their staff. This project started in January 2020, and six interviews were conducted with firms and union representatives.	<p>In February 2020, all further interviews were cancelled due to COVID-19. The findings from this small selection of interviews were written into a report in September, which was sent to BusinessNZ and the Council of Trade Unions for their feedback.</p> <p>The main findings of the report were:</p> <ul style="list-style-type: none"> • In-work training remains an important part of ensuring that New Zealand's skills needs are met. • Existing education and training programmes have strengths that mean they broadly meet businesses' needs. There are also different needs across and within industries. We should seek to build on the existing framework, rather than replacing this framework. • The in-work training model works best – i.e. training is 	MBIE/MoE

		most relevant and best meets needs – when it is developed through partnerships between industry, workers and education providers.	
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OTHER AREAS OF INTEREST

KEY INITIATIVE	DESCRIPTION OF INITIATIVE	CURRENT STATUS	LEAD
The Productivity Commission Inquiry into technological change and the future of work	Ministers commissioned the Productivity Commission to undertake an inquiry into technology change and the future of work. The Commission delivered its final report in March 2020.	The Government delayed responding to the Productivity Commission report, due to the COVID-19 pandemic. A decision has yet to be made on if or when the Government will respond.	MBIE/ Treasury
Reform of Vocational Education (RoVE)	<p>The Reform of Vocational Education (RoVE) aims to create a strong, unified, sustainable vocational education and training (VET) system that is fit for the future of work and delivering the skills that learners, employers and communities need to thrive. RoVE comprises seven key changes:</p> <ul style="list-style-type: none"> • six new Workforce Development Councils (WDCs) to give industry greater leadership • new Regional Skills Leadership Groups (RSLGs) to advise on regions' skills needs and responses – see item below • a new body, Te Taumata Aronui, to ensure RoVE reflects the commitment to Māori-Crown partnerships • creating Te Pūkenga NZ Institute of Skills & Technology (NZIST), unifying 16 polytechnics as a national public VET system • shifting Industry Training Organisations' (ITO) workplace learning roles to Te Pūkenga and other tertiary providers 	<p>RoVE implementation is underway following enactment of the Education (Vocational Education & Training) Amendment Act on 1 April 2020. This is a complex transition programme overseen by an interagency RoVE governance board. Key elements of the transition process are noted below:</p> <ul style="list-style-type: none"> • WDCs are on track to be formally established and operational by mid-2021. Interim establishment boards have engaged widely with their industry sectors to define WDCs' scopes, functions and governance. Consultation on draft Orders in Council to formalise WDCs will run from 16 December to 5 February 2021. • Te Pūkenga NZIST's governance and senior leadership roles are all in place. Te Pūkenga NZIST is working across its (former polytechnic) subsidiaries, and with transitional ITOs to begin bringing its new operating model into 	TEC/MoE

	<ul style="list-style-type: none"> to integrate on-job and provider-based learning new Centres of Vocational Excellence (CoVEs) working to boost quality across the system developing a new unified funding system (UFS) for vocational education in all settings. 	<p>operation from early 2021</p> <ul style="list-style-type: none"> Two COVEs for construction and primary industry have been confirmed and are in the process of being set up Transitional ITOs are developing transition plans outlining how their various functions will shift to Te Pūkenga and other providers, and to WDCs, while continuing to meet the needs of employers, learners and staff. Once plans are approved by TEC, the transitional ITOs will follow different timelines according to their readiness to integrate on-job, on-campus and online training. Transitions must take place by December 2022. <p>Detailed updates are available on the RoVE project website at www.tec.govt.nz/rove/reform-of-vocational-education/</p>	
Regional Skills Leadership Groups	<p>The Regional Skills Leadership Groups (RSLGs) were formed in June 2020 to identify and support better ways of meeting future skills and workforce needs in our regions and cities. They are part of a joined-up approach to regional economic development and labour market planning which will see our welfare, education and immigration systems working together to better meet labour force needs across the country.</p>	<p>In response to COVID-19, the establishment of RSLGs was accelerated by creating ‘interim’ RSLGs with interim members appointed through to June 2021. The 14 current interim RSLGs are made up of individuals from regional industry leaders, economic development agencies, iwi, communities, workers and government organisations.</p> <p>The primary focus of interim RSLGs is to produce regular Local Insights Reports (LIRs). LIRs provide a common view of current regional labour market skills and challenges and opportunities that will be valuable to a range of regional stakeholders, including wider business/industry, workers, community groups, Māori and iwi.</p> <p>Once the RSLGs are fully established, they will develop regional workforce plans which will identify labour supply needs over the short, medium and longer term and identify local activity that addresses these needs. These plans will also</p>	MBIE

		inform government activities and decisions across the education, welfare and immigration systems.	
Just Transitions Taranaki Partnership	<p>Just Transitions Partnerships use strategic planning through multi-stakeholder partnerships to support communities to understand, planning and managing their transitions.</p> <p>The initial focus was on Taranaki, to support a transition away from oil and gas. Venture Taranaki and the Ministry of Business, Innovation and Employment are working together to plan Taranaki's transition to 2050. The focus is on developing twelve transition pathway action plans (TPAPs).</p> <p>The National New Energy Development Centre (NNEDC) is a major investment in Taranaki's transition through. The NNEDC will be a nationwide hub based in Taranaki that supports new energy products and technologies to be demonstrated and commercialised. In December 2019, Ministers approved an initial budget of \$27 million over four years to establish the NNEDC.</p>	<p>Venture Taranaki published all of the TPAPs by the end of July 2020.</p> <p>Venture Taranaki is now in the process of prioritising actions to support the long-term direction set out in Taranaki's regional development plan (Tapuae Roa), the Taranaki 2050 Roadmap and Taranaki's COVID-19 Recovery Plan.</p> <p>On 3 July the NNEDC was incorporated as a limited liability company. On 23 July the NNEDC was officially launched at an event in New Plymouth. The first Board meeting was held on 30 July, at which the transfer the completed establishment activities over to the new entity from Venture Taranaki was finalised.</p> <p>The Labour Party manifesto noted an intention to expand the Just Transitions programme, with an initial focus on Southland (in response to the impending closure of the Tiwai Point aluminium smelter).</p>	MBIE
High Performance High Engagement	<p>High Performance through High Engagement (HPHE) is an approach to engage workers and their representatives to improve the quality of working life and thereby improve organisational performance.</p> <p>Three agencies are involved in the "set-up" phase of HPHE (Department of Conservation, Corrections, Ministry of Social Development) as a workplace partnership, based on the idea that people closest to problems are engaged on solutions.</p>	<p>Conservation's approach to high performance engagement is well established. MSD has applied HPHE to specific challenges and is building internal capability. Corrections has not progressed the "proof of concept" approach to date.</p> <p>Te Kawa Mataaho Public Service Commission and the Public Service Association continue to explore potential agencies to extend high performance engagement approaches, in order to build a broader community of practice. The goal of exemplar employment practice in the public service may support efforts to broaden the agencies involved in collaborative, high engagement practice.</p>	

First principles review of active labour market policies (ALMPs)	<p>In October 2019, Ministers agreed to the scope and timing of a First Principles Review of Active Labour Market Policies. This was to be a multi-year work programme, examining some of the fundamental questions regarding the purpose, extent and structure of ALMPs, and how they work as a system. This work was initially prompted by a recommendation from the Welfare Expert Advisory Group to establish effective employment services and to revamp ALMPs across government (recommendations 35 and 36).</p>	<p>Work begun last year was overtaken by the urgent need to respond to the pandemic and recession. The need for this work remains. New Zealand's ALMP 'system' has developed incrementally, and across a range of portfolios and agencies, with a focus on the groups most disadvantaged in the labour market. Given the changing profile of displaced workers from the pandemic, increasing numbers not in the labour market, and likely future structural shifts in the labour market, a thorough examination of the system will help ensure coherence, appropriate coverage, and value for money. Officials anticipate returning to this work over the coming year. ALMPs are integral to any comprehensive package of support for displaced workers, and there is therefore a close link to the Forum's Displaced Worker workstream.</p>	MBIE/MSD/ MoE
How Māori and Pacific communities will be affected by the future of work	<p>Ministers and social partners had recognised that the Forum should consider how Māori and Pacific communities could have more voice on Future of Work issues. The original Forum calendar for 2020 proposed discussing Māori and Pacific Future of Work perspectives at the July Forum, but priorities changed and that discussion did not happen.</p>	<p>Engaging with Māori and Pasifika perspectives on the Future of work issues remains an outstanding issue. Māori and Pasifika are disproportionately at the margins of the labour market, and are likely to experience more pronounced negative impacts of COVID-19 during the longer term recovery phase than other demographic groups. In the short term, the Government has increased funding for Māori and Pacific initiatives as part of the COVID-19 response in Budget 2020. At this stage, there is no clear plan for Government and/or the Forum to progress these issues. A next step could be for officials to identify existing work that is already happening in this area (e.g. the BERL, Ngā Tahu and Waikato Tainui report on the Māori future of work was released in 2020), and start to engage with Māori and Pacific stakeholders who are working in this area. That could provide a bridge to the Forum.</p>	MBIE

Annex Four: Note on possible Forum priorities for 2021

Reviewing the current Forum priorities

During 2019, the Forum has prioritised the following areas of work (and actions):

- ITPs – implementing ITPs and developing an industry planning handbook.
- Support for displaced workers – exploring options for financial support for displaced workers (and complementary non-financial support).
- Better protection for contractors – implementing a number of options to make contractors more aware of their rights, and strengthen those rights.
- In-work training and lifelong learning – starting by looking at employer and employee experiences of current settings.

Good progress has been made in all four areas, in consultation with BusinessNZ and the CTU (refer to the status update). This provides an opportunity for the Governance Group to reconsider whether these remain the Forum's priorities, and do one of the following:

- Remove the priority
- Retain the priority, with regular Forum involvement (i.e. status quo)
- Retain the priority, with the Forum maintaining a watching brief (i.e. officials continue to work with the social partners, with oversight by the Governance Group and the Forum only as required, such as at key decision points)
- Retain the priority, but refresh the associated actions (e.g. because the current work under the priority has been substantially completed, or overtaken by events).

Officials recommend retaining all the four priorities, although some of them might be ready for the Forum to take a watching brief. We note that the commissioned actions are ongoing, although the action under In-work training and lifelong learning is nearing completion, creating the opportunity to refresh the related actions.

Considering possible new priority areas

If Forum partners agree to lessen the focus on any of the current priorities, this would create space to introduce some new priorities. Social partners and officials have identified possible new themes and areas of focus within those that the Governance Group could consider (refer also to the CTU note on Forum priorities).

Digital technology

Responding to technological change, particularly digital technology, could be considered the archetypal future of work issue. The Forum has previously had several discussions in this area, but has not identified it as a current priority.

The CTU has suggested a focus on the impact of digitisation on work, with a possible work programme to:

- address risks posed by technology as they relate to workers data privacy, surveillance of workers, and potential biases in how algorithms are being used in employment relations, with a view to recommending actions such as codes of practice, regulation or changes in government policy;
- consider skills and training initiatives (including in-work training) to build the digital capabilities of the workforce in the both the shorter and longer term;
- recommend protocols for government, employers and unions to deal with such changes including transition arrangements; and

- consider the impact of platform work.

Climate change

Ongoing climate change, and our efforts to mitigate and adapt to it, will significantly change our economy, and potentially the future of work. Next year is a significant one in terms of our response to climate change under the Zero Carbon Act 2019, so it would be timely for the Forum to focus on this area. Some possible topics include:

- How will climate change and our efforts to respond change the future of work?
- How does the labour and skills system need to respond to climate change to ensure we have the skills we need and there is a just transition for displaced workers?

Māori perspectives

To date, the Forum has had limited Māori representation or focus on Māori perspectives on the future of work. The Forum could focus on a number of issues here:

- What does the future of work mean for Māori?
- How Māori think about the future of work, and how this might differ from other groups
- Whether there are uniquely Māori aspects of the future of work challenges and opportunities, and whether that requires uniquely Māori solutions

Introducing Māori perspectives into the Forum also requires consideration of how Māori are involved in the Forum's activities.

Workplace management and culture for decent work

The CTU has suggested advancing New Zealand's understanding and practice by:

- Developing a shared understanding of what constitutes good work in the New Zealand context and assessing the current state of workplaces in this context
- Identifying aspects where management and leadership can be improved in terms of creating a positive workplace culture by supporting worker participation and industrial democracy in particular
- Proposing policies to raise awareness of and strengthen the capability of New Zealand workplaces in ways that support the Forum's objectives in terms of good work
- Investigating forms of deeper engagement and participation by workers, including those above, and proposing policies to enhance it
- Investigate options for upskilling leaders, managers and unions so that they can make practical steps to improve workplace culture and performance.

Engaging with APEC

This is not really a new theme for the Forum, more an opportunity presented by New Zealand's hosting of APEC in 2021. There are a number of APEC workstreams that touch on the future of work, and a choice to be made about whether the Forum wants to seek to engage with APEC during 2021. While we are still seeking clarity on the opportunities for engagement, they could potentially involve:

- Learning from the experience of APEC members
- Showcasing the operation and work of the Forum.

Annex Five: CTU proposals for Forum priorities

1. The Future of Work for Māori

What does the Future of Work mean for Māori?

How should Māori be represented in activities of the Forum such as special sessions on this topic and in industry planning steering groups?

2. The impact of digitisation on work

Digital technologies such as Artificial Intelligence are increasingly being used in the context of the relationship between employers and workers, including in recruitment, workplace decisions, and performance management. This has potential risks including to privacy, excessive surveillance, and biases or discrimination built into the algorithms used. In addition, digitisation is likely to bring increasingly rapid changes to technology, work organisation and skill needs.

Government, union representatives and business representatives could discuss the impact of digital technologies on the nature of work, and set a work programme to:

- Address risks posed by technology as they relate to workers data privacy, surveillance of workers, and potential biases in how algorithms are being used in employment relations, with a view to recommending actions such as codes of practice, regulation or changes in government policy.
- Consider skills and training initiatives (including in-work training) to build the digital capabilities of the workforce in the both the shorter and longer term.
- Recommend protocols for government, employers and unions to deal with such changes including transition arrangements.
- Consider the impact of platform work.

3. Workplace management and culture for decent work

Rationale

One of the themes of the Future of Work Tripartite Forum is to create a productive economy that generates good jobs. In keeping with the ILO's recommendation that members take a human centred approach to the Future of Work, we need to attend very deliberately not just to the availability and access to jobs, and/or the productivity potential of jobs, but importantly to the quality of jobs.

That means creating jobs that are secure, safe and healthy, and involve supporting workers to become highly skilled and receive high wages.

More than that, jobs have to be socially positive. The Government has committed to pursuing a policy agenda of Wellbeing, making improving the lives of people the primary outcome it seeks to achieve. Employment done well offers a significant opportunity to contribute to this policy, given that every day, over half the population goes to work. Wellness at work is derived from a sense of belonging, being valued, contributing, and being respected. Done badly, work can be a place where people lose their sense of dignity, are injured and subjected to disrespect. Whether a workplace contributes to or detracts from wellbeing is connected to the workplace culture. And the culture is created in part by attitudes and experience, but also by the level of acumen and skills of all parties – especially management and union.

The quality of management and leadership are vital aspects of a productive workplace which provides good work, and many surveys show New Zealand is weak in these areas. However management and leadership are not the sole responsibility of managers: forms of participation in decision making by working people and their representative are known to be beneficial. For example, it is accepted that they are vital for healthy and safe workplaces and New Zealand's health and safety legislation incorporates measures to strengthen worker engagement, participation and representation. Methodologies such as 'High Performance, High Engagement' have demonstrated successes in New Zealand and elsewhere. In Europe, Work Councils and worker representation on company boards are widespread, including in world-leading firms.

Such practices can contribute to a 'just culture' in the workplace where workers feel not only valued for their contributions, and feel safe to raise issues of concern or suggestions for improvement, but where organisational performance and productivity is enhanced. This is because workplaces with more democratic cultures bring out the best in people so they feel that they are sharing fairly in the value and benefits of their work, and where the productivity, health and safety of the workplace are improved by incorporating the knowledge of the people who work there and know it best.

To be effective, this must be addressed at a variety of levels including the whole economy, institutions, industries and enterprises. An important contributor is what happens within the workplace

The proposal

We should seek to advance New Zealand's understanding and practice by

- Developing a shared understanding of what constitutes good work in the NZ context and assessing the current state of workplaces in this context.
- Identifying aspects where management and leadership can be improved in terms of creating a positive workplace culture by supporting worker participation and industrial democracy in particular.
- Proposing policies to raise awareness of and strengthen the capability of NZ workplaces in ways that support the Forum's objectives in terms of good work.
- Investigating forms of deeper engagement and participation by workers, including those above, and proposing policies to enhance it.
- Investigate options for upskilling leaders, managers and unions so that they can make practical steps to improve workplace culture and performance.

We recognise that considerable work has been done in these areas which we can draw on. However we need to be sure that options suit our objectives and New Zealand's context. This could be tested with evaluations of examples of such practices in New Zealand, and pilots of new approaches.

Annex Six: Draft 2021 Meeting Calendar

In 2020, the Forum was scheduled to meet three times, with the Governance Group meeting between Forums. The CTU has suggested that the Forum could meet four times in 2021.

Officials have mocked up a couple of possible calendars based on these two options. We have assumed that Governance Group meetings would work best about 4 weeks before and after Forums, so that the Governance Group can provide early guidance on the agenda for the next Forum, and then sign off on the agenda sufficiently far ahead of the next Forum to allow officials to finalise material.

All dates will need to be checked against the calendars of the Governance Group and the parliamentary sitting calendar for 2021.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Three Forum option		GG (4 th)	Forum (22 nd)	GG (15 th)		GG (3 rd)	Forum (12 th)	GG (5 th)	GG (23 rd)		Forum (1 st)	GG (2 nd)
Four Forum option	GG (28 th)	Forum (22 nd)	GG (25 th)	GG (22 nd)	Forum (17 th)	GG (17 th)	GG (15 th)	Forum (9 th)	GG (9 th)	GG (7 th)	Forum (1 st)	GG (2 nd)



Reference: T2020/3631 SE-2-12-1

Date: 8 December 2020

To: Minister for State Owned Enterprises
(Hon Dr David Clark)

Copy: Minister of Finance
(Hon Grant Robertson)

Associate Minister of Finance
(Hon David Parker)

Deadline: 10 December 2020

Aide Memoire: Minister's Meeting with New Zealand Post (10 December 2020)

You are scheduled to meet with the Chair, Mr Rodger Finlay, and Chief Executive (CE), Mr David Walsh, of New Zealand Post Limited (NZ Post), at **1.00 – 1.30pm on Thursday, 10 December 2020**.

Matters concerning NZ Post's mail obligations intercept your responsibilities regarding both the Digital Economy and Communications (DE&C) and State Owned Enterprises (SOE) portfolios. As officials from the Ministry of Business Innovation and Employment (MBIE) and the Treasury will be present, we anticipate that the meeting will be focused on NZ Post's mail operations and the current mail policy work program (the Future of Mail).

There may be an opportunity to set aside time within the allotted meeting time for a conversation just between yourself and the Chair. Should that occur, the Chair may wish to discuss more commercially sensitive issues with you.

We provide background context and suggested talking points regarding mail (which we understand to be the primary focus of the meeting) as well as the more commercially sensitive shareholding matters that the Chair might raise if the opportunity arises.

We refer to the Treasury report of 2 December 2020 [*T2020/3429 refers*], for current background context on each of NZ Post's key business components and historical financial performance, to inform your conversations with the Chair and CE.

Mail

MBIE is leading a programme of work (with input from the Treasury and NZ Post) to canvass options for a future sustainable mail service. This follows the appropriation of \$130m in Budget 2020 for transitional funding for NZ Post to continue to provide a minimum level of mail services. [s9(2)(f)(iv)]

s9(2)(f)(iv)

In the Treasury's view, NZ Post and the Government have different key objectives that incentivise both to find an optimal solution for mail:

- As an SOE, NZ Post's principal objective is to be a successful business and therefore its mail services need to be commercially sustainable. s9(2)(b)(ii)
- The Government's objective is for an appropriate level of mail services to be provided, where the benefits outweigh the costs to provide these. If further Crown funding is justified to continue services, the Government will want to ensure any funding arrangement provides good value for money.

s9(2)(f)(iv)

Suggested talking points on mail

s9(2)(f)(iv) and s9(2)(g)(i)

Commercially sensitive matters

Kiwi Group Holdings

Should you have the opportunity for one-to-one time with the Chair, he may wish to discuss with you NZ Post's position regarding its 53% shareholding in Kiwi Group Holdings (KGH, the parent company of Kiwibank).

s9(2)(b)(ii) and s9(2)(f)(iv)

s9(2)(f)(iv)

s9(2)(b)(ii) and 9(2)(j)

Parcel operations and investment

NZ Post's Board has approved a business case for a \$158m investment in its parcel operations. This is tightly aligned with NZ Post's stated strategic direction (noting that, given the range of challenges the business is facing, we would not recommend encouragement of any investment that does not align to NZ Post's core strengths and activities in the near future).

s9(2)(b)(ii)

Suggested talking points on parcel

If the Chair raises matters regarding parcel operations and its \$158m investment, you may wish to use this as an opportunity to ask him, ***given the low historical profitability of parcel operations, how does NZ Post plan to achieve its ambitious profitability projections for its parcel operations over the next four years, particularly until its significant investment is operational (from 2025)?***

Madeleine Lock, Senior Analyst, Commercial Performance
Alice Courtney, Senior Analyst, Commercial Performance,
Shelley Hollingsworth, Manager, Commercial Performance

s9(2)(k)



Treasury Report: Finance Portfolio: Guardians of New Zealand Superannuation: Update and Letters

Date:	10 December	Report No:	T2020/3672
		File Number:	CM-0-2-4-2021

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	<p>Agree recommendations; sign the attached end of term letter, the covering letter to the Governor-General, and sign and date the advice sheet</p> <p>When the Governor-General has signed the forms:</p> <p>Sign and date the appointment form and appointment letter to the appointee and the Guardians Chair and CEO</p>	As soon as practicable

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Simon Wi Rutene	Senior Advisor, Governance and Appointments	s9(2)(k)	s9(2)(g)(ii) ✓
Gael Webster	Manager, Governance and Appointments		

Minister's Office actions (if required)

If signed, **send** the end of term letter. If signed, submit the covering letter and appointment forms, for the new appointee, to the Cabinet office to forward to the Governor-General. Once returned from the Governor-General, send the signed letter to the appointee and Guardians Chair and CEO with a copy of the appointment forms, and return the original appointment forms and gazette notice to Treasury.

Note any feedback on the quality of the report

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Enclosure: Yes (attached)

Treasury Report: Finance Portfolio: Guardians of New Zealand Superannuation: Update and Letters

Purpose of Report

1. This report provides an update on chair succession discussions and asks you to sign the enclosed appointment letters recommending to the Governor-General the appointment of Kirsty MacTaggart to the Guardians board.
2. You are also asked to sign the end of term letter for Stephen Moir and the letter to Catherine Drayton confirming your agreement to elevate her to Chair of the board.

Background

Board activity

3. In 2020, you agreed to recommend to the Governor-General, following consultation with other political parties in Parliament, the appointment of Ms MacTaggart for a full five year term as a member of the board of the Guardians, commencing on 1 April 2021 [T2020/1591]. Her appointment was considered by APH Committee in July 2020.
4. You also previously agreed (based on earlier advice from the Nominating Committee) to elevate Ms Drayton to succeed Ms Savage as Chair when her term expires on 31 March 2021.

Board update

5. We were to provide you with an update following the conclusion of chair succession discussions between Treasury, Ms Drayton, Ms Savage and the Nominating Committee. We also recommended you instruct the Nominating Committee to make a recommendation, as soon as practicable, s9(2)(f)(iv)
6. Succession discussions have concluded and we can now update you that our recommendation remains to elevate Ms Drayton to Chair. As she is currently chair of the audit and risk committee and would have to step down from that role, Mr Botherway has agreed to act as chair of audit and risk up to the end of his term, and beyond if required, to undertake an audit which is scheduled to be completed in February 2022. The Chair will provide written confirmation of their decision to assign the audit and risk chair role to Mr Botherway to replace the current chair Ms Drayton who vacates the role once she commences as the Chair of the Guardians.
7. s9(2)(f)(iv)
8. We recommend you finalise Ms MacTaggart's appointment as soon as possible, so she can commence her induction process. This will also allow the Guardians to plan an announcement to the market that Ms MacTaggart is confirmed as the new Guardian. It remains the intention (based on earlier advice from the Nominating Committee) that Ms MacTaggart will step into the audit and risk chair role but this will now, most likely, be at the conclusion of the audit in February 2022.

Next Steps

9. If signed, submit the attached covering letter and appointment forms, for Ms MacTaggart, to the Cabinet Office to forward to the Governor-General. Once returned from the Governor-General, send the signed letter to Ms MacTaggart and Guardians Chair and CEO with a copy of the appointment forms, and return the original appointment forms and gazette notice to Treasury.
10. If signed, send the attached end of term letter to Mr Moir.
11. If signed, send the attached letters confirming the elevation of Ms Drayton.

Attached Documents

12. Attached to this report are:
 - Annex I: Appointment documentation for Ms Kirsty MacTaggart.
 - Annex II: Letter to Mr Stephen Moir.
 - Annex III: Letter confirming Ms Drayton as Guardians Chair.

Recommended Action

We recommend that you:

- a **note** this report is a supplementary report to the Finance Portfolio: Commencement of 2021 Appointment Round Report [T2020/3264]
- b **agree** to sign, submit the covering letter, advice sheet and Ms MacTaggart's appointment forms to Cabinet Office to forward to the Governor-General
Agree/disagree.
- c **agree** to sign the attached letter thanking Stephen Moir for his tenure
Agree/disagree.
- d **agree** to sign the attached letter confirming Ms Drayton as Chair of Guardians.
Agree/disagree.

Gael Webster
Manager, Governance and Appointments

Hon Grant Robertson
Minister of Finance

Hon Grant Robertson

MP for Wellington Central

Deputy Prime Minister

Minister of Finance

Minister for Infrastructure

Minister for Sport and Recreation

Minister for Racing



Her Excellency the Right Honourable Dame Patsy Reddy, GNZM, QSO
 Governor-General of New Zealand
 Government House
 WELLINGTON 6021

Your Excellency

GUARDIANS OF NEW ZEALAND SUPERANNUATION BOARD APPOINTMENT

I respectfully advise you to appoint Kirsty MacTaggart as a Member of the Board of the Guardians of New Zealand Superannuation.

The intended term of the appointment is as follows:

Kirsty MacTaggart - commencing on 1 April 2021 and ending on 31 March 2026.

Section 54 of the New Zealand Superannuation and Retirement Income Act 2001 (the Act) provides that the Governor-General shall appoint Board Members on the recommendation of the Minister of Finance. Section 55 of the Act states that the Minister of Finance must only recommend a person for appointment as a Board Member who, in the Minister's opinion, has substantial experience, training and expertise in the management of financial investments, and has been nominated by the Nominating Committee.

The Nominating Committee has indicated that it recommends the appointment of Ms MacTaggart.

Section 56(6) of the Act provides that:

“(6) After receiving nominations for appointment from the Nominating Committee, the Minister must consult with representatives of other political parties in Parliament before recommending that the Governor-General appoints a person to the Board.”

I have consulted with representatives of all political parties in Parliament in mid-2020. Of the responses received, there were no objections to the proposed appointment.

For your information, I also attach the Organisation form for the Board of the Guardians of New Zealand Superannuation and also Ms MacTaggart's Candidate CV form.

When you have signed the appointment form could you please return to my office and I will send them to the appointee with my own correspondence and arrange for the appointment to be gazetted.

Yours sincerely

Hon Grant Robertson
Minister of Finance

APH Organisation Form

Organisation and Responsible Portfolio

Guardians of New Zealand Superannuation (Finance)

Brief Outline of the Functions and Responsibilities of the Organisation

The governing legislation for the Board is the New Zealand Superannuation Act 2001. The Act establishes the New Zealand Superannuation Fund, a portfolio of investments held for the purpose of paying New Zealand Superannuation. The function of the Guardians is to manage and administer the Fund in accordance with the Act.

The Governor-General makes appointments to the Board of the Guardians, on the recommendation of the Minister of Finance, following advice received by the Nominating Committee.

Current Membership

Name	Gender Identity	Region	Ethnicities	Date of original appointment	Expiry date of present term
Ms Catherine Maria Savage (Chair)	s9(2)(ba)(i)			1/11/2009	31/03/2021
Professor Henk Berkman				1/10/2018	30/09/2022
Mr Simon John Botherway				1/08/2018	30/09/2021
Ms Catherine Margaret Drayton				1/11/2018	30/09/2022
Mr Doug Pearce				30/05/2016	30/09/2023
Ms Rosemary Vilgan				1/10/2020	30/09/2025
Mr John Michael Williamson				30/05/2016	30/09/2025

Candidate CV Form

All sections must be completed.

This form should be completed in consultation with the candidate where possible.

Name (family name in upper case; include title if appropriate)	Kirsty MACTAGGART
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The Position

Organisation	Guardians of New Zealand Superannuation
Position (chair/member etc)	Recommended Candidate
Term	Five years from 1 April 2021 (or upon Ms Savage's retirement, whichever is earlier)
Payment (per day and/or per year)	\$49,000 per annum

How the Candidate Meets the Needs of the Position

Skills and attributes the candidate will bring to the position (eg: business skills, community involvement, cultural awareness, regional perspective – as relevant to the needs of the position)	Kirsty MacTaggart is a Queenstown-based New Zealand resident and a Chartered Accountant and Member of the NZ Institute of Directors. Over the past 20 years she has been involved in private equity and international fund management, in global and particularly Asian markets. Ms MacTaggart has held executive roles with Fidelity International as Head of Equity Capital Markets and Governance for Asia Pacific, and Managing Director, Equity Capital Markets for Citigroup Global Markets Ltd. She is currently a Member of Infratil's Audit and Risk Committee and a Member of the Advisory Board of BBRC Worldwide.
Possible conflicts of interest	None identified.
Proposals for conflict management	Not applicable.

The Candidate

Name (family name in upper case; include title if appropriate)	Kirsty MACTAGGART
Address	s9(2)(a) NEW ZEALAND
Ethnicity(s)	s9(2)(ba)(i)
Gender	
Age	N/A
Current or most recent employment (specify position and employer, include years)	Head of Equity Capital Markets and Governance for Asia-Pacific, Fidelity International, Hong Kong and Singapore (2005-2018)
Government board appointments held (current and previous, include years)	Nil
Private and/or voluntary sector board appointments held (current and previous, include years)	Non-Executive Director, Member of Management and Engagement Committee, Member Audit and Risk Committee, Infratil (2019 - current) Member of Advisory Board, BBRC Worldwide (2019-current)

Qualifications and experience (include significant work history and community involvement)	Qualifications and memberships Licensed Member, Hong Kong Securities and Futures Commission (1998-2018) Licensed Member, Monetary Authority of Singapore (1998-2018) Chartered Accountant, The Institute of Chartered Accountants (1993) Bachelor of Accountancy, The University of Glasgow, Scotland (1990) Previous employment Managing Director, Equity Capital Markets, Citigroup Global Markets Ltd, Hong Kong and London (1993-2005) Chartered Accountant, KPMG, Glasgow (1990-1993)
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Date: 16 July 2020



Wellington, / /

Her Excellency the Governor-General is respectfully advised to appoint,
pursuant to section 28 of the Crown Entities Act 2004 and section 54 of the New Zealand
Superannuation and Retirement Income Act 2001

Kirsty MacTaggart

as a Member of the Board of the Guardians of New Zealand Superannuation
for a term commencing on 1 April 2021 and ending on 31 March 2026.

Hon Grant Robertson
Minister of Finance

Appointed

Governor-General

/ /

**Appointment of Board Member of the Guardians of New Zealand Superannuation**

Governor-General

Pursuant to section 28 of the Crown Entities Act 2004 and section 54 of the New Zealand Superannuation and Retirement Income Act 2001,
I, the Right Honourable Dame Patsy Reddy, GNZM, QSO, Governor-General of New Zealand,
hereby appoint:

Kirsty MacTaggart

as a Member of the Board of the Guardians of New Zealand Superannuation
for a term commencing on 1 April 2021 and ending on 31 March 2026.

Given under the hand of Her Excellency the Governor-General of New Zealand, and issued this
day of 2020.

Hon Grant Robertson
Minister of Finance

Hon Grant Robertson

MP for Wellington Central

Deputy Prime Minister

Minister of Finance

Minister for Infrastructure

Minister for Sport and Recreation

Minister for Racing



Stephen Moir

s9(2)(a)



Dear Stephen

GUARDIANS OF NEW ZEALAND SUPERANNUATION

On your retirement, I wish to convey my appreciation of the contribution you have made as a member of the Guardians of New Zealand Superannuation Board during the eleven years of your tenure.

The Chair advises me that you have been a valuable member of the Board and have made a considerable contribution, and I would like to thank you for your service.

I hope that your association with the organisation has been both enjoyable and rewarding and I wish you the very best for the future.

Yours sincerely

Hon Grant Robertson
Minister of Finance

cc Matt Whineray, Chief Executive, Guardians of New Zealand Superannuation,
PO Box 106-607, Auckland 1143, s9(2)(a)

Hon Grant Robertson

MP for Wellington Central

Deputy Prime Minister

Minister of Finance

Minister for Infrastructure

Minister for Sport and Recreation

Minister for Racing



Matt Whineray
Chief Executive Officer
Guardians of New Zealand Superannuation
PO Box 106-607
AUCKLAND 1143
s9(2)(a)

Dear Matt

NOTICE OF CHAIR ELEVATION

I am pleased to confirm the following elevation on the Board of the Guardians of New Zealand Superannuation.

Catherine Margaret DRAYTON	Chair and Member	From 1 April 2021 up to 31 October 2022
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Yours sincerely

Hon Grant Roberson
Minister of Finance

Hon Grant Robertson

MP for Wellington Central

Deputy Prime Minister

Minister of Finance

Minister for Infrastructure

Minister for Sport and Recreation

Minister for Racing



Ms Catherine Drayton

s9(2)(a)

Dear Catherine

GUARDIANS OF NEW ZEALAND SUPERANNUATION BOARD: CHAIR ELEVATION

I am pleased to inform you that, pursuant to section 28 of the Crown Entities Act 2004 and section 54 of the New Zealand Superannuation and Retirement Income Act 2001, you have been elevated to the position of Chair from 1 April 2021 for the remainder of your term.

The elevation is made on the basis that you have:

- consented in writing to being a member
- certified that you are not disqualified from being a member
- disclosed the nature and extent (including monetary value, if quantifiable) of all interest that you have, or are likely to have, in matters relating to the Guardians.

If, at any time you become disqualified from holding office as Chair you must inform me immediately. A list of the persons who are disqualified from holding office is set out in section 30 of the Crown Entities Act 2004.

The annual fee for a Chair of the Guardians Board is \$98,000.

Please confirm your acknowledgement of this elevation and the terms described in this letter by signing and dating the attached document, and returning via email as per the email address on the "Acknowledgment of Appointment".

I wish you well with your continued service on the Board of the Guardians.

Yours sincerely

Hon Grant Robertson
Minister of Finance

Acknowledgement of Appointment

Hon Grant Robertson
Minister of Finance
PARLIAMENT BUILDINGS
WELLINGTON 6160

Dear Minister

I acknowledge receipt of your letter elevating me to Chair of the Guardians of New Zealand Superannuation for a term commencing on 1 April 2021 and ending 31 October 2022.

I undertake to advise you, via Treasury, of any change in my circumstances that may have an impact on my ability to continue to serve on the Board.

Yours sincerely

Catherine Margaret DRAYTON

Date:

Please return via email to: appointments@treasury.govt.nz

Hon Grant Robertson

MP for Wellington Central

Deputy Prime Minister

Minister of Finance

Minister for Infrastructure

Minister for Sport and Recreation

Minister for Racing



Matt Whineray
Guardians of New Zealand Superannuation
PO Box 106-607
AUCKLAND 1143
s9(2)(a)

Dear Matt

Notice of Member Appointment

I wish to give notice of the following appointment to the Board of the Guardians of New Zealand Superannuation.

Kirsty MacTaggart

Member

From 1 April 2021
up to 31 March 2026

Contact details for Ms MacTaggart:

s9(2)(a)

Yours sincerely

Hon Grant Roberson
Minister of Finance

cc Catherine Savage, Chair, Guardians of New Zealand Superannuation
cmsavage@savagegroup.co.nz

Hon Grant Robertson

MP for Wellington Central

Deputy Prime Minister

Minister of Finance

Minister for Infrastructure

Minister for Sport and Recreation

Minister for Racing



Ms Kirsty MacTaggart

s9(2)(a)

Dear Kirsty

APPOINTMENT TO THE GUARDIANS OF NEW ZEALAND SUPERANNUATION BOARD

I am pleased to inform you that, pursuant to section 28 of the Crown Entities Act 2004 and section 54 of the New Zealand Superannuation and Retirement Income Act 2001, the Governor-General has appointed you as a Member of the Board of the Guardians of New Zealand Superannuation. Your term will commence on 1 April 2021 and run until 31 March 2026.

The appointment is made on the basis that you have:

- consented in writing to being a member
- certified that you are not disqualified from being a member
- disclosed the nature and extent (including monetary value, if quantifiable) of all interest that you have, or are likely to have, in matters relating to the Guardians.

If, at any time after your appointment, you become disqualified from holding office as a member you must inform me immediately. A list of the persons who are disqualified from holding office as a member is set out in section 30 of the Crown Entities Act 2004.

The annual fee for a member of the Guardians Board is \$49,000.

Please confirm your acknowledgement of this appointment and the terms described in this letter by signing and dating the attached document and returning via email as per the email address on the "Acknowledgment of Appointment".

I wish you well in your service on the Board of the Guardians.

Yours sincerely

Hon Grant Robertson
Minister of Finance

Acknowledgement of Appointment

Hon Grant Robertson
Minister of Finance
PARLIAMENT BUILDINGS
WELLINGTON 6160

Dear Minister

I acknowledge receipt of your letter appointing me as a Board Member of the Guardians of New Zealand Superannuation for a term commencing on 1 April 2021 and ending 31 March 2026.

I undertake to advise you, via Treasury, of any change in my circumstances that may have an impact on my ability to continue to serve on the Board.

Yours sincerely

Kirsty MacTaggart

Date:

Please return via email to: appointments@treasury.govt.nz

Gazette Notice of Appointment

Once signed and dated please return to Treasury who will then Gazette

Appointment to the Guardians of New Zealand Superannuation

Pursuant to section 28 and Schedule 5 of the Crown Entities Act 2004, I, the Right Honourable Dame Patsy Reddy, the Administrator of the Government, hereby appoint

Ms Kirsty MacTaggart

as a member of the Guardians of New Zealand Superannuation for a term commencing on 1 April 2021 and ending 31 March 2026.

Given under the hand of Her Excellency the Administrator of the Government and issued this _____ day of _____ 2020.

Hon GRANT ROBERTSON, Minister of Finance.



Treasury Report: Upcoming Issues Briefing for the Minister - 10 December 2020

Date:	10 December 2020	Report No:	T2020/3761
		File Number:	CO-6-2-4

Action sought

	Action sought	Deadline
Hon Grant Robertson Minister of Finance	<p>Note the contents of the attached briefing</p> <p>Indicate where you would like further information in Section 2</p>	None

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Gopika Gnanakumar	Analyst, Office of the Executive	s9(2)(k)	N/A (mob) ✓
Robbie Taylor	Team Leader, Office of the Executive		N/A (mob)

Minister's Office actions (if required)

Return the signed report to Treasury.

Note any feedback on the quality of the report

Enclosure: Yes (attached)

Recommended Action

We recommend that you:

- a **Note** the contents of the attached briefing

Noted.

- b **Provide** any feedback you have on the following sections:

- a. Section 1: Upcoming Minister's meeting
- b. Section 2: Short updates
- c. Section 3: Updates on Key Priorities

In relation to Section 2: Short updates:

- c **Indicate** in the attached report whether you would like further information on items 6 and 7.

Robbie Taylor
Team Leader – Office of the Executive

Hon Grant Robertson
Minister of Finance

Upcoming Issues Briefing to the Minister of Finance Report

10 December 2020

1. Upcoming Regular Meetings with the Treasury

Proposed agenda items for upcoming Weekly Agency Meeting

This is a list of potential items for discussion at the Weekly Agency meeting. We will work with your office to incorporate your feedback and to finalise the agenda.

Item	Description	Nature of item	Time
1.	Stimulus advice: To test appetite for further preparatory advice on fiscal stimulus options in light of downside economic risks.	For decision	5 mins
2.	Budget 2021 invitations to bid: To test our proposed approach to issuing invitations, ahead of providing our written advice by COP Monday 14 December.	For decision	5 mins
3.	Housing advice: To discuss the housing advice received on Monday 7 December [T2020-3529 refers].	For discussion	20 mins

There is no Finance Priorities meeting scheduled for the week commencing 14 December.

Possible items for upcoming meetings

Item	Description	Minister's feedback
1.	Sustainability issues, including insurance, adaptation and mitigation	
2.	Economic strategy – moving from response to recovery	
3.	Interactions between upcoming reforms	
4.	Monetary and fiscal policy interaction	
5.	Minister's requests:	

2. Short Updates

Information and process updates. Please indicate if further information is required.

Topic	Comment	Team Name and Contact	Recommendations and Minister's Feedback
1. Flexi-wage - process for further decisions	The Ministry of Social Development has provided a report to the Minister for Social Development and Employment to agree dates for decisions required to implement the expansion of Flexi-wage. We understand that this report will be referred on to you. A joint paper outlining proposed Flexi-wage design details will be provided to you in your first bag of the new year.	Welfare and Oranga Tamariki Keiran Kennedy, s9(2)(g)(ii)	Note the contents of the report.
2. Employment, Education and Training (EET) Ministers Group resuming	The EET Ministers Group is expected to resume meeting before Christmas, however dates have yet to be confirmed. The membership of the group has been confirmed, with Hon Hipkins as Chair of the Group.	Skills and Work Nick Carroll, s9(2)(g)(ii)	
3. Future of Work (FoW): FoW Governance Group and Social Insurance meetings	The next Future of Work governance group is scheduled for 14 December and is an opportunity to test with social partners their priorities for the forum next year. A separate briefing will be provided by MBIE and Treasury. Ministers are meeting with officials on 9 December ahead of this meeting to discuss the social insurance/displaced workers paper (T2020/3457 refers).	Skills and Work Nick Carroll, s9(2)(g)(ii)	
4. Border exceptions Ministers Group	Border exceptions Ministers intend to meet this week for the final time until February. Officials have prepared advice on a number of proposals for border exceptions. Due to pressure on MIQ capacity, many of these are likely to be declined.	Skills and Work Nick Carroll, s9(2)(g)(ii)	
5. Border agencies Budget bilateral	The Minister of Immigration will attend the border agencies Ministerial bilateral on 14 December. A key priority for the Minister of Immigration will be discussing the impact of the decrease in third party revenue on Immigration New Zealand and MBIE and the necessary steps to address this impact. A briefing is being prepared for you for this meeting.	Skills and Work Nick Carroll, s9(2)(g)(ii)	
6. Public release of updated CBAx model and guidance	The Treasury will publicly release the updated CBAx model and guidance in December 2020. CBAx enables agencies to undertake cost-benefit analysis in support of wellbeing analysis and value for money assessment. The update includes: new environmental values, new Sport NZ subjective wellbeing values, guidance on New Zealand emission shadow pricing (T2020/3332) and lower discount rates 5% and sensitivity analysis 2% (T2020/1939). [NB Parliamentary questions about CBAx values in early 2019.]	System Design and Strategy John Marney, s9(2)(k) Kirsten Jensen, s9(2)(k)	Indicate if further information is required.
7. RBNZ consultation on reinstating loan-to-value ratios (LVRs)	The RBNZ is consulting with you and the Treasury on its draft consultation document on reinstating LVRs, which will be published on 8 or 9 December and will run until 22 January. The Treasury is supportive of the decision to undertake an earlier review of the LVRs. We are interested in exploring with the RBNZ whether recent investor lending trends might lead the RBNZ to consider different LVR settings to those that were in place pre-Covid.	Financial Markets Dasha Leonova, s9(2)(k)	Indicate if further information is required.
8. Challenges to accessing financial products compliant with Islamic principles	DPMC has informed us that in conversation with survivors of mosque attacks and following the Royal Commission's findings, the survivors have highlighted the challenges they face accessing financial products compliant with Islamic principles. The Treasury has not done any policy work on this but we are preparing a response to this issue for a Ministerial. As far as we know, there are no regulatory barriers to such products being offered but we are confirming with the RBNZ and the FMA.	Financial Markets Dasha Leonova, s9(2)(k)	

3. Updates on Key Priorities

Priority Area	State of Play	Upcoming Advice	Minister's Feedback
COVID-19 response	<p>You are taking a paper to Cabinet on 14 December seeking agreement to the package of economic support measures for businesses to respond to any future rise in Alert Levels following another COVID-19 outbreak in the community. This includes a new Resurgence Support Payment (RSP), changes to the Wage Subsidy Scheme (WSS), changes to the Leave Subsidy Scheme (LSS) and measures to assist with rent and childcare expenses. The Treasury is working under the assumption that you will publicly announce the resurgence package before the summer holidays and has started working on supporting communications materials.</p> <p>Officials are seeking to confirm all key design decisions on the WSS, RSP, and LSS through the Cabinet paper, however some additional matters may be provided to Joint Ministers before Christmas through further advice.</p> <p>Further steps are required to implement some of the proposals:</p> <ul style="list-style-type: none"> The RSP requires enabling legislation and will be implementation ready from late February 2021 following passage of an amendment to the Tax Administration Act 1994 when the House resumes in February. The Ministry of Education is planning to do further design work on the childcare for essential workers scheme ahead of a resurgence, to report back to you and the Minister of Education by February 2021. The Cabinet paper also proposes that the Minister of Justice report back to Cabinet by February 2021 on whether further intervention is needed in respect of commercial tenancies. You will receive Treasury advice in [T2020/3676] on the nature and timing of a Supplementary Analysis Report (SAR) that Cabinet's Impact Analysis Guidance requires on the proposed residential tenancy changes, which you will need to agree with the Associate Minister of Housing (Public Housing). <p>A wider review and advice on longer-term options for the LSS will be presented to Ministers in February 2021 alongside advice on longer-term options for the Wage Subsidy Scheme.</p> <p>The Ministry of Health and the DPMC COVID-19 Group reported last week to the COVID-19 Response Minister on a proposed work programme for the COVID-19 response. This was based on the next steps identified in the Ministry of Health's Elimination Strategy review, which we support. In response to that report, Minister Hipkins has commissioned the development of a work programme for each of the pillars of the Elimination Strategy ("Keep It Out", "Find It", "Stamp It Out"). We understand that Minister Hipkins intends to take a paper to Cabinet early 2021 that sets out the work programme on the public health response for 2021. The development of this paper is an opportunity to ensure that wider government policy (particularly borders policy) is informed by a good understanding of the timelines and constraints of the immunisation programme.</p> <p>We are reporting to you this week about a proposed Treasury blog post on the contributions of cost-benefit analysis (CBA), and the limitations of existing methods for monetising health impacts, in a COVID-19 regulatory context. The blog will outline the Treasury's approach to advising on the Government response to date, and the potential contribution of CBA and other Regulatory Impact Analysis methods to decision-making going forward. The Treasury intends to publish the blog on our website before Christmas.</p>		
COVID-19 recovery	<p>We have provided you with advice on building on your economic strategy, which included our high-level advice on initiatives to support the economic recovery and suggested framing your strategy around preventing and responding to outbreaks, and recovering and building back better. Based on the feedback and directions you gave us, we will continue iterating your economic strategy, and in the first instance develop a way forward in fleshing out the strategy. The Treasury will also progress work in your stated areas of interest, such as partial expensing and anchors or targets to support your strategy. We discussed the scope and timeframes for further advice with your office and have agreed to provide further advice early 2021.</p> <p>The Treasury is working with DPMC on the establishment of an Implementation Unit as a joint initiative between the two agencies. Both agencies would need additional resourcing to establish this Unit.</p>	<ul style="list-style-type: none"> Further advice on economic recovery – early 2021 (exact date TBC). 	
Wellbeing approach	<p>The Treasury continues to work on improving strategic thinking and planning and improving performance reporting across the Public Sector. We are releasing documents on both of these areas in the next few weeks to help agencies understand Cabinet's expectations with strategic planning and to improve non-financial performance information. The strategic planning pilots have been impacted by COVID-19. In the new year we will provide you a report on our planned approach for 2021 and what role you can play in supporting improvement.</p> <p>Public finance system modernisation</p> <p>You received a report on the PFS modernisation work, accompanied by a draft discussion document, on 19 November [T2020/3268 refers]. We sent a further report about implementation on 26 November [T2020/3312 refers]. A summary Aide-Memoire was sent on 27 November (T2020/3601).</p>	<ul style="list-style-type: none"> Treasury Report on the approach to improving strategic planning in 2021, early 2021. Ministry of Justice Baseline Review—Final report. 	

Priority Area	State of Play	Upcoming Advice	Minister's Feedback
Sustainability	<p>On 16 December, the Minister of Climate Change will present a paper to CBC setting out a work programme on all the significant Cabinet decisions he will be seeking in 2021. The Treasury is keen to discuss this paper with you, to understand where across this work programme you will want to focus in order to influence policy development so that economic trade-offs and costs are clear in any options presented to Cabinet.</p> <p>This paper includes a recommended report back to Cabinet in April 2021, on a strategic approach to funding and financing the climate transition. This responds to your feedback that the paper should not seek an 'agree-in-principle' to direct Emissions Trading Scheme proceeds to climate investment.</p> <p>You are also meeting with Climate Ministers in the week of 14 December to discuss the approach to climate change in Budget 2021. This will allow you to indicate the extent to which you will invite climate change funding proposals as part of Budget 2021 process, and to be clear that many climate change investments will need to be deferred to future Budgets, when more policy proposals are ready to be implemented.</p> <p>The Minister for the Environment lodged two papers for consideration at CBC on 9 December:</p> <ul style="list-style-type: none"> One on Resource Management, covering the need for reform, policy proposals regarding the purpose of a proposed Natural and Built Environments Act, and the process for reform, One on the mandate and process for engagement with Treaty Partners on Māori rights and interests in freshwater and water allocation. <p>To coincide with these two papers, the Minister of Climate Change also presented a paper at CBC on 9 December with a timeframe for further development of policy options for Adaptation Legislation.</p>	<ul style="list-style-type: none"> <u>Week beginning 7 December:</u> We have provided two sets of advice (on 4 and 8 December) to support your consideration of the Cabinet paper on Resource Management reform, as there were material changes between the draft Treasury saw on 4 December and the lodged version. <u>Friday 10 December:</u> Treasury advice to support your Budget 2021 multilateral meeting with Climate Ministers. <u>Mid-December:</u> The Ministry for the Environment is providing Ministers with an overview of the policy issues that the Government will need to consider in 2021 as part of the development of the statutory Emissions Reduction Plan. This briefing pack will be forwarded to you for your information. 	
Health reform	<p>CBC is due to consider a progress update on health reform this Wednesday. Whilst largely a noting paper, last minute additions saw 'agree-in-principle' recommendations added around the establishment of a Māori Health Authority, Health New Zealand and a Public Health Agency. Whilst we think there is a strong emerging case for these agencies, we consider detailed design work is still yet to occur and recommended the recommendations instead became "note the intent to...".</p> <p>The Senior Officials Group met on Tuesday 8 December. The main agenda items were largely an update on the recent Ministerial Oversight Group discussion and on the final Cabinet paper for CBC the following day. We added an item to the agenda of this meeting seeking further clarity on forward planning for staffing arrangements for the Transition Unit following Cabinet's anticipated decisions on the Implementation Plan in March/April 2021.</p> <p>The DPMC Transition Unit (TU) is continuing weekly discussions with the Minister of Health around key components of health reform including the system operating model, financial sustainability and funding, Māori Health, Tier 1 and Tier 2. We have visibility over these papers and are broadly comfortable with the current scope and ambition of the work.</p>	<ul style="list-style-type: none"> Advice on health reform. Budget 2021 costs will be provided in Vote Health bilateral advice on Thursday 10 December. 	
Infrastructure	<p>This week you will receive the tranche 8 approval report for the Shovel Ready Projects from Crown Infrastructure Partners. The Treasury will provide covering advice on this report.</p> <p>This week you have a meeting with the New Zealand Infrastructure Commission, Te Waihanga, to discuss infrastructure and Te Waihanga's Briefing to the Incoming Minister.</p> <p>We expect, this week you will receive joint advice from the Treasury and the Department of Internal Affairs seeking approval to draw down tagged contingency funding for Three Waters.</p> <p>The Treasury is currently drafting the new Letter of Expectations for Te Waihanga and will provide you with a draft to amend or agree to send in January.</p>	<ul style="list-style-type: none"> Crown Infrastructure Partners report: Infrastructure Reference Group Shovel-ready programme – Crown Infrastructure Partners Approval Report tranche 8 - 9 December. Treasury Report - Framework for IRG Projects – 10 December. Joint Report - Three waters stimulus funding drawdown – 10 December. Treasury report - Draft letter of expectations for Te Waihanga – January (TBC). 	

4. Key Decisions this Week

List of reports requiring decisions from you this week.

	Topic	Timeframe for Briefing	Purpose / Action	Deadline for MoF Action (if any)	Minister(s)	Treasury Team and Contact
1.	Housing affordability	7 December	Advice on measures to reduce house price growth and support first-home buyers.		Minister of Finance Minister of Housing (TBC)	Housing and Urban Growth John Beaglehole, s9(2)(k)
2.	Near-final HYEFU and Statement of Responsibility	8 December	You will be provided a near-final draft of the Half Year Update for his information and will also be required to sign a Statement of Responsibility confirming that all relevant decisions and circumstances with material economic or fiscal implications have been included in the Half Year Update.	9 December	Minister of Finance	Budget Management Simon Duncan, s9(2)(k)
3.	Southern Response letter to Chair regarding funding of package	8 December	If funding of proactive package is to be covered by the Deed of Indemnity, advise Southern Response that the Crown considers that Covered Claims covered by the Deed of Indemnity include all those to be included in the package. If funding by another mechanism (or decision on mechanism is still to be made), advise Southern Response that Cabinet has agreed to fund the package and the mechanism is being worked on.	9 December	Minister of Finance (for noting) Associate Minister of Finance (for decision) Minister Responsible for the Earthquake Commission (for decision)	Commercial Performance Shelley Hollingsworth, s9(2)(k)
4.	Southern Response - Indemnity of the IOC panel members	8 December	Request approval from the Minister of Finance to issue an indemnity to the members of the IOC for the proactive package.	9 December	Minister of Finance (for decision)	Commercial Performance Shelley Hollingsworth, s9(2)(k)
5.	Southern Response LOE containing expectations regarding proactive solution	9 December	Advice and draft letter regarding shareholding Ministers' expectations of Southern Response including, implementation of proactive solution.	14 December	Minister of Finance (for decision) Minister Responsible for the Earthquake Commission (for decision)	Commercial Performance Shelley Hollingsworth, s9(2)(k)
6.	Project 20	9 December	Seeks agreement to amending the Crown Standby Facility Agreement and approval for Air New Zealand to enter into a new engine lease.	16 December	Minister of Finance	Commercial Performance, Juston Anderson, s9(2)(k)
7.	Business Finance Guarantee Scheme – June 2020 settings review and 3 other Treasury Reports for proactive release (T2020/3549)	9 December	Seek agreement for the proactive release of four Treasury Reports relating to Treasury advice on the BFGS. T2020/1811 contains recommendation for removing or loosening the exclusion around property developer and investors, the release of this report and Treasury advice may generate interest from this sector.	16 December	Minister of Finance	Business Finance Guarantee Peter Rowe, s9(2)(k)
8.	A new fee structure to address the Overseas Investment Office operating deficit	10 December	This report seeks agreement for Land Information New Zealand to commence public consultation on a proposed new fee structure for overseas investment applications. The report also signals intent to seek an invitation for a Budget 2021 initiative to address the existing deficit in the Overseas Investment Office memorandum account.	Not confirmed	Minister of Finance Associate Minister of Finance (Hon Parker) Minister for Land Information	Natural Resources Gwen Rashbrooke, s9(2)(k)
9.	Guardians of NZ Superannuation Appointments	10 December	Documentation to Confirm Appointments to Guardians of New Zealand Superannuation, appointment letters to be signed by the Minister of Finance.	11 December	Minister of Finance	Governance and Appointments Gael Webster, s9(2)(k)
10.	Indemnity under section 65ZD of the PFA for the storage of hazardous material	10 December	This report seeks your agreement to provide s9(2)(b)(i) (FHL) with an indemnity for the purpose of storing ouvea premix, in order to expedite the removal of the material from the Mataura Paper Mill.	14 December	Minister of Finance	Natural Resources Gwen Rashbrooke, s9(2)(k)
11.	Waitematā District Health Board (DHB) Central Sterile Services Department (Ministry of Health-led joint report)	By 11 December	Seeks approval to rescind a previous decision requiring Waitematā District Health Board's Central Sterile Services Department project to be built to Importance Level 4 (IL 4) standard.		Minister of Finance Minister of Health	Health Helen Anderson, s9(2)(k)
12.	Omnibus paper for Health Infrastructure Package – approval for 3 projects (Ministry of Health-led joint report)	By 11 December	Seeks business case and funding approval for three additional health infrastructure projects with a total Crown funding contribution of ~\$30 million as part of the New Zealand Upgrade Programme. \$25 million of this funding is for Auckland DHB's Paediatric Intensive Care Unit bed expansion and atrium redevelopment project.		Minister of Finance Minister of Health	Health Helen Anderson, s9(2)(k)

	Topic	Timeframe for Briefing	Purpose / Action	Deadline for MoF Action (if any)	Minister(s)	Treasury Team and Contact
13.	Waikato DHB Mental Health and Addiction Service Acute Adult Inpatient Facility Redevelopment Indicative Business Case (Ministry of Health-led joint report)	11 December	Seeks approval for Waikato DHB to progress to the Detailed Business Case stage for its Acute Adult Mental Health Unit project. This project was prioritised from Budget 2019 with a maximum Crown funding contribution of \$100 million.		Minister of Finance Minister of Health	Health Helen Anderson, s9(2)(k)
14.	Omnibus paper for Health Infrastructure Package – approval for 12 projects (Ministry of Health-led joint report)	11 December	Seeks business case and funding approval for 12 additional health infrastructure projects with a total Crown funding contribution of ~\$40 million as part of the New Zealand Upgrade Programme.		Minister of Finance Minister of Health	Health Helen Anderson, s9(2)(k)
15.	Auckland and Canterbury DHBs – Proposal to purchase Linear Accelerators (Ministry of Health-led joint report)	11 December	Seeks approval to draw down up to \$13.38 million from the Health Capital Envelope to purchase new linear accelerators for radiation treatment at Auckland and Canterbury DHBs.		Minister of Finance Minister of Health	Health Helen Anderson, s9(2)(k)
16.	Prioritisation of DHB capital projects (Budget 2020 and out-years)	11 December	Seeks approval to prioritise DHB capital projects against remaining Budget 2020 health capital funding and potential future funding. DHBs will be asked to complete or progress business cases for these projects.		Minister of Finance Minister of Health	Health Helen Anderson, s9(2)(k)
17.	Request for approval for increase in budget and funding for Northland DHB's Bay of Islands Hospital redevelopment	11 December	Seeks approval for a scope increase and \$7 million budget increase for the Bay of Islands Hospital redevelopment.		Minister of Finance Minister of Health	Health Helen Anderson, s9(2)(k)
18.	Request for approval of Counties Manukau DHB Detailed Business Case, Grow Manukau – Manukau Health Park.	11 December	Seeks approval for the Grow Manukau Health Park Development, with a Crown capital contribution of \$211.4 million towards the total project budget of \$224.4 million. Officials recommend that the approval is subject to several conditions (including the development of a Value Management Plan – Treasury only).		Minister of Finance Minister of Health	Health Sebastian Doelle, s9(2)(g)(ii)
19.	Further advice on the coverage limit for the future deposit insurance scheme	11 December	You have made an in-principle decision that coverage for the future deposit insurance scheme should be capped at \$50,000 on a per depositor, per institution basis. Stakeholders have provided feedback supporting a higher coverage limit, including concerns about the impact of the in-principle decision on small deposit takers. You have requested further advice on the matter prior to Christmas. You will be asked to take a decision on the limit in light of stakeholder feedback, to be taken to Cabinet for final approval next year.	14 December	Minister of Finance	RBNZ Act Review Tamiko Bayliss, s9(2)(k)

5. Regular Updates

Lists regular dashboards and other updates you are provided

	Topic	Timeframe for Briefing	Purpose / Action	Deadline for MoF Action (if any)	Minister(s)	Treasury Team and Contact
1.	Fiscal Calculator	Regular – Every Friday before Cabinet	The Fiscal Calculator is provided regularly to the Minister of Finance (on the afternoon of Fridays preceding Cabinet). The Fiscal Calculator summarises the fiscal implications of papers to be considered by Cabinet or Cabinet Committees the following week and includes summary information on the remaining balances of the Between-Budget Contingency (BBC), the Budget 2021 operating allowance, and the multi-year capital allowance.	None	Minister of Finance	Budget Management Simon Duncan, s9(2)(k)
2.	CRRF Calculator	Semi-regular – Some Fridays alongside Fiscal Calculator	The COVID-19 Response and Recovery Fund (CRRF) Calculator is provided to the Minister of Finance when it contains new charges and, when this is the case, will be provided on Fridays alongside the Fiscal Calculator. This is an excel workbook that summarises: decisions (with fiscal implications) taken in response to COVID-19; upcoming funding requests to be charged against the CRRF; and summary data of decisions taken, including the remaining CRRF balance.		Minister of Finance	Budget Management Simon Duncan, s9(2)(k)
3.	Firm Support State of Play Report (as at 10 December 2020) (T2020/3677)	10 December	Economic update, request received for Crown financial support in response to the impacts of COVID 19 and the policy framework for considering those requests.	None	Minister of Finance Associate Minister of Finance (Hon Dr Woods) Associate Minister of Finance (Hon Parker)	Firm Support Maureen van der Lem, s9(2)(k)
4.	Aide Memoire: Weekly Economic Update publication	10 December; 17 December (final one for this year)	Advising of the publication of the weekly economic update report produced by the Forecasting team	Each Friday morning 9:00am for the foreseeable future – published on Treasury website by 12pm each Friday	Minister of Finance	Forecasting Nairn MacGibbon, s9(2)(k)

6. Upcoming Cabinet Papers

List of Cabinet papers upcoming over next two weeks.

Ministerial Portfolio (and lead agency)	Title/topic	Treasury View	Timeframe for Cabinet Committee	Treasury Contact
Minister for Economic and Regional Development (MBIE)	Implementing a Fiscally Sustainable Screen Incentive	This paper provides a report back on the fiscal sustainability of the New Zealand Screen Production Grant (NZSPG) and seeks agreement to undertake a robust process to reset the NZSPG in 2021. This will inform decisions in Budget 2021.	CBC: 9 December CAB: 14 December (TBC)	Transitions, Regions, and Economic Development Scott Russell, s9(2)(k) Jean Le Roux, s9(2)(g)(ii)
Minister for the Environment (Ministry for the Environment)	Resource Management Reform	There are significant potential benefits to embarking on resource management reform, and in general we suggest you support it. We suggest you table an additional recommendation to: direct officials to report to the Ministerial Oversight Group on how the proposed legislative purpose will achieve the overall objectives for reform. There is currently no clear story on how all the proposed reform objectives will be met. There is some risk that the policy prescriptions, such as the legislative purpose, will unduly restrict urban development, and thus limit the effectiveness of resource management reform supporting housing affordability objectives. Briefing T2020/3538 and ministerial consultation briefing (27 November) covered the consultation draft. The 4 December CBC briefing covers the near-final paper. Advice to your office on Tuesday 8 December provides more information on the proposed additional recommendation.	CBC: 9 December CAB: 14 December	Housing and Urban Growth John Beaglehole, s9(2)(k) Natural Resources Gwen Rashbrooke, s9(2)(k)
Minister for COVID-19 Response (MFAT)	Trans-Tasman COVID-Safe Travel Zone	The Treasury has seen and supports this paper, but considers the paper should clarify the costs and benefits of temperature checks and an expanded health presence at the border and, if additional funding is warranted, seek funding for these proposals via this paper.	CAB: 14 December	International Kate Yesberg, s9(2)(g)(ii)
Minister for Social Development and Employment	Reinstating Medical Certificate requirements for Jobseeker – Health Condition and Disabilities (JS-HCD) clients	MSD's previous practice of requiring work capacity medical certificates at fixed intervals (generally every 13-weeks) was temporarily suspended until 31 July 2021 to manage increased demand due to COVID-19. There are issues with returning to the previous practice, which will need to be addressed going forward. Plausible options will require funding, either by the normal Budget 2021 process or as a pre-commitment against Budget 2021.	CAB: 14 December (TBC)	Welfare and Oranga Tamariki Keiran Kennedy, s9(2)(g)(ii)
Minister for Workplace Relations and Safety (MBIE)	Minimum wage review 2020	The Minister for Workplace Relations and Safety is seeking Cabinet agreement to increasing the minimum wage settings to \$20.00 per hour in 2021. This decision is being made in more difficult economic conditions than when the commitment (to increase to \$20 by 2021) was made in 2017 because of the COVID-19 pandemic. We are supportive of the proposal's option for an increase to be deferred until October 2021.	CAB: 14 December	Skills and Work Nick Carroll, s9(2)(g)(ii)
Minister for the Digital Economy and Communications (Department of Internal Affairs)	Detailed policy for a Digital Identity Trust Framework Bill	Seeks approval to detailed policy proposals to implement a digital identity trust framework. The cost of operating the framework is likely to be s9(2)(f)(iv) addressed through cost recovery. s9(2)(f)(iv)	CBC: 16 December	Justice, Security and Government Services Colin Hall, s9(2)(k)
Arts, Culture and Heritage (Ministry for Culture and Heritage)	Investing in Sustainable Journalism	Seeks to draw down over 3 years the remaining \$75 million of the Second Media Sector Support Package tagged contingency set aside as part of the CRRF Round 2. It is proposed to fund a range of public interest journalistic content, thereby helping to protect jobs. With print and broadcast media having recovered better than expected from COVID-19, Treasury questions whether this use for the funding remains high-value.	CBC: 16 December	Justice, Security and Government Services Colin Hall, s9(2)(k)
Minister of Customs (Customs)	Impacts of COVID-19 on border and transport agencies: Paper 1: Financial sustainability	Reports back on the management of the financial impacts of COVID-19 on border agencies and seeks in-principle agreement to further funding to offset lost third-party revenue. We are comfortable with most of the recommendations but are seeking further clarity for the need to drawdown all of the \$40.5 million tagged contingency for the Ministry of Primary Industries.	CBC: 16 December	Justice, Security and Government Services Colin Hall, s9(2)(k)
Minister of Customs (Customs)	Impacts of COVID-19 on border and transport agencies: Paper 2: Cost recovery	Presents Cabinet with options for fees reviews and treatment of memorandum account deficits following a freeze on reviews due to COVID-19. We are broadly comfortable with the proposals in the paper.	CBC: 16 December	Justice, Security and Government Services Colin Hall, s9(2)(k)
Speaker/Leader of the House (Parliamentary Service)	Future Parliamentary Accommodation Project	Proposes to add the Members building to the project and seeks \$9 million capital and \$1.7 million operating funding to progress the Members building to the final design and consent stage. Also seeks to establish tagged contingencies of s9(2)(f)(iv) as a pre-commitment against Budget 2021 allowances for the construction costs of the project. We are not convinced that this proposal meets the high threshold for funding outside of the Budget process and we consider that these costs should be subject to consideration through Budget 2021 (design and consenting costs) and Budget 2022 (construction costs).	CBC: 16 December	Justice, Security and Government Services Colin Hall, s9(2)(k)
Minister for Energy and Resources (MBIE)	Update on the NZ Battery Project	This paper provides an update on the NZ Battery project to address dry-year energy security risk. The paper also proposes an updated approach to reporting arrangements, which would have the Minister for Energy and Resources report to Cabinet on a quarterly basis or when project milestones are achieved. The investigation should deliver a business case with a comprehensive cost-benefit analysis of the different options, especially given the high potential cost of some of the options. We recommend that the next report to Cabinet should include further detail on the cost-benefit analysis.	CBC: 16 December	Transitions, Regions, and Economic Development Scott Russell, s9(2)(k) Jean Le Roux, s9(2)(g)(ii)

Ministerial Portfolio (and lead agency)	Title/topic	Treasury View	Timeframe for Cabinet Committee	Treasury Contact
Minister for Climate Change (Ministry for the Environment)	Climate Change Work Programme: Cabinet Report Backs and key Cabinet dates in 2021	This paper updates on the range of climate change policy work underway and sets out the report-backs to Cabinet for major decisions in 2021. Treasury supports this paper.	CBC: 16 December	Transitions, Regions, and Economic Development Udayan Mukherjee, s9(2)(g)(ii), s9(2)(g)(ii)
Minister for Energy and Resources (MBIE)	Consequential changes to the minerals and petroleum regulations and minerals programmes	The paper seeks Cabinet agreement to instruct the Parliamentary Counsel Office to draft minor consequential changes to the minerals and petroleum regulations required as a result of the Crown Minerals Amendment Act 2019. The key changes include introducing a fee for a 'change of control' application type and specifying what information needs to be provided for these applications. Treasury supports this paper.	CBC: 16 December (TBC)	Transitions, Regions, and Economic Development George Wibberley, s9(2)(k) Jean Le Roux, s9(2)(g)(ii)
Minister for Tourism (MBIE)	Amending Tourism New Zealand's appropriation scope statement to reflect Tourism New Zealand's pivot to domestic marketing	This paper seeks agreement to establish a new appropriation to allow for Tourism New Zealand to pivot their marketing activities to the domestic market on an ongoing basis. The current scope only allows for marketing in international markets. Treasury supports this paper.	CBC: 16 December (TBC)	Transitions, Regions, and Economic Development Alice Ansley, s9(2)(k) Jean Le Roux, s9(2)(g)(ii)
Minister for Biosecurity (Ministry for Primary Industries)	Bonamia ostreae compensation payment to Apex Marine Farm Limited	This is a routine payment for compensation as a result of the Bonamia ostreae biosecurity response. Cabinet approval is required because the total payment will be over \$1.5 million. We recommend that you support this paper. Due to the frequency of similar Cabinet papers, the Treasury plans to work with the Ministry for Primary Industries to review whether the existing compensation levels requiring Cabinet approval are fit-for-purpose or should be raised.	CBC: 16 December	Natural Resources Gwen Rashbrooke, s9(2)(k)
Minister of Education (Ministry of Education)	Continuing the Access to Free Period Products in Schools and Kura Initiative	This paper seeks funding for a national expansion of a programme to provide free period products in schools by reprioritising funding from the Free School Lunches initiative. \$25.6 million of time limited funding is being sought. We recommend this proposal be deferred to Budget 2021 as a decision is not needed now.	CBC: 16 December	Education and Population Agencies Nicky Lynch, s9(2)(g)(ii)

7. Upcoming Reports

List of reports sent this week not covered above.

	Topic	Timeframe for Briefing	Purpose / Action	Deadline for MoF Action (if any)	Minister(s)	Treasury Team and Contact
1.	Budget 2021 Advice	December	You will be provided with Vote team advice ahead of his bilateral meetings with select colleagues in the coming weeks. In addition, further advice on the Budget 2021 initiative invite process will follow shortly after these bilateral meetings.	Varies – dependent on scheduled meetings	Minister of Finance Associate Minister of Finance (Hon Dr Woods)	Budget Management Simon Duncan, s9(2)(k)
2.	Advanced Purchase of COVID-19 Vaccines 3x Advanced Purchase Agreements	December	Treasury anticipates the vaccine purchase negotiating team (MBIE-led) to conclude 3 more Advance Purchase Agreements ahead of Christmas. Vaccine Ministers will be briefed by MBIE on entering into agreements, and Treasury will brief you separately when your agreement to indemnities is required under the PFA. We expect decisions will be sought on two further agreements this week and the final agreement in the week of 14 December.	Varying – throughout December	Minister of Finance	Health Hannah Lobb, s9(2)(k)
3.	KiwiBuild proposals under the Buying Off the Plans and Land for Housing programmes	Week of 7 December	Kāinga Ora and the Ministry of Housing and Urban Development have a pipeline of four to five proposals over the next two months seeking approval of underwrite, land acquisition and development agreements. Treasury will provide advice on each proposal as it is submitted. Specifics of the briefings and their timing will be provided to the office via a separate pipeline update.	Varies by briefing	Minister of Finance Minister of Housing	Housing and Urban Growth John Beaglehole, s9(2)(k)
4.	s9(2)(j)					Justice, Security and Government Services Colin Hall, s9(2)(k)
5.	Drawdown of contingency funding to maintain safe community services by funding collective wage pressures	Week of 7 December	Corrections report seeking agreement to draw down \$5.087 million in 2020/21 and \$10.090 million annually from 2021/22 for Corrections to fund collective wage agreement costs. We recommend that the Minister of Finance agrees to this.	No deadline given, but the report requests a decision as soon as practicable	Minister of Finance Minister of Corrections	Justice, Security and Government Services Colin Hall, s9(2)(k)
6.	Briefing on Vote Oranga Tamariki	7 December	This report responds to a request from the Minister for Children for information on Vote Oranga Tamariki.	8 December Refer to the Minister for Children	Minister of Finance	Welfare and Oranga Tamariki Keiran Kennedy, s9(2)(g)(ii)
7.	Public/transitional housing	7 December	Treasury advice in response to the Ministry of Housing and Urban Development's (HUD) briefing, (BRF20/21110798). The HUD briefing seeks your agreement to provide \$11 million in upfront funding for two public housing and one transitional housing projects.	20 December (TBC)	Minister of Finance	Housing and Urban Growth John Beaglehole, s9(2)(k)
8.	The impact of Budget 2021 Strategy for tax policy (IR report only)	7 December	Report updates Minister of Revenue and Minister of Finance on the implications the Budget Strategy has for major policies in the Revenue portfolio.	14 December	Minister of Revenue Minister of Finance	Tax Strategy Jessica Rowe, s9(2)(g)(ii)
9.	EQC - Letter of Expectations	8 December	Provides a draft letter of expectations for the Minister to amend or agree to send to the entity.	16 December	Minister Responsible for the Earthquake Commission	Commercial Performance Shelley Hollingsworth, s9(2)(k)
10.	Briefing for Meeting on EQC and SOE Portfolios	8 December	Briefing for Meeting on EQC and SOE Portfolios.		Minister of Finance (for noting) Minister for State Owned Enterprises (for noting)	Commercial Performance Shelley Hollingsworth, s9(2)(k)
11.	Commercial Performance - State of Play as at 9 December 2020	9 December	This report provides an update on current issues in relation to commercial entities and multiple objective entities within the Crown portfolio.		Minister of Finance (for noting) Minister for State Owned Enterprises (for noting) Associate Minister of Finance (for noting)	Commercial Performance Juston Anderson, s9(2)(k) Shelley Hollingsworth, s9(2)(k)
12.	Aide Memoire: Ministers Meeting with New Zealand Post (10 December 2020)	9 December	Provides a pre-meeting briefing for the Minister for State Owned Enterprises' meeting with the Chair and Chief Executive of New Zealand Post		Minister of Finance (for noting) Associate Minister of Finance (Hon Parker) (for noting) Minister for State Owned Enterprises (for noting)	Commercial Performance Shelley Hollingsworth, s9(2)(k)

	Topic	Timeframe for Briefing	Purpose / Action	Deadline for MoF Action (if any)	Minister(s)	Treasury Team and Contact
13.	Residential Development Response Fund	9 December	Treasury advice in response the Ministry of Housing and Urban Development's (HUD) briefing BRF20/21110790. The HUD briefing seeks your agreement to delay the Residential Development Response Fund and to change the initial focus of the Fund.		Minister of Finance	Housing and Urban Growth John Beaglehole, s9(2)(k)
14.	Project 14 Update 9 December 2020 (T2020/3731)	9 December	An update on the progression of negotiations and next steps.		Minister of Finance Minister of Energy and Resources Minister for the Environment	Transitions, Regions, and Economic Development Jean Le Roux, s9(2)(k)
15.	Communicating a Crown Risk Appetite to the EQC Board	10 December	Due to a hardening reinsurance market, the EQC Board is seeking an early direction on the Crown's risk appetite. This briefing will present the development of the Crown's risk appetite framework as it relates to EQC, including the trade-offs of providing a specific view now while significant policy change is being considered with the EQC Act Review.	January 2021	Minister of Finance Minister Responsible for the Earthquake Commission	Financial Institutions Joseph Sant, s9(2)(k)
16.	2021/22 Letters of Expectation for Crown Financial Institutions	10 December	Annually you set their expectations for the Crown Financial Institutions (CFIs) through issuing a Letter of Expectations (LoE). The 2021/22 LoE will continue to emphasise messages for the CFIs to lead in areas of governance and responsible investing.	December 2020	Minister of Finance	Financial Institutions Joseph Sant, s9(2)(k)
17.	Government Superannuation Fund Employer Contribution Rates 2021	10 December	This Treasury Report will seek your approval of the Government Superannuation Fund employer contribution rates for the 2021 financial year. This is an annual process following the actuarial valuation of the Fund.	December 2020	Minister of Finance	Financial Institutions Joseph Sant, s9(2)(k)
18.	Updated Borrowing agent warrants for signing	10 December	Update required to Domestic and Euro Commercial Paper borrowing agent warrants required.	18 December	Minister of Finance	Capital Markets Risk Team Emma Beale, s9(2)(k)
19.	s9(2)(f)(iv)					
20.	Joint Ministers' Report: 2020 Half Year Economic and Fiscal Update of Benefit Forecasts for Vote Social Development	10 December	This report seeks ministerial approval for expected changes in spending in Vote Social Development's Benefit or Related Expense (BoRE) appropriations and updates Ministers on key trends and changes in benefit payments since PREFU 2020.	16 December	Minister of Finance Minister of Housing Minister for Social Development and Employment Minister of Revenue Minister for Veterans	Welfare and Oranga Tamariki Keiran Kennedy, s9(2)(g)(ii)
21.	Ministers of Health and Finance – Monthly 'Health Check Up' briefing	10 December	This briefing will provide up to date information on key issues and financial information in advance of the Ministers of Health and Finance 'Health Check Up' meeting on 16 December.	15 December	Minister of Health Minister of Finance	Health Hanna Alder Ovenden, s9(2)(k)
22.	Discussion points on ACC's Quarter One Briefing	10 December	s9(2)(g)(i)	None	Minister for ACC	ACC Steve Whittaker, s9(2)(k)
23.	s9(2)(f)(iv)					
24.	BFGS: s9(2)(b)(ii), s9(2)(ba)(i)	10 December	Aide Memoire in relation to BFGS s9(2)(b)(ii), s9(2)(ba)(i)	None	Minister of Finance	Business Finance Guarantee Peter Rowe, s9(2)(k)
25.	Briefing for Social Development and Employment bilateral	11 December	This Treasury report will outline the key funding issues for the Social Development and Employment portfolio.	14 December	Minister of Finance	Welfare and Oranga Tamariki Keiran Kennedy, s9(2)(g)(ii)
26.	Budget 2021 Bilateral Briefing: Border Ministers	11 December	Provides background information and talking points for your Budget 2021 bilateral discussion with Border Ministers on Monday 14 December. The purpose of the bilateral is to discuss cost pressure bids and progress reporting in the Customs, Transport, Immigration and Biosecurity portfolios.	14 December	Minister of Finance	Justice, Security and Government Services Colin Hall, s9(2)(k)
27.	Budget 2021 – Briefing for Vote Health Bilateral	11 December	This briefing will provide an overview of some key issues that Treasury recommends you discuss with Minister Little at your Budget 2021 bilateral.	17 December	Minister of Finance	Health Henry Neas, s9(2)(k)
28.	Minister of Housing Budget Bilateral Briefing	11 December	Treasury advice and talking points ahead of your Budget 2021 bilateral with the Minister of Housing on 17 December.	To be read by 17 December	Minister of Finance	Housing and Urban Growth John Beaglehole, s9(2)(k)

	Topic	Timeframe for Briefing	Purpose / Action	Deadline for MoF Action (if any)	Minister(s)	Treasury Team and Contact
29.	Budget 2021 Bilateral – Economic and Regional Development (Hon Nash)	11 December ahead of meeting Monday 14 December	Treasury's initial advice on priority initiatives related to economic and regional development, and wider MBIE cost pressures.	For bilateral meeting on 14 December with the Minister for Economic and Regional development	Associate Minister of Finance (Hon Dr Woods)	Transitions, Regions, and Economic Development Callum Lo, s9(2)(k) Tayla Forward, s9(2)(k)
30.	Budget 2021 Multilateral – Climate Ministers (Hons Woods, Parker, Wood, Allen, O'Connor, Shaw)	11 December ahead of meeting 16 December (TBC)	Treasury's initial advice on priority initiatives related to climate change, to inform the invitation process for Budget 2021 (including talking points). Provides an update on the principles and options for long term funding and financing of climate policy actions in the context of Budget 2021.	For meeting with Climate Ministers on 16 December	Minister of Finance	Transitions, Regions, and Economic Development Udayan Mukherjee, s9(2)(g)(ii) s9(2)(g)(ii) Tom Wilson, s9(2)(g)(ii)
31.	Advanced Vaccine Purchasing – Nutella Indemnity request	14 December	We anticipate Vaccine Ministers will receive a MBIE briefing seeking agreement to enter an Advanced Purchasing Agreement for Nutella's COVID-19 vaccine candidate on Friday. On Monday we will provide advice and seek your decision on the indemnity required as part of the agreement.		Minister of Finance	Health Jess Jenkins, s9(2)(k)
32.	Southern Response	14 December	Advice on the litigation situation facing Southern Response.	None	Minister of Finance Minister Responsible for the Earthquake Commission (for noting)	Commercial Performance Shelley Hollingsworth, s9(2)(k) s9(2)(k)
33.	Holding Company advice	14 December	Background to Holding Company Ownership Form Investigation.		Minister for State Owned Enterprises Minister of Finance (for noting)	Commercial Performance Juston Anderson, s9(2)(k) Shelley Hollingsworth, s9(2)(k)
34.	Screen Indemnity Scheme: First Tranche	Week of 14 December	Seeks your agreement to give indemnities to an initial 4 of 12 productions eligible for consideration under the screen sector indemnity scheme. Treasury does not expect to receive the business cases from the Ministry of Culture and Heritage until 11 December.		Minister of Finance	Justice, Security and Government Services Colin Hall, s9(2)(k)
35.	Broadcasting Portfolio 2021 Appointment Round	Week 14 December	Confirmation of commencement of Broadcasting portfolio 2021 appointment round (T2020/3234)		Minister for Broadcasting and Media (for decision) Minister of Finance (for noting)	Governance and Appointments Gael Webster, s9(2)(k)
36.	ACC 2021 Appointment Road	Week of 14 December	Confirmation of commencement of ACC 2021 appointment round		Minister for ACC (for decision) Minister of Finance (for noting)	Governance and Appointments Gael Webster, s9(2)(k)
37.	New Zealand Lotteries Commission 2021 Appointment Round	Week of 14 December	Confirmation of commencement of Lotto 2021 appointment round		Minister of Internal Affairs (for decision) Minister of Finance (for noting)	Governance and Appointments Gael Webster, s9(2)(k)
38.	Ministry of Justice Baseline Review—Final report	Week of 21 December	To advise you on the results of the Ministry of Justice Baseline review, including a 'deep dive' analysis into the effectiveness and efficiency of key areas of current spending - focused on Votes Justice and Courts.		Minister of Finance Minister of Justice Minister for Courts	System Design and Strategy John Marney, s9(2)(k)



Treasury Report: Screen Sector Indemnity Scheme: First Tranche

Date:	15 December 2020	Report No:	T2020/3713
		File Number:	SH-15-2

Action sought

	Action sought	Deadline
Hon Grant Robertson Minister of Finance	<p>Sign the four attached Deeds of Indemnity.</p> <p>Sign the attached delegation instrument.</p>	Before 18 December 2020

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Tim Roper	Senior Analyst, Justice, Security and Government Services	s9(2)(k)	s9(2)(g)(ii) <input checked="" type="checkbox"/>
Colin Hall	Manager, Justice, Security and Government Services		

Minister's Office actions (if required)

Return all four Deeds of Indemnity, once signed, dated and witnessed, to Treasury (for passing on to MCH).

Return signed and dated instrument of delegation to Treasury.

Refer a copy of this report to the Minister for Arts, Culture and Heritage.

Note any feedback on the quality of the report	
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Enclosure: Yes (attached)

Treasury Report: Screen Sector Indemnity Scheme: First Tranche

Executive Summary

This report seeks your agreement to provide indemnities to four domestic screen productions under the Screen Sector Indemnity Scheme (scheme) recently agreed by yourself and the Minister for Arts, Culture and Heritage. The intention of the scheme is to provide an interim solution to keep the domestic film industry functioning during the COVID-19 pandemic as commercial insurers have stopped providing pandemic cover.

Twelve productions meet the eligibility for the scheme and indemnities are needed to access private finance for domestic screen productions to help manage cash flows prior to their completion.

If indemnified, these 12 productions will collectively be able to access \$72.2 million of private finance. This represents a maximum contingent liability for the Crown, after deductibles, of \$49.7 million in the unlikely event that all 12 productions are abandoned as a result of COVID-19. This figure is within the agreed \$50 million limit for the scheme.

Based on risk assessment modelling, the total expected cost the Crown can be expected to pay out under the possible, more likely, scenario of COVID-19-related delays is \$3.890 million. This amount will be fully offset by a return of New Zealand Screen Production Grant – New Zealand baseline funding. This means the policy is fiscally neutral overall, thereby preserving operating allowances and avoiding any perception of the domestic screen sector being treated more favourably than other sectors impacted by COVID-19.

The Ministry for Culture and Heritage (MCH) advises that to avoid liquidity issues the four productions covered in this report require their respective indemnities to be in place before 18 December. If you agree to this first tranche of indemnities, these four productions will be able collectively to access up to \$16.322 million of private finance. This represents a maximum contingent liability for the Crown, after deductibles, of \$15.506 million, and a total expected cost of \$1.720 million.

The indemnity will cover two risk elements:

- the Film Producers Indemnity relates to delay or abandonment costs associated with a key named person testing positive for COVID-19 or requiring isolation, and
- Extra Expense (by far the greater risk element) relates to delay or abandonment costs associated with government imposition of Isolation Orders on cast or crew (other than key named persons) or Alert Level 2, 3 or 4 restrictions.

Section 65ZD(1) of the Public Finance Act (PFA) provides that the Minister of Finance, on behalf of the Crown, may give an indemnity to a person, organisation, or government if it appears to the Minister to be necessary or expedient in the public interest to do so.

MCH has prepared business cases for each of the four proposed indemnities (the key aspects of which are summarised in the Annex). Treasury considers that the threshold of “expedient in the public interest” is achieved in relation to each of the four proposed indemnities.

If you agree to provide indemnities to any of the four productions, officials recommend that MCH be delegated authority to manage and administer these and any subsequent indemnities you may give in relation to the remaining productions assessed as eligible for the scheme.

Recommended Action

We recommend that you:

- a **note** that you and the Minister for Arts, Culture and Heritage have previously agreed design parameters for a Screen Sector Indemnity Scheme, to ensure certain domestic screen productions can obtain private finance in the absence of commercial insurance pandemic cover
- b **note** that 12 productions have been assessed as eligible for inclusion in the Screen Sector Indemnity Scheme and that the Ministry for Culture and Heritage advise four require an indemnity to be in place by 18 December to ensure they can secure necessary private finance to manage cash flows and remain viable
- c **agree** to provide an indemnity under section 65ZD of the Public Finance Act 1989 to Greenstone Pictures MLIM Limited

Agree/disagree.

Minister of Finance

- d **agree** to provide an indemnity under section 65ZD of the Public Finance Act 1989 to Te Kotukutuku Limited

Agree/disagree.

Minister of Finance

- e **agree** to provide an indemnity under section 65ZD of the Public Finance Act 1989 to Libertine Pictures (UTV) Limited

Agree/disagree.

Minister of Finance

- f **agree** to provide an indemnity under section 65ZD of the Public Finance Act 1989 to Cave Hunters Limited

Agree/disagree.

Minister of Finance

- g **sign** the corresponding attached Deed of Indemnity for each indemnity you agree to provide in recommendations (c) to (f) above

- h **agree to delegate** to the Secretary to the Treasury, under clause 5 of Schedule 6 of the Public Service Act 2020, power to manage and administer the indemnities given to domestic screen productions under the Screen Sector Indemnity Scheme, including taking any action to give effect to the indemnities and making any payments under such indemnities

Agree/disagree.

Minister of Finance

- i **sign** the delegation instrument attached to this report

- j **note** that the delegation instrument allows for the sub-delegation, under clause 2 of Schedule 6 of the Public Service Act 2020, of all or any of the authority and powers described in (h) above to the Chief Executive or any Deputy Chief Executive of the Ministry for Culture and Heritage

- k **note** that your agreement to give indemnities to the remaining eligible productions will be sought in the new year, with requests similarly aggregated into tranches for efficiency purposes, and
- l **refer** to the Minister for Arts, Culture and Heritage.

Refer/not referred.

Minister of Finance

Colin Hall
Manager, Justice, Security and Government Services

Hon Grant Robertson
Minister of Finance

Treasury Report: Screen Indemnity Scheme: First Tranche

Purpose of Report

1. This report seeks your agreement to provide indemnities to four domestic screen productions under the Screen Sector Indemnity Scheme (scheme) recently agreed by yourself and the Minister for Arts, Culture and Heritage [BR2020/298: T2020/2855 and BR2020/482 refer].

Analysis

2. Most domestic screen productions require access to private finance as a bridge to help manage their cash flows. This is because they usually do not begin generating any revenue until after completion of the production. This includes revenue from the New Zealand Screen Production Grant – New Zealand (NZSPG-NZ), which reimburses 40% of qualifying expenditure.
3. As a result of COVID-19, the availability of private finance for the domestic screen sector has become constrained. This is because the commercial insurance industry is no longer offering the pandemic cover that private financiers dealing with the sector typically require producers to take out before they will lend to them.
4. The scheme aims to provide the necessary surety to enable access to private finance for those productions that were in the NZ Film Commission's planned forward pipeline to April 2021 at the time pandemic cover became unavailable. The intention of the scheme is to provide an interim solution to keep the domestic film industry functioning during the COVID-19 pandemic.
5. A total of 12 productions currently meet the necessary eligibility criteria. If indemnified, these will collectively be able to access \$72.2 million of private finance. This represents a maximum contingent liability for the Crown of \$49.7 million under a worst-case scenario (i.e. total abandonment of all 12 productions), which is within the agreed \$50 million limit for the scheme. The maximum contingent liability is less than the total amount of private finance indemnified for two reasons:
 - deductibles apply in the event of any claims, and
 - for two of the 12 productions there is a \$10 million cap.
6. The total expected cost of the scheme is \$3.890 million. This is the amount the Crown can be expected to pay out as a result of COVID-19-related production delays, based on risk assessment modelling commissioned by the Ministry for Culture and Heritage (MCH). As this amount will be fully offset by the return of NZSPG-NZ baseline funding, the policy is fiscally neutral overall. In addition to preserving operating allowances, this fiscal neutrality aspect is important to avoid any perception of the domestic screen sector receiving more favourable treatment than other sectors impacted by COVID-19. It also recognises the fact that the level of taxpayer support for the sector is already significant.
7. The indemnity will cover two risk elements excluded from commercial insurance that are deemed necessary to provide private financiers confidence that the productions will be completed.
 - The Film Producers Indemnity constitutes coverage for delay or abandonment costs associated with a key named person testing positive for COVID-19 or requiring isolation.

- Extra Expense is coverage for delay or abandonment costs associated with government imposition of Isolation Orders on cast or crew (other than key named persons) or Alert Level 2, 3 or 4 restrictions. Almost all the calculated maximum contingent liability and total expected cost of the scheme relates to the Extra Expense risk element.
8. The four productions covered in this report represent a first tranche of the 12 productions eligible for the scheme. MCH advises that in order for these to be able to access necessary private finance at a critical time in their production schedules, their respective indemnities will need to be in place before 18 December.
9. s9(2)(b)(ii)

Necessary or expedient in the public interest test

10. Section 65ZD(1) of the PFA provides that the Minister of Finance, on behalf of the Crown, may give an indemnity to a person, organisation, or government if it appears to the Minister to be necessary or expedient in the public interest to do so.
11. There is no formal test for assessing whether this statutory requirement is met in any individual circumstance - ultimately, this is a matter for the Minister of Finance to determine.
12. The PFA does not define the public interest. However, it is generally accepted that the public interest is broadly equivalent to the concept of the public good and can cover a wide range of values and principles relating to the public good, or what is in the best interests of society. In the context of the PFA, the public interest should be viewed in a New Zealand context, that is, in the interest of the New Zealand public.
13. To help inform assessment of whether each of the four proposed indemnities achieves the necessary or expedient in the public interest threshold, you may wish to consider the following factors:
 - level of cultural benefit
 - level of economic benefit
 - fiscal impact
 - degree of risk and risk mitigation measures, and
 - alignment with Government intentions.
14. You may decide to ignore, or give such weight to these factors, or any other factors you consider relevant, as you deem fit.
15. MCH has prepared business cases for each of the four proposed indemnities. The key aspects of these are summarised in the Annex. Treasury's assessments in relation to each of the proposed indemnities are set out in following sections but you should make an independent decision on whether you consider the *necessary or expedient in the public interest* test has been met.
16. As private financiers require a replacement measure for pandemic insurance cover, in the short-term there is no viable alternative to an indemnity for each of the four productions.

Key individual production details

Indemnity 1: Greenstone Pictures MLIM Limited

17. This production involves 10 one-hour episodes of a contemporary murder mystery entitled "My Life is Murder". It showcases Auckland and features New Zealand actors in the lead role, as co-stars and as guest stars.
18. The production will be released worldwide, with Tourism New Zealand linkages specifically targeting the US market. As a drama project it represents a significant milestone in the maturity of Greenstone Pictures (one of the 700 companies in New Zealand Trade and Industry's high-focus portfolio), which has previously successfully exported factual and documentary series to over 40 countries.
19. The production is expected to provide for s9(2)(b)(ii) and an estimated s9(2)(b)(ii) (excluding GST) of spending in New Zealand (e.g. on equipment rentals, studio and location hire, post-production, administrative services and catering).
20. s9(2)(b)(ii)

Indemnity 2: Te Kotukutuku Limited

21. This production is an anthology dramatic feature film entitled "Ngā Pouwhenua". It examines the impacts of colonisation on Māori culture over the last 250 years and the resulting socio-economic inequality society today.
22. The production tells the story of Ngāi Tūhoe in a kaupapa Māori project, and Māori and Pasifika will be heavily involved in cast and crew roles. In particular, there will opportunities for the people of Ngāi Tūhoe to become involved in the screen industry.
23. The production is expected to provide for s9(2)(b)(ii) jobs and an estimated s9(2)(b)(ii) of spending in New Zealand (e.g. on equipment rentals, set materials, administrative services and catering).
24. s9(2)(b)(ii)

Indemnity 3: Libertine Pictures (UTV) Limited

25. This production involves six one-hour television episodes of a romantic comedy entitled "Under the Vines", about two city slickers who inherit a failing vineyard in rural New Zealand. It features a New Zealand actor in the co-lead role, while other cast and crew include known local actors and producers.
26. The production provides development opportunities to communities currently under-represented in the domestic screen sector, e.g. Māori, Pasifika and Chinese, and will showcase Central Otago as a key element of its international appeal. The production will be available to over four million subscribers of relevant streaming services in the USA, UK, Canada, Latin America, Australia, Spain and Portugal (and possibly other countries), s9(2)(b)(ii)
27. The production is expected to provide for s9(2)(b)(ii) jobs and an estimated s9(2)(b)(ii) of spending in New Zealand (e.g. on equipment rentals, administrative services, post-production, travel, and location and facility hire).
28. s9(2)(b)(ii)

Indemnity 4: Cave Hunters Limited

29. This production involves three 45-minute episodes of a documentary series entitled "Cave Hunters". It showcases NZ landscapes and subterranean features at the top of the South Island. Release is planned in New Zealand, German, French, Brazilian and other markets, with an expected worldwide audience of over 40 million. Previous work by the producer (James Heyward) suggests that viewing, in particular in the German and French markets, translates into tourists visiting the featured regions.
[redacted]
s9(2)(b)(ii)
30. The production is expected to provide for [redacted] jobs and an estimated s9(2)(b)(ii) [redacted] of spending in New Zealand (e.g. on support services and post-production).
31. s9(2)(b)(ii)
[redacted]

Key common considerations for all indemnities

32. Without provision of the proposed indemnities enabling each of the above productions to access necessary private sector finance, the jobs and activity described above will be lost. More broadly, these productions will contribute to a continued pipeline of domestic screen sector activity during the pandemic and help ensure skilled employees remain attached to the sector.
33. For all productions, maximum contingency liability is less than total amount of private sector finance indemnified as deductibles apply in the event of any claims. As the total expected cost in relation to each indemnity will be offset by return to the Centre of a commensurate amount of NZSPG-NZ baseline funding, in all cases the overall impact is fiscally neutral.
34. In previously agreeing the design parameters for the scheme, you and the Minister for Arts, Culture and Heritage have assessed it desirable to take steps to ensure the domestic screen sector can continue functioning during the pandemic. Each of the proposed indemnities contributes to this ambition.
35. On the basis of the above, Treasury considers that the threshold of expedient in the public interest is achieved in relation to each of the proposed indemnities.

Key terms of all indemnities

36. Other key terms applicable to each deed of indemnity include the following.
 - The Crown agrees to indemnify the production company in respect of all liability, loss, cost, expense or other charge arising as a direct result of delay or abandonment due only to Film Producers Indemnity or Extra Expense. Cover for all other risk elements will continue to require commercial insurance, and the production company must maintain this insurance during the term of the indemnity.
 - The indemnity can only be called upon to recover a loss where it exceeds a 'COVID-19 Contingency Amount' (to be specified for each individual production) and the production company has first sought to meet that loss out of that contingency amount.
 - The production company must take all necessary steps to mitigate any losses that are or may in future be covered by the indemnity. These include ensuring best-practice health and safety processes are in place. Risk of delay or abandonment from government imposition of restrictions is outside the production company's control.

- The production company must submit a claim under the indemnity, including all relevant facts and circumstances related to the actual or potential loss event, to the Crown for consideration. The Crown may appoint a 'Loss Assessor' (a person who is suitably experienced and qualified at assessing losses under insurance policies in the New Zealand screen sector) to verify whether a claim should be paid.
- The production company counter-indemnifies the Crown for any breaches of the deed of indemnity, any representations or warranties being or becoming incorrect, and any unlawful, wrongful, wilful or negligent acts or omissions by the production company in its performance of the deed of indemnity.

Delegations

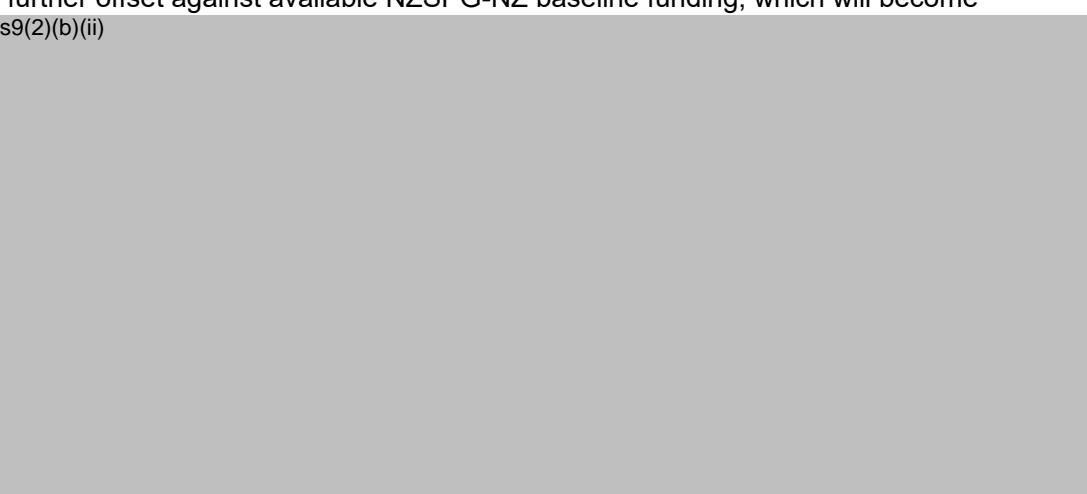
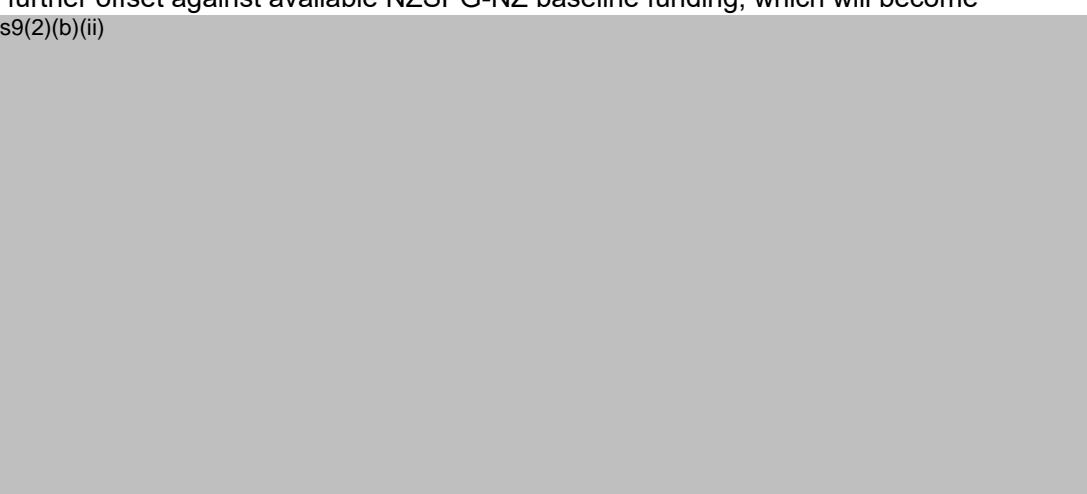
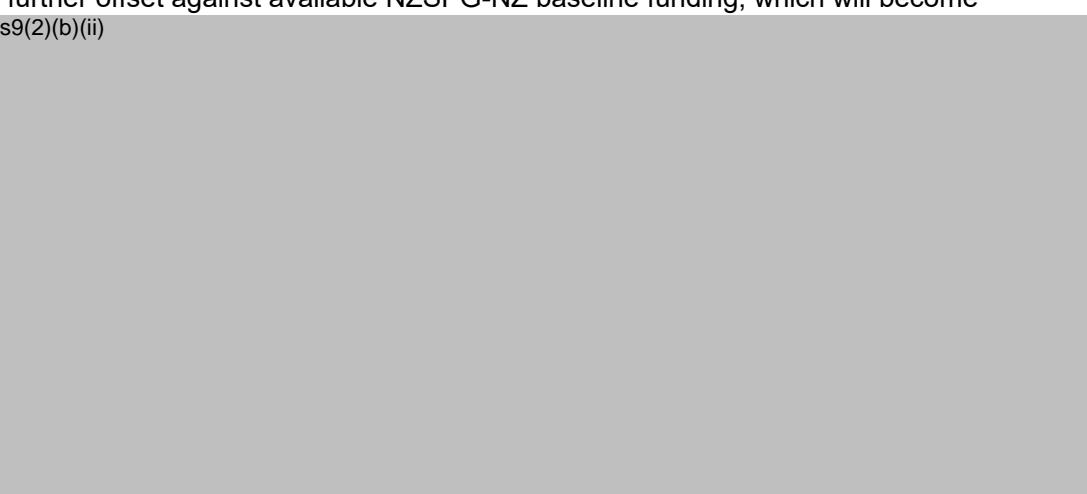
37. If you agree to provide indemnities to any of the four productions, officials recommend that MCH be authorised to manage and administer these and any subsequent indemnities you may give in relation to the remaining productions assessed as eligible for the scheme. This includes taking any action to give effect to, and making any payments under, the indemnities.
38. The necessary delegations will need to be provided via a three-step process, initially to the Secretary to the Treasury, then from the Secretary to the Treasury on to the Chief Executive of MCH and then from the Chief Executive to a Deputy Chief Executive of MCH.

Notices of Representation

39. None of the four proposed indemnities results in a contingent liability of the Crown that exceeds \$10 million. It will therefore not be necessary to table notice in the House of any of these indemnities, if given.

Risks

40. The scheme is intended as an interim solution limited to the 12 productions in the NZ Film Commission's forward pipeline to April 2021 at the time pandemic cover became unavailable. s9(2)(b)(ii)

41. Ensuring fiscal neutrality for any additional domestic screen productions will require further offset against available NZSPG-NZ baseline funding, which will become s9(2)(b)(ii)

42.

43.


44. s9(2)(b)(ii)



Next Steps

45. The necessary reduction in the NZSPG-NZ baseline to offset the expected cost of these four indemnities, and subsequent indemnities, will be reflected in the next available baseline update for Vote Arts, Culture and Heritage.
46. We will report to you in the new year seeking your agreement to potential indemnities under the scheme for the remaining eligible productions.

Annex – Summary of Business Cases for Proposed Indemnities

	<i>Indemnity 1</i>	<i>Indemnity 2</i>	<i>Indemnity 3</i>	<i>Indemnity 4</i>
Production company	Greenstone Pictures MLIM Limited	Te Kotukutuku Limited	Libertine Pictures (UTV) Limited	Cave Hunters Limited
Production title	My Life is Murder	Ngā Pouwhenua	Under the Vines	Cave Hunters
Production type	10 x 1 hour episodes	Feature film	6 x 1 hour television episodes	3 x 45 minute episode documentary series
Production locations	Greater Auckland	Auckland, Bay of Plenty	Auckland, Cromwell area	Auckland, Nelson, Takaka, Marlborough
Production timeframes	s9(2)(b)(ii)			
Total private finance requiring indemnity				
Duration of indemnity				
Expected cost				
Maximum contingent liability				
Jobs				
Spend in NZ economy				

	<i>Indemnity 1</i>	<i>Indemnity 2</i>	<i>Indemnity 3</i>	<i>Indemnity 4</i>
Other relevance / benefits for NZ	<p>Lucy Lawless is lead as a contemporary Kiwi character for this murder mystery.</p> <p>Other Kiwi talent as co-stars and guest stars.</p> <p>Showcases Auckland, linkages with Tourism New Zealand targeting the US market.</p> <p>Release expected in NZ, USA, UK, Australia, Europe and Asia.</p> <p>Represents a significant milestone in the maturity of Greenstone Pictures (one of the 700 companies in New Zealand Trade and Industry's high-focus portfolio), which has previously successfully exported factual and documentary series to over 40 countries.</p>	<p>Examines the impacts of colonisation on Māori culture over the last 250 years and the resulting socio-economic inequality society today.</p> <p>Tells the story of Ngāi Tūhoe in a kaupapa Māori project.</p> <p>Māori and Pasifika heavily involved in cast and crew roles.</p> <p>In particular provides opportunities for the people of Ngāi Tūhoe to become involved in the screen industry.</p>	<p>Rebecca Gibney is co-lead in romantic comedy about two city slickers who inherit a failing vineyard in rural New Zealand.</p> <p>Other cast and crew include known New Zealand actors and producers.</p> <p>Provides development opportunities to communities under-represented in the domestic screen sector, e.g. Māori, Pasifika and Chinese.</p> <p>Showcases Central Otago as a key element of the show's international appeal.</p> <p>Release expected in the US, Canada, UK, Latin America, Australia, Spain and Portugal (and possibly others), with over four million subscribers of relevant streaming services.</p> <p>s9(2)(b)(ii)</p>	<p>Showcases New Zealand landscapes and subterranean features at the top of the South Island.</p> <p>Release is planned in New Zealand, German, French, Brazilian and other markets, with an expected worldwide audience of over 40 million.</p> <p>Previous work by this producer (James Heyward) suggests that viewing, in particular in the German and French markets, translates into tourists visiting the featured regions.</p>

Deed of Indemnity

relating to

Manatū Taonga - Ministry for Culture and Heritage's Screen Sector
Indemnity Scheme

**The Sovereign in Right of New Zealand acting by and through the
Minister of Finance**

Crown

and

Greenstone Pictures MLIM Ltd

Production Company

Date

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WELLINGTON 171 FEATHERSTON STREET
P O BOX 1291, WELLINGTON 6140, DX SX11164, NEW ZEALAND
TEL 64 4 915 6800 FAX 64 4 915 6810

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This **Deed of Indemnity** is made on 2020

between (1) **The Sovereign in Right of New Zealand acting by and through the Minister of Finance (Crown)**
and (2) **Greenstone Pictures MLIM Ltd (Production Company)**

Introduction

- A. Manatū Taonga - Ministry for Culture and Heritage (the **Ministry**) has become aware that the domestic screen sector is experiencing difficulty in accessing funding required to enable the current pipeline of planned domestic productions to continue due to the unavailability of insurance to protect against the risk of delays associated with COVID-19
- B. The Ministry has developed the Screen Sector Indemnity Scheme (the **Scheme**) which provides for the Crown to indemnify participants for certain costs relating to the COVID-19 pandemic that occur during certain pre-production and production phases on the terms and conditions of this Deed.

It is agreed

1. Definitions

1.1 Definitions

In this Deed (including the Introduction), unless the context otherwise requires:

Abandonment Cap has the meaning given to that term in Schedule 1;

Alert Levels means Alert Level 1, 2, 3 or 4 as notified by the New Zealand Government with the characteristics applicable to those Alert Levels as detailed in any Order made under the COVID-19 Public Health Response Act 2020;

Budgeted Cost means the budgeted costs specified in Schedule 1 in respect of the New Zealand production elements;

Business Case means the business case for the Production that has been submitted to the Crown and which is included as Schedule 5;

Business Day means a day other than a Saturday or Sunday or a public holiday in New Zealand;

Claim has the meaning given to that term in clause 5.7(a);

Condition Date has the meaning given to that term in Schedule 1;

Conditions Precedent means the conditions precedent set out in clause 3.2 to this Deed;

Confidential Information means the fact of entry into this Deed, the terms and conditions of this Deed and all confidential information and data (in any form) produced or acquired by a

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party (including its personnel, agents or advisers) from or on behalf of another party in connection with this Deed or the performance of its obligations under this Deed;

COVID-19 means the novel coronavirus described as COVID-19 and includes any mutations of such coronavirus;

COVID-19 Contingency is the amount specified in Schedule 1;

COVID-19 Loss Event has the meaning given to that term in clause 5.1(a)(iv);

COVID-19 Event means:

(a) any member of the cast or crew of the Production:

- (i) testing positive for COVID-19 in New Zealand; and
- (ii) being legally required to comply with a requirement in New Zealand which is imposed or issued by a New Zealand governmental entity, or a person acting under law in New Zealand, in relation to COVID-19 (including, for the avoidance of doubt, any isolation or quarantine order),

which has the effect that Pre-Production or Principal Photography is prevented or impeded; or

(b) any:

- (i) return to Alert Level 2, Alert Level 3 or Alert Level 4 (or their equivalents having the same or more onerous restrictions or effect as Alert Levels 2, 3 or 4 as applied at the Scheme Date as determined by the Crown acting reasonably); or
- (ii) COVID-19 Requirement having a more onerous restriction or effect than those in operation at Alert Level 2 as at the Scheme Date,

which has the effect that the Pre-Production or Principal Photography is prevented or impeded in the applicable to the region(s) in which Pre-Production and/or the period of Principal Photography is occurring, or will, or is planned to, occur,

and, in each case, which occurs after the date on which the Conditions Precedent are satisfied or waived, but does not include any Named Person Loss Event;

COVID-19 Guidelines means the guidelines developed by ScreenSafe New Zealand in respect of COVID-19, including the Health and Safety Standard and Health and Safety Protocol dated 19 August 2020 (and any revisions, amendments or updates thereto whether made before or after the Execution Date);

COVID-19 Negative Test Confirmation has the meaning given to that term in clause 4.2(a);

COVID-19 Requirement means a requirement which the Production Company must legally comply with which is imposed or issued by a New Zealand governmental entity, or a person acting under law in New Zealand, in relation to COVID-19;

Deductible means amount specified as such in Schedule 1, being an amount of expenditure that the Production Company must incur as a result of a Loss Event and that cannot be claimed under this Deed (but would otherwise qualify as a Loss);

Deed means this Deed of Indemnity, and includes any amendments agreed in writing by the parties;

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Delay Cap has the meaning given to that term in Schedule 1;

Excluded Expenditure has the meaning given in clause 5.3;

Execution Date means the date on which this Deed is executed by the Crown;

Insolvent means, in relation to a person, any one or more of the following events occurring or subsisting:

- (a) an order is made or resolution passed that the person be put in liquidation, administration, statutory or other management or receivership or be wound up; or
- (b) an order is made or a resolution is passed appointing a liquidator or provisional liquidator in respect of the person, or one of them is appointed, whether or not under an order or resolution; or
- (c) a receiver, receiver and manager, administrator, or official or statutory manager is appointed in respect of the person or the assets or undertaking of the person or any part of those assets or that undertaking; or
- (d) the person enters into, or resolves to enter into, a scheme of arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them; or
- (e) the person resolves to go into liquidation, administration, statutory or other management, receivership, or otherwise dissolve itself, or notifies of its intention to do so; or
- (f) the person is unable to pay its debts or perform its obligations as and when they become due or payable or threatens not to pay its debts or perform its obligations as they become due; or
- (g) the person is presumed to be unable to pay its debts within the meaning of any applicable legislation; or
- (h) anything having the same or similar effect to any of the events specified above under the law of any applicable jurisdiction;

Insurance Policy means any contract of insurance that meets the requirements of clause 4.1;

Insurer means the company that provides an Insurance Policy to the Production Company and is listed as the 'Insurer' in Schedule 1;

Loss has the meaning given to that term in clause 5.1(a);

Loss Assessor means a person who is suitably experienced and qualified at assessing losses under insurance policies in the New Zealand screen sector as determined by the Crown;

Loss Assessor's Report has the meaning given to that term in clause 6.1(b)

Loss Event a Named Person Loss Event and/or a COVID-19 Loss Event (each as applicable);

Named Person means the first ten natural persons listed as a 'Named Person' in Schedule 1 who is specified and covered as an 'Essential Element' in the Insurance Policy;

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Named Person Loss Event has the meaning given to that term in clause 5.1(a)(iii)

New Zealand Production Budget means the Production's budget for production elements taking place in New Zealand which has been approved by the producer and the financiers of the Production, and which is included as Schedule 4;

Pre-Production means the period of the Production Schedule occurring in New Zealand that immediately precedes Principal Photography as specified in Schedule 1;

Principal Photography means the phase of the Production in which filming for the purposes of scripted content or storyline (excluding preliminary, incidental or scouting filming), takes place in New Zealand, and which ends with the commencement of post-production as the main effort of the Production, the planned dates for which are set out in Schedule 1;

Production Schedule means the proposed schedule for the Production in New Zealand, which must include the Pre-Production phase and Principal Photography;

Production means the production described in Schedule 1;

Scheme has the meaning given to that term in the Introduction to this Deed; and

Scheme Date means 11 December 2020, being the date that the Scheme commenced.

1.2 Interpretation

In this Deed, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a person includes:
 - (i) a partnership (including a limited partnership) and also a body of persons, whether corporate or unincorporated; and
 - (ii) reference to its respective successors in title and permitted assigns;
- (c) a reference to documentation includes:
 - (i) a reference to that document as varied, supplemented, novated or substituted from time to time; and
 - (ii) a reference to that documentation in any form, whether paper based or in electronic form encoded on or as part of any form of media;
- (i) a law:
 - (i) includes a reference to any constitutional provision, subordinate legislation, treaty, decree, convention, statute, regulation, rule, ordinance, proclamation, by-law, judgment, rule of common law or equity or rule of any applicable stock exchange;
 - (ii) is a reference to that law as amended, consolidated, re-enacted, supplemented or replaced (whether before or after the Execution Date); and
 - (iii) is a reference to any regulation, rule, ordinance, proclamation, by-law or judgment made under that law;

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- (d) headings are included for the purpose of ease of reference only and are not to have any effect on construction and interpretation;
- (e) a reference to currency is a reference to New Zealand currency;
- (f) unless stated otherwise, a reference to a clause is to a clause of this Deed;
- (g) a reference to including means, including without limitation; and
- (h) each provision of this Deed is to be read separately and independently of the other provisions and not in a way which limits the Crown's rights, powers and discretions under such provision.

1.3 Performance of obligations

The Production Company acknowledges and agrees that:

- (a) the Minister of Finance may delegate certain powers and functions in relation to this Deed and the administration of this Deed and the funding arrangement contemplated by this Deed;
- (b) where any provision of this Deed requires the Crown's approval or determination, such Crown approval or determination may (at the Crown's discretion) be administered (and may be given or withheld) by Ministry officials on behalf of the Crown (unless such approval is specified in this Deed as being required by or from the Minister);
- (c) to the extent that Ministry officials perform obligations or exercise powers of the Crown under this Deed, the Crown shall for the purposes of this Deed be regarded as having discharged those obligations or exercised those powers; and
- (d) this clause 1.3 is for the benefit of the Ministry, and is intended to be enforceable by the Ministry.

2. Statutory approval and notification

The parties acknowledge that:

- (a) this Deed is being provided to the Production Company by the Minister of Finance on behalf of the Crown under section 65ZD of the Public Finance Act 1989; and
- (b) if and to the extent that the contingent liability of the Crown under this Deed exceeds \$10,000,000, the Minister of Finance is accordingly required, under section 65ZD(3) of the Public Finance Act 1989, to present a statement to the House of Representatives in relation to this Deed as soon as practicable after its execution.

3. Term and conditions precedent

3.1 Term

- (a) Subject to clause 3.2, the terms and conditions of this Deed apply on and from the Execution Date and continue in full force and effect until the earliest of:
 - (i) this Deed is terminated in accordance with clauses 3.4, 5.2 or 9;

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- (ii) the end of Principal Photography as determined by the Crown acting reasonably; and
 - (iii) the date on which each party agrees in writing that this Deed is no longer required.
- (b) Except where expressly stated otherwise in this Deed, the expiry or termination of this Deed will not release a party from any liability arising from this Deed that occurred prior to the date of expiry or termination.

3.2 Conditions Precedent

The Crown's obligations under this Deed are subject to and conditional upon the following conditions precedent being completed and fulfilled (to the Crown's satisfaction):

- (a) to the extent that the Production is an international co-production or involves Pre-Production or Principal Photography occurring outside New Zealand, the receipt by the Production Company of equivalent protection (as assessed by the Crown, acting reasonably) to the indemnification provided by the Crown under this Deed from such jurisdictions outside New Zealand that benefit from the Production as the Crown determines acting reasonably;
- (b) a certificate, signed by two directors of the Production Company (or, if the Production Company only has one director, that director) certifying that, in their view, subject to the entry into this Deed and Conditions Precedent set out in this Deed being satisfied or waived, the Production Company has obtained sufficient committed financing so as to complete the Production;
- (c) the Production Company providing the Crown with a valid certificate of currency for the Insurance Policy; and
- (d) the Production Company satisfying such other requirements as are advised to it by the Crown in writing on or before the date the Production Company enters into and delivers this Deed to the Crown.

3.3 Waiver of condition

The conditions in clause 3.2 have been inserted for the benefit of the Crown and only the Crown may waive any of them.

3.4 Non fulfilment of conditions

If any of the conditions set out in clause 3.2 have not been satisfied or waived on or before the Condition Date (or by such later time as agreed in writing by the parties), the Crown may at any time thereafter, by written notice to the Production Company:

- (a) waive or defer (to a date set out in the written notice) the satisfaction of the relevant condition in clause 3.2; or
- (b) terminate this Deed.

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4. Insurance and COVID-19 testing

4.1 Insurance

The Production Company must accept, pay the premium for and maintain an Insurance Policy for the Production with the Insurer that as a minimum provides the Production Company with film production insurance under a policy that is on usual and customary terms for usual and customary periods, including coverage for 'film producers indemnity' and any other insurance cover specified in Schedule 1 until the completion of Principal Photography. It is recognised by the Crown that the Insurance Policy may contain an exclusion in relation to liability for loss arising from or related to COVID-19.

4.2 COVID-19 testing

- (a) In respect of each Named Person, the Production Company must provide the Crown, within 3 Business Days of the date on which it was issued, written confirmation from a suitably qualified medical practice, medical professional or authorised COVID-19 testing authority or facility, which confirms that the Named Person has been tested for COVID-19 and has received a negative test result (a **COVID-19 Negative Test Confirmation**).
- (b) The testing date of a COVID-19 Negative Test Confirmation must not pre-date the date on which the Named Person starts work on the Production by more than five (5) days (or such longer period as may be agreed to in writing by the Crown).

5. Indemnity

5.1 Indemnity

- (a) With effect on and from the date that all of the Conditions Precedent have been satisfied (or waived), the Crown agrees to indemnify, in accordance with, and subject to, the terms and conditions of this Deed, the Production Company in respect of all liability, loss, cost, expense or other charge incurred by the Production Company in respect of the Production (excluding any Excluded Expenditure) arising direct as a result of:
 - (i) an interruption, delay, rearrangement of personnel, schedule or location or postponement of the Production up to the Delay Cap; or
 - (ii) the cancellation or abandonment of the Production up to the Abandonment Cap,
 in each case due to:
 - (iii) a Named Person contracting COVID-19 in New Zealand (**Named Person Loss Event**) during the final two weeks of Pre-Production and/or during Principal Photography; and/or
 - (iv) if stated in Schedule 1 as being covered by this Deed, a COVID-19 Event (a **COVID-19 Loss Event**) occurring during Pre-Production and/or during Principal Photography,
 (in each case, a **Loss**).

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- (b) Notwithstanding any other provision of this Deed, the Production Company will not be entitled to recover any Loss unless:
- (i) the total amount of Loss under this Deed exceeds the amount of the COVID-19 Contingency; and
 - (ii) the Production Company has first met (and provided evidence acceptable to the Crown (acting reasonably) that it has met) an amount of Loss equal to the COVID-19 Contingency,

with the result that the Production Company is only entitled to recover for Loss under this Deed which is (when taken together with all other Losses under this Deed) in excess of the amount of the COVID-19 Contingency.

5.2 Insolvency

If the Production Company is, or becomes, at any time prior to suffering a Loss Event, Insolvent, the Crown may, at its sole discretion, terminate this Deed by giving written notice to the Production Company.

5.3 Excluded Expenditure

- (a) Excluded Expenditure is:
- (i) the Deductible;
 - (ii) any amount that:
 - (A) in respect of any Claim made under clause 5.1(a)(i) exceeds the Delay Cap, whether as a result of a single Claim or aggregate Claims under this Deed; or
 - (B) in respect of any Claim made under clause 5.1(a)(ii), exceeds (when taken together with any other Claims made under this Deed) the Abandonment Cap;
 - (iii) any expenditure that is not incurred solely and directly due to a Loss Event;
 - (iv) any expenditure that is incurred outside of the New Zealand Production Budget or where a Loss Event arises and the Production Schedule has materially changed without the prior written approval of the Crown;
 - (v) any expenditure due to the loss of a third party;
 - (vi) any pure economic loss, loss of profits or loss of earnings or royalties;
 - (vii) any expenditure, loss or liability arising from any obligation or requirement to meet any schedule deadlines, transmission dates, release dates or any other delivery or completion date;
 - (viii) any interest, charges or penalties on loans, advances or other finance related costs other than any interest on loans, advances or other finance-related costs payable in the period during which the Production suffers from an interruption, delay, rearrangement of personnel, schedule or location or postponement;
 - (ix) any expenditure arising due to a failure to comply with the Business Case;

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- (x) any expenditure associated with a change in location of Pre-Production or Principal Photography without the prior written approval of the Crown;
- (xi) any prior expenditure incurred to obtain intellectual property rights, story rights, music rights and consents in connection with the Production;
- (xii) any depreciation in the value of real or personal property and any other kind of consequential or indirect loss;
- (xiii) any expenditure due to loss claimed in relation to any Loss Event which is not notified to the Crown in accordance with the requirements of this Deed;
- (xiv) any expenditure due to a Loss Event that has occurred before all of the conditions precedent under clause 3.2 have been satisfied or waived in accordance with the requirements of this Deed;
- (xv) any expenditure due to a Loss Event in relation to a Named Person where COVID-19 Negative Test Confirmation has not been provided in accordance with the terms of clauses 4.2;
- (xvi) any expenditure due to a Loss Event where genome sequencing (or other appropriate methodologies) identifies that the COVID-19 infection did not occur in New Zealand;
- (xvii) any expenditure incurred or relating to a period of time that is outside the Term;
- (xviii) any expenditure incurred as a result of a Loss Event that has occurred outside of New Zealand;
- (xix) any expenditure or loss claimed which is, in the reasonable opinion of the Crown, caused by the Production Company's negligence, fraud, failure to mitigate its loss, breach of any contract or breach of any law;
- (xx) any expenditure or loss which has been recovered, or is recoverable by the Production Company through taking reasonable steps, whether by way of insurance, refund or any other means; or
- (xxi) any expenditure or loss claimed where there is a breach of or failure to comply with this Deed by the Production Company, including if warranties provided by the Production Company under clause 10 are untrue or have been breached.

5.4 Mitigation of Loss

The Production Company must take all necessary steps to mitigate any Loss in connection with an actual or anticipated Loss Event, including:

- (a) if any expenditure or loss is recoverable under the Insurance Policy, the Production Company must make a claim under the Insurance Policy in accordance with the normal insurance applications procedure;
- (b) if any expenditure or loss is recoverable under another insurance policy, by refund, or any other means, the Production Company must take all necessary steps to seek to recover such expenditure or loss;
- (c) if any expenditure or loss could be offset by accessing other forms of funding made available, including any other funding made available by the New Zealand Government in relation to COVID-19;

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- (d) acting in accordance with any reasonable direction of the Crown, or its appointee, in dealing with and handling any actual or potential expenditure or loss arising from any Loss Event; and
- (e) taking any steps identified or set out in the Business Case.

5.5 No double counting

Notwithstanding any other provisions of this Deed, the Production Company shall not be entitled to make a Claim under this Deed in respect of any Loss that it has incurred to the extent that it has already been compensated in respect of that Loss under this Deed or otherwise.

5.6 Notification requirement

- (a) The Production Company must notify the Crown and the Insurer in writing within forty eight (48) hours of becoming aware of any actual or potential Loss Event.
- (b) The Production Company must include in a notice under clause 5.6(a) all relevant facts and circumstances related to the actual or potential Loss Event.

5.7 Claims

- (a) The Production Company may claim under the indemnity contained in this Deed for any Loss arising from a Loss Event by giving a notice in writing of the amount, which notice shall be accompanied by such supporting evidence as reasonably requested by the Crown that will enable the Crown to verify the Loss and/or support that claim (**a Claim**).
- (b) When submitting a Claim under the indemnity, the Production Company must ensure the Claim:
 - (i) is in writing and in the form set out in Schedule 2 (as amended to reflect the Claim) and is complete, containing all information required for a Claim;
 - (ii) in respect of a Named Person Loss Event includes written confirmation from a suitably qualified medical practice, medical professional or authorised COVID-19 testing authority, which:
 - (A) confirms that a Named Person has been tested for COVID-19 on a date which is during the Term; and
 - (B) confirms that the Named Person has received a positive test result;
 - (iii) attaches all other required supporting documentation;
 - (iv) includes details and evidence of any amounts refunded or recovered by the Production Company in relation to the expenditure or loss by any other means;
 - (v) contains only true and accurate information;
 - (vi) does not contain any misleading or potentially misleading information;
 - (vii) must be delivered to the Crown; and
 - (viii) will be deemed to be received in accordance with clause 13.2.

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If the Production Company makes a Claim under this Deed and also makes a claim under the Insurance Policy which relates, directly or indirectly, to the facts, circumstances and timing of an actual or potential Loss Event, the Production Company:

- (a) must notify the Crown in writing of the nature and details of the claim;
- (b) must provide the Crown with any further information that it reasonably requests in relation to the Claim;
- (c) consents to the Insurer sharing relevant details of the claim with the Crown; and
- (d) consents to the Crown sharing relevant details of any Claim with the Insurer.

6. Loss

6.1 Assessment of Loss

- (a) Following receipt of a Claim, the Crown will, acting reasonably, promptly assess whether it believes there is sufficient evidence to support any claimed Loss and, if not, will request such further information as it reasonably requires. Following which, the Crown will either:
 - (i) accept the Claim, following which clause 7.1(a) shall apply; or
 - (ii) refer the matter to the Loss Assessor, who shall assess the claimed quantum of Loss under and in accordance with this Deed.
- (b) If the Claim is referred by the Crown to a Loss Assessor, the appointed Loss Assessor will be required under their terms of engagement to, based on the information made available to them by the parties:
 - (i) notify the parties in writing of its provisional assessment of the appropriate quantum of the Loss as soon as possible and in any event within 15 Business Days of the referral of the Claim to them (or such later date as the parties agree), together with:
 - (A) a recommended progress payment which is to be based on the amounts that the Loss Assessor has been able to quantify and verify as at the time of compiling the provisional assessment (which shall not exceed 70% of the provisional assessment of the Loss) (the **Provisional Payment**); and
 - (B) reasons for its provisional assessment,
 - (ii) notify the parties in writing of:
 - (A) the Loss Assessor's final determination as soon as possible and in any event within 20 Business Days of the referral of the Claim to them (or such later date as the parties agree or that the Loss Assessor determines is necessary in the context) and
 - (B) provide reasons for their determination at the same time

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(the determination and the reasons together being the **Loss Assessor's Report**).

- (c) In reaching both its provisional assessment of the appropriate quantum of the Loss and its final determination as to the appropriate quantum of the Loss, the Loss Assessor:
 - (i) will rely on their own knowledge, skill and experience in relation to the matter to the Claim; and
 - (ii) may request further information and/or submissions on any information provided with the Claim.

7. Payments

7.1 Crown Payments

The Crown will:

- (a) if the Crown has accepted the Claim in accordance with clause 6.1(a)(i), pay the full amount of the Loss within 20 Business Days of accepting the Claim; or
- (b) if the Crown has appointed a Loss Assessor:
 - (i) pay the full amount of the Provisional Payment specified in the Provisional Assessment to the Production Company within 5 Business Days of having received Provisional Assessment, unless the Crown is not satisfied, acting reasonably, that there is sufficient evidence to support the claimed Loss; and
 - (ii) pay the full amount of the Loss specified in the Loss Assessor's Report (less any amounts paid under clause 7.1(b)(i) above) to the Production Company within 20 Business Days of having received the Loss Assessor's Report, unless the Crown is not satisfied, acting reasonably, that there is sufficient evidence to support the claimed Loss.

7.2 Payment mechanics

All payments to be made by under this Deed will be paid:

- (a) free and clear of any restriction or condition;
- (b) free and clear of and (except to the extent required by law) without any deduction or withholding on account of any tax; and
- (c) without any deduction (other than in accordance with clause 7.1(b)) or withholding on account of any other amount, whether by way of set-off, counterclaim or otherwise.

7.3 No interest

Under no circumstances is the Crown liable to pay interest on any Loss under this Deed.

7.4 Overpayments

In the event that the amount of the Provisional Payment that has been paid by the Crown in accordance with clause 7.1(b) exceeds the full amount of the Loss specified in the Loss Assessor's Report (the **Excess Amount**), the Production Company shall pay the Excess

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Amount to the Crown within 20 Business Days of receipt of the Loss Assessor's Report (and if not paid, the Excess Amount may be recovered by the Crown as a debt due).

8. Reporting

8.1 Reporting

- (a) The Production Company will report to the Crown (through the Ministry), following a request by the Crown in a manner which will enable the Crown to make provision for the Scheme in the Crown accounts.
- (b) In addition to the above reporting, following a Claim, the Crown may request for the Production Company to provide further detail and/or information so as to enable the Crown to assess the likely losses that it may suffer as a result of the Claim.

9. Termination

9.1 Termination

- (a) The Crown's obligations under this Deed may be terminated:
 - (i) by the Crown at any time after the date which is 24 months' after the date of this Deed, by giving one day's notice in writing to the Production Company;
 - (ii) at any time by agreement in writing between the Crown and the Production Company; and
 - (iii) by the Crown in the event that the Production Company or any Named Person breaches any law and such breach has, in the opinion of the Crown acting reasonably, a material adverse impact upon the reputation of New Zealand, the New Zealand government, or the New Zealand screen production industry.
- (b) This Deed will automatically terminate on the end of the Term.

9.2 Otherwise irrevocable

This Deed is irrevocable other than as set out in clauses 3.4, 5.2 and 9.1.

9.3 Continuing obligations

Unless this Deed is terminated in accordance with clauses 3.4, 5.2 or clause 9.1(a)(ii), termination of this Deed will not release:

- (a) the Crown from any liability in respect of Loss occurring after the date of termination in respect of Loss incurred in accordance with the terms of this Deed prior to the date of termination (**Surviving Indemnified Losses**); or
- (b) the Production Company from any of its obligations under this Deed, including in respect of Surviving Indemnified Losses.

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10. Representations and Warranties

10.1 Use of indemnification proceeds

The Production Company represents and warrants that:

- (a) it will only use amounts received from the Crown under the indemnity:
 - (i) towards the cost of completing the Production, in the event that the Production is delayed as a result of a Loss Event; and
 - (ii) towards the unavoidable additional costs incurred as a result of abandoning the Production in the event that the Loss Event results in the abandonment of the Production.
- (b) In the event that the Production Company makes a Claim in respect of Loss that has arisen due to the abandonment of the Production, the Production Company shall not be entitled to make any further Claims under this Deed.

10.2 General

The Production Company represents and warrants at the Execution Date and on an ongoing basis for the term of this Deed that:

- (a) it has full power and authority to enter into this Deed and to perform the obligations under it;
- (b) its execution of this Deed does not, and its performance of this Deed will not contravene:
 - (i) any law;
 - (ii) the constituent documents of the Production Company;
 - (iii) any agreement or instrument to which the Production Company is a party, or any obligation that the Production Company owes to another person;
- (c) the Production Company is not entering into this Deed as a trustee of any trust or settlement;
- (d) the Production Company is not Insolvent;
- (e) there is no claim or current or pending judicial action against the Production Company that could have an adverse effect on the Ministry's or the Crown's reputation;
- (f) it is not in breach of any obligation under any other agreement to which any part of the New Zealand Government and it are parties;
- (g) all representations of fact in any Claim are true, complete, accurate and not misleading, and any statements as to future matters in the Claim are made in good faith based on reasonable grounds;
- (h) the Budgeted Cost, New Zealand Production Budget and the Production Schedule are approved by all persons who are contributing to the Budgeted Cost, and by the completion guarantor for the Production (if any);

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- (i) it has a specific COVID-19 risk mitigation plan for the Production, which has been developed with reference to the COVID-19 Guidelines and is approved by all persons contributing to the Budgeted Cost who require approval of it;
- (j) it must not do or allow anything to be done, or omit to do anything, which might cause the Insurance Policy to be prejudiced, or which might increase the likelihood of an Claim being made by the Production Company under this Deed;
- (k) it does not hold a current 'film producers indemnity' insurance policy for the Production which covers any type of expenditure, loss or damage associated with (as applicable):
 - (i) Named Persons contracting COVID-19; and/or
 - (ii) delays associated with a COVID-19 Event;
- (l) it will not make any material changes to the cover under the Insurance Policy without the Crown's prior written consent;
- (m) it will notify the Crown in writing as soon as practicable after becoming aware of any matter or event which is inconsistent with information previously provided to the Crown;
- (n) it will properly discharge its duty to mitigate expenditure and loss in accordance with clause 5; and
- (o) it will promptly provide the Crown with any information that it reasonably requires in connection with the operation of this Deed.

10.3 Reliance

The Production Company acknowledges that the Crown has entered into this Deed in reliance on the warranties and representations contained in this Deed.

11. Production Company Liability

11.1 Indemnity

The Production Company indemnifies the Crown and the Ministry (and each of their officers, employees, agents and contractors) (the **Indemnified Parties**) from and against any:

- (a) cost or liability incurred by either of the Indemnified Parties;
 - (b) loss of or damage to property of either of the Indemnified Parties; or
 - (c) loss or expense incurred by either of the Indemnified Parties in dealing with any claim against it including legal costs on a solicitor own client basis;
- arising from:
- (d) a breach by the Production Company of this Deed;
 - (e) any representations or warranties given by the Production Company in this Deed being or becoming incorrect; or
 - (f) any unlawful, wrongful, wilful or negligent acts or omissions by the Production Company in its performance of this Deed.

BELL GULLY**11.2 Contribution**

The Production Company's liability to indemnify the Indemnities Parties under clause 11.1 will be reduced proportionately to the extent that any act or omission involving fault on the part of either of the Indemnified Parties contributed to the relevant cost, liability, loss, damage or expense.

12. Confidentiality**12.1 Confidentiality obligations**

Each party shall:

- (a) keep the Confidential Information confidential at all times;
- (b) not disclose any Confidential Information to any person other than where disclosure is made by such party to its personnel, contractors and/or advisers in connection with the performance of this Deed or to seek professional advice in respect of this Deed (provided that such persons are made aware of and agree to comply with confidentiality obligations in this clause 12); and
- (c) ensure that it has in place adequate security measures to safeguard the Confidential Information from access or use by unauthorised persons including, as a minimum, complying with all relevant requirements imposed from time to time by the New Zealand Government on the holding, access, use, retention and disposal of government information.

12.2 Exceptions

The obligations of confidentiality in clause 12.1 do not apply to any disclosure of Confidential Information:

- (a) where the other parties give their prior written consent to the disclosure of the Confidential Information;
- (b) where the disclosure of the Confidential Information is required for the purposes of this Deed;
- (c) to the extent disclosure of the Confidential Information is required by law (including in the case of the Ministry and/or the Crown, the requirements of the Official Information Act 1982 and any guidance or guidelines relating thereto) or by any regulator having jurisdiction over a party or pursuant to any rules or requirements of any government or stock exchange having jurisdiction over the Production Company (or any of its related companies, wherever incorporated);
- (d) to the extent disclosure of the Confidential Information is made in connection with parliamentary practice (including parliamentary questions), or by the Crown and/or the Ministry to a Select Committee or to a Minister of the Crown; or
- (e) where such Confidential Information has become public other than through a breach of the obligation of confidentiality in this clause 12 or was provided to the disclosing party on a non-confidential basis by a third party who is not in breach of any obligation of confidentiality.

BELL GULLY**13. General**

13.1 Amendments

No amendment to this Deed will be effective unless it is in writing and signed by all the parties.

13.2 Notices and communications

Each notice, request, demand, consent, approval, agreement or other communication under this Deed:

- (a) **Delivery Method:** must be made in writing by email to the email address from time to time designated by each party to receive notices.
- (b) **Delivery Address:** must be given to the addressee at the address or electronic mail address, and marked for the attention of the person or office holder (if any), from time to time designated for the purpose by the addressee to the other party. The initial details for each of the parties in respect of notices and communications are set out in Schedule 3 (and may be replaced by notice to the other party from time to time).
- (c) **Delivery:** will be deemed to be received by the addressee when actually received, provided that if such communication is received or deemed received after 5.00 pm on a Business Day, or on a non-Business Day, it shall be deemed to be received on the next Business Day in that place.

13.3 Counterparts

This Deed may be executed in any number of counterparts. Once the parties have executed the counterparts, and each party has received a copy of each signed counterpart which that party did not execute, each counterpart shall be deemed to be as valid and binding on the party executing it as if it had been executed by all the parties. A party may execute a counterpart copy of this Deed by photocopying a facsimile or a scanned/electronic copy of this Deed and executing that photocopy. Where a party executes such a counterpart copy and transmits the signed execution page of that counterpart copy by electronic mail to the other parties then, for the purposes of this Deed, the transmission shall be deemed proof of signature of the original and the signed counterpart copy shall be deemed an original.

13.4 Delivery

For the purposes of section 9 of the Property Law Act 2007, and without limiting any other mode of delivery, this Deed will be delivered by a party (each, a **Delivering Party**) immediately on the earlier of:

- (a) physical delivery of an original of this Deed, executed by the relevant Delivering Party, into the custody of each other party (or its solicitors); or
- (b) transmission by the relevant Delivering Party or its solicitors (or any other person authorised by the relevant Delivering Party) of a facsimile, photocopied, pdf or scanned copy of an original of this Deed, executed by the relevant Delivering Party, to each other party (or its solicitors).

13.5 Discretions

Except to the extent otherwise expressly provided, the Crown may act in its absolute and sole discretion when:

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- (a) forming any opinion;
- (b) exercising, or not exercising any right;
- (c) taking, or not taking, any action;
- (d) giving or withholding consents or releases;
- (e) dealing with any other matter; or
- (f) imposing any terms in respect of any such matter.

13.6 Partial invalidity

The illegality, invalidity, or unenforceability of any provision of this Deed under the law of any relevant jurisdiction will not impair the legality, validity or enforceability of:

- (a) the other remaining provisions; or
- (b) those provisions under the law of any other jurisdiction.

13.7 Costs

Each party bears its own costs and expenses (including legal costs) which may be incurred in entering into and administering this Deed.

13.8 Assignment

Neither party may assign any of its respective rights or transfer any of its respective rights or obligations under this Deed.

13.9 Survival of obligations

Clauses 1, 3, 5, 6, 7, 8, 9, 10, 11, 12 and this clause 13 of this Deed will survive the termination of this Deed until the date on which the Production Company has discharged all obligations under this Deed owed to the Crown.

13.10 Following Business Day Convention

In this document, unless the context otherwise requires, when any payment is due to be made or any other thing required to be done on a day that is not a Business Day, such payment will be made or thing will be done on the next Business Day.

13.11 Governing Law and Jurisdiction

This Deed will be governed by and construed in accordance with New Zealand law, and the parties submit to the exclusive jurisdiction of the courts of New Zealand.

BELL GULLY**Execution****Executed** and delivered as a deed by

SIGNED by **The Sovereign in Right of New Zealand acting by and through the Minister of Finance**)
in the presence of :)

Witness Signature

Print Name

Witness Occupation

Place of residence

s9(2)(a)

Director

Director

NICHOLAS MURRAY

Print Name

RACHEL ANTONY

Print Name

BELL GULLY**Schedule 1: Production Details**

#	Description	Production Details
1.	Production	<i>My Life is Murder - Aotearoa</i>
2.	Does this Deed cover Loss resulting from COVID-19 Events	Yes
3.	Additional insurance cover (if any) (clause 4.1)	Extra Expense (Civil Authority) (EE(CA)) Covid-19 Indemnity
4.	Deductible	5 per cent of the value of each Claim
5.	Condition Date	16 th December 2020
6.	COVID-19 Contingency	s9(2)(b)(ii)
7.	Delay Cap	
8.	Abandonment Cap	
9.	Insurer	SURA Film & Entertainment Pty Ltd
10.	New Zealand Budgeted Cost	s9(2)(b)(ii)
11.	Production Schedule	
12.	Principal Photography	
13.	Named Persons	<ul style="list-style-type: none"> 1) Lucy LAWLESS (Cast: Alexa Crowe) 2) To be cast: Persons to fill the role of "Harry" 3) To be cast: Person to fill the role of "Madison" 4) To be cast: Person to fill the role of "Reuben" 5) Rewa HARRE (Director of Photography) 6) Jimmy SCOTT (1st Assistant Director) 7) Rick WAITE (Locations Manager) 8) Britta HAWKINS (Director)

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		9) Stefan KNIGHT (Head of Department – Makeup) 10) Lina M. CRUZ (Costume)
14. Bank Account details		s9(2)(b)(ii) or as may be amended by written notice to the Crown.

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Schedule 2: Claim form

[Address details]

[date]

[Insert Production] – Deed of Indemnity – Claim

We refer to the Deed of Indemnity between the Crown and [Insert] (the **Production Company**) dated on or about [] (**Deed of Indemnity**). Terms defined in the Deed of Indemnity shall have the same meanings where used in this letter.

This letter comprises a Claim under clause 5.7 (Indemnity Claims) of the Deed of Indemnity.

We certify as follows:

1. *[Insert description of Loss Event].*
2. The following evidence to support the claimed Loss is attached to this letter.
3. *[Amount] is claimable as a Loss under the Deed of Indemnity and is therefore payable by the Crown under the Deed of Indemnity.*
4. The amount specified in paragraph 1 comprises *[describe nature of Loss.]*
5. *[Insert whether any insurance policies or other funding mechanisms will partially or fully cover the Loss associated with the Loss Event.]*
6. The signatory to this letter is duly authorised to issue this Claim on behalf of the Production Company.
7. The Bank Account details for payment of the amounts claimed under this letter are contained in Schedule 1 to the Deed of Indemnity.

[Production Company]

By:

[signoff]

BELL GULLY**Schedule 3: Notice details**

For the Crown:

Attention: James Dempsey
Addressee: Screen Sector Indemnity Scheme – Project Manager
Address: Public Trust Building
131 Lambton Quay
Wellington 6011
Email address: james.dempsey@mch.govt.nz

With a copy to (where appropriate in the circumstances):

Attention: Customer Services
Addressee: Screen Sector Indemnity Scheme
Address: Public Trust Building
131 Lambton Quay
Wellington 6011
Email address: film.sector-indemnity@mch.govt.nz

For the Production Company:

Attention: s9(2)(a)
Addressee: Greenstone Pictures MLIM NZ Ltd
Address: 326 New North Rd, Kingsland, Auckland 1021
Email address: s9(2)(a)
Cc: [REDACTED]

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Schedule 4: New Zealand Production Budget

Ser	Source	Amount
1.	NZ Government Funding	s9(2)(b)(ii)
2.	Private Funding not requiring guarantee	
a.	TVNZ	
3.	Private Funder/ Financier requiring FPI and EE(CA) indemnity	
b.	DCD Media Rights Ltd (<i>for Acorn TV</i>)	s9(2)(b)(ii)
c.	Back Catalogue Distribution Ltd	
d.	Fulcrum Media Finance	
e.	Network Ten – Australia	
4.	Total NZ Production Budget	

BELL GULLY**Schedule 5: Business Case**

Please see attached.

Deed of Indemnity

relating to

Manatū Taonga - Ministry for Culture and Heritage's Screen Sector
Indemnity Scheme

**The Sovereign in Right of New Zealand acting by and through the
Minister of Finance**

Crown

and

Te Kotukutuku Limited

Production Company

Date

BELL GULLY

WELLINGTON 171 FEATHERSTON STREET
P O BOX 1291, WELLINGTON 6140, DX SX11164, NEW ZEALAND
TEL 64 4 915 6800 FAX 64 4 915 6810

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This **Deed of Indemnity** is made on 2020

between (1) **The Sovereign in Right of New Zealand acting by and through the Minister of Finance (Crown)**
and (2) **Te Kotukutuku Limited (Production Company)**

Introduction

- A. Manatū Taonga - Ministry for Culture and Heritage (the **Ministry**) has become aware that the domestic screen sector is experiencing difficulty in accessing funding required to enable the current pipeline of planned domestic productions to continue due to the unavailability of insurance to protect against the risk of delays associated with COVID-19
- B. The Ministry has developed the Screen Sector Indemnity Scheme (the **Scheme**) which provides for the Crown to indemnify participants for certain costs relating to the COVID-19 pandemic that occur during certain pre-production and production phases on the terms and conditions of this Deed.

It is agreed

1. Definitions

1.1 Definitions

In this Deed (including the Introduction), unless the context otherwise requires:

Abandonment Cap has the meaning given to that term in Schedule 1;

Alert Levels means Alert Level 1, 2, 3 or 4 as notified by the New Zealand Government with the characteristics applicable to those Alert Levels as detailed in any Order made under the COVID-19 Public Health Response Act 2020;

Budgeted Cost means the budgeted costs specified in Schedule 1 in respect of the New Zealand production elements;

Business Case means the business case for the Production that has been submitted to the Crown and which is included as Schedule 5;

Business Day means a day other than a Saturday or Sunday or a public holiday in New Zealand;

Claim has the meaning given to that term in clause 5.7(a);

Condition Date has the meaning given to that term in Schedule 1;

Conditions Precedent means the conditions precedent set out in clause 3.2 to this Deed;

Confidential Information means the fact of entry into this Deed, the terms and conditions of this Deed and all confidential information and data (in any form) produced or acquired by a

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party (including its personnel, agents or advisers) from or on behalf of another party in connection with this Deed or the performance of its obligations under this Deed;

COVID-19 means the novel coronavirus described as COVID-19 and includes any mutations of such coronavirus;

COVID-19 Contingency is the amount specified in Schedule 1;

COVID-19 Loss Event has the meaning given to that term in clause 5.1(a)(iv);

COVID-19 Event means:

(a) any member of the cast or crew of the Production:

- (i) testing positive for COVID-19 in New Zealand; and
- (ii) being legally required to comply with a requirement in New Zealand which is imposed or issued by a New Zealand governmental entity, or a person acting under law in New Zealand, in relation to COVID-19 (including, for the avoidance of doubt, any isolation or quarantine order),

which has the effect that Pre-Production or Principal Photography is prevented or impeded; or

(b) any:

- (i) return to Alert Level 2, Alert Level 3 or Alert Level 4 (or their equivalents having the same or more onerous restrictions or effect as Alert Levels 2, 3 or 4 as applied at the Scheme Date as determined by the Crown acting reasonably); or
- (ii) COVID-19 Requirement having a more onerous restriction or effect than those in operation at Alert Level 2 as at the Scheme Date,

which has the effect that the Pre-Production or Principal Photography is prevented or impeded in the applicable to the region(s) in which Pre-Production and/or the period of Principal Photography is occurring, or will, or is planned to, occur,

and, in each case, which occurs after the date on which the Conditions Precedent are satisfied or waived, but does not include any Named Person Loss Event;

COVID-19 Guidelines means the guidelines developed by ScreenSafe New Zealand in respect of COVID-19, including the Health and Safety Standard and Health and Safety Protocol dated 19 August 2020 (and any revisions, amendments or updates thereto whether made before or after the Execution Date);

COVID-19 Negative Test Confirmation has the meaning given to that term in clause 4.2(a);

COVID-19 Requirement means a requirement which the Production Company must legally comply with which is imposed or issued by a New Zealand governmental entity, or a person acting under law in New Zealand, in relation to COVID-19;

Deductible means amount specified as such in Schedule 1, being an amount of expenditure that the Production Company must incur as a result of a Loss Event and that cannot be claimed under this Deed (but would otherwise qualify as a Loss);

Deed means this Deed of Indemnity, and includes any amendments agreed in writing by the parties;

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Delay Cap has the meaning given to that term in Schedule 1;

Excluded Expenditure has the meaning given in clause 5.3;

Execution Date means the date on which this Deed is executed by the Crown;

Insolvent means, in relation to a person, any one or more of the following events occurring or subsisting:

- (a) an order is made or resolution passed that the person be put in liquidation, administration, statutory or other management or receivership or be wound up; or
- (b) an order is made or a resolution is passed appointing a liquidator or provisional liquidator in respect of the person, or one of them is appointed, whether or not under an order or resolution; or
- (c) a receiver, receiver and manager, administrator, or official or statutory manager is appointed in respect of the person or the assets or undertaking of the person or any part of those assets or that undertaking; or
- (d) the person enters into, or resolves to enter into, a scheme of arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them; or
- (e) the person resolves to go into liquidation, administration, statutory or other management, receivership, or otherwise dissolve itself, or notifies of its intention to do so; or
- (f) the person is unable to pay its debts or perform its obligations as and when they become due or payable or threatens not to pay its debts or perform its obligations as they become due; or
- (g) the person is presumed to be unable to pay its debts within the meaning of any applicable legislation; or
- (h) anything having the same or similar effect to any of the events specified above under the law of any applicable jurisdiction;

Insurance Policy means any contract of insurance that meets the requirements of clause 4.1;

Insurer means the company that provides an Insurance Policy to the Production Company and is listed as the 'Insurer' in Schedule 1;

Loss has the meaning given to that term in clause 5.1(a);

Loss Assessor means a person who is suitably experienced and qualified at assessing losses under insurance policies in the New Zealand screen sector as determined by the Crown;

Loss Assessor's Report has the meaning given to that term in clause 6.1(b)

Loss Event a Named Person Loss Event and/or a COVID-19 Loss Event (each as applicable);

Named Person means the first ten natural persons listed as a 'Named Person' in Schedule 1 who is specified and covered as an 'Essential Element' in the Insurance Policy;

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Named Person Loss Event has the meaning given to that term in clause 5.1(a)(iii)

New Zealand Production Budget means the Production's budget for production elements taking place in New Zealand which has been approved by the producer and the financiers of the Production, and which is included as Schedule 4;

Pre-Production means the period of the Production Schedule occurring in New Zealand that immediately precedes Principal Photography as specified in Schedule 1;

Principal Photography means the phase of the Production in which filming for the purposes of scripted content or storyline (excluding preliminary, incidental or scouting filming), takes place in New Zealand, and which ends with the commencement of post-production as the main effort of the Production, the planned dates for which are set out in Schedule 1;

Production Schedule means the proposed schedule for the Production in New Zealand, which must include the Pre-Production phase and Principal Photography;

Production means the production described in Schedule 1;

Scheme has the meaning given to that term in the Introduction to this Deed; and

Scheme Date means 11 December 2020, being the date that the Scheme commenced.

1.2 Interpretation

In this Deed, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a person includes:
 - (i) a partnership (including a limited partnership) and also a body of persons, whether corporate or unincorporated; and
 - (ii) reference to its respective successors in title and permitted assigns;
- (c) a reference to documentation includes:
 - (i) a reference to that document as varied, supplemented, novated or substituted from time to time; and
 - (ii) a reference to that documentation in any form, whether paper based or in electronic form encoded on or as part of any form of media;
- (i) a law:
 - (i) includes a reference to any constitutional provision, subordinate legislation, treaty, decree, convention, statute, regulation, rule, ordinance, proclamation, by-law, judgment, rule of common law or equity or rule of any applicable stock exchange;
 - (ii) is a reference to that law as amended, consolidated, re-enacted, supplemented or replaced (whether before or after the Execution Date); and
 - (iii) is a reference to any regulation, rule, ordinance, proclamation, by-law or judgment made under that law;

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- (d) headings are included for the purpose of ease of reference only and are not to have any effect on construction and interpretation;
- (e) a reference to currency is a reference to New Zealand currency;
- (f) unless stated otherwise, a reference to a clause is to a clause of this Deed;
- (g) a reference to including means, including without limitation; and
- (h) each provision of this Deed is to be read separately and independently of the other provisions and not in a way which limits the Crown's rights, powers and discretions under such provision.

1.3 Performance of obligations

The Production Company acknowledges and agrees that:

- (a) the Minister of Finance may delegate certain powers and functions in relation to this Deed and the administration of this Deed and the funding arrangement contemplated by this Deed;
- (b) where any provision of this Deed requires the Crown's approval or determination, such Crown approval or determination may (at the Crown's discretion) be administered (and may be given or withheld) by Ministry officials on behalf of the Crown (unless such approval is specified in this Deed as being required by or from the Minister);
- (c) to the extent that Ministry officials perform obligations or exercise powers of the Crown under this Deed, the Crown shall for the purposes of this Deed be regarded as having discharged those obligations or exercised those powers; and
- (d) this clause 1.3 is for the benefit of the Ministry, and is intended to be enforceable by the Ministry.

2. Statutory approval and notification

The parties acknowledge that:

- (a) this Deed is being provided to the Production Company by the Minister of Finance on behalf of the Crown under section 65ZD of the Public Finance Act 1989; and
- (b) if and to the extent that the contingent liability of the Crown under this Deed exceeds \$10,000,000, the Minister of Finance is accordingly required, under section 65ZD(3) of the Public Finance Act 1989, to present a statement to the House of Representatives in relation to this Deed as soon as practicable after its execution.

3. Term and conditions precedent

3.1 Term

- (a) Subject to clause 3.2, the terms and conditions of this Deed apply on and from the Execution Date and continue in full force and effect until the earliest of:
 - (i) this Deed is terminated in accordance with clauses 3.4, 5.2 or 9;

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- (ii) the end of Principal Photography as determined by the Crown acting reasonably; and
 - (iii) the date on which each party agrees in writing that this Deed is no longer required.
- (b) Except where expressly stated otherwise in this Deed, the expiry or termination of this Deed will not release a party from any liability arising from this Deed that occurred prior to the date of expiry or termination.

3.2 Conditions Precedent

The Crown's obligations under this Deed are subject to and conditional upon the following conditions precedent being completed and fulfilled (to the Crown's satisfaction):

- (a) to the extent that the Production is an international co-production or involves Pre-Production or Principal Photography occurring outside New Zealand, the receipt by the Production Company of equivalent protection (as assessed by the Crown, acting reasonably) to the indemnification provided by the Crown under this Deed from such jurisdictions outside New Zealand that benefit from the Production as the Crown determines acting reasonably;
- (b) a certificate, signed by two directors of the Production Company (or, if the Production Company only has one director, that director) certifying that, in their view, subject to the entry into this Deed and Conditions Precedent set out in this Deed being satisfied or waived, the Production Company has obtained sufficient committed financing so as to complete the Production;
- (c) the Production Company providing the Crown with a valid certificate of currency for the Insurance Policy; and
- (d) the Production Company satisfying such other requirements as are advised to it by the Crown in writing on or before the date the Production Company enters into and delivers this Deed to the Crown.

3.3 Waiver of condition

The conditions in clause 3.2 have been inserted for the benefit of the Crown and only the Crown may waive any of them.

3.4 Non fulfilment of conditions

If any of the conditions set out in clause 3.2 have not been satisfied or waived on or before the Condition Date (or by such later time as agreed in writing by the parties), the Crown may at any time thereafter, by written notice to the Production Company:

- (a) waive or defer (to a date set out in the written notice) the satisfaction of the relevant condition in clause 3.2; or
- (b) terminate this Deed.

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4. Insurance and COVID-19 testing

4.1 Insurance

The Production Company must accept, pay the premium for and maintain an Insurance Policy for the Production with the Insurer that as a minimum provides the Production Company with film production insurance under a policy that is on usual and customary terms for usual and customary periods, including coverage for 'film producers indemnity' and any other insurance cover specified in Schedule 1 until the completion of Principal Photography. It is recognised by the Crown that the Insurance Policy may contain an exclusion in relation to liability for loss arising from or related to COVID-19.

4.2 COVID-19 testing

- (a) In respect of each Named Person, the Production Company must provide the Crown, within 3 Business Days of the date on which it was issued, written confirmation from a suitably qualified medical practice, medical professional or authorised COVID-19 testing authority or facility, which confirms that the Named Person has been tested for COVID-19 and has received a negative test result (a **COVID-19 Negative Test Confirmation**).
- (b) The testing date of a COVID-19 Negative Test Confirmation must not pre-date the date on which the Named Person starts work on the Production by more than five (5) days (or such longer period as may be agreed to in writing by the Crown).

5. Indemnity

5.1 Indemnity

- (a) With effect on and from the date that all of the Conditions Precedent have been satisfied (or waived), the Crown agrees to indemnify, in accordance with, and subject to, the terms and conditions of this Deed, the Production Company in respect of all liability, loss, cost, expense or other charge incurred by the Production Company in respect of the Production (excluding any Excluded Expenditure) arising direct as a result of:
 - (i) an interruption, delay, rearrangement of personnel, schedule or location or postponement of the Production up to the Delay Cap; or
 - (ii) the cancellation or abandonment of the Production up to the Abandonment Cap,
 in each case due to:
 - (iii) a Named Person contracting COVID-19 in New Zealand (**Named Person Loss Event**) during the final two weeks of Pre-Production and/or during Principal Photography; and/or
 - (iv) if stated in Schedule 1 as being covered by this Deed, a COVID-19 Event (a **COVID-19 Loss Event**) occurring during Pre-Production and/or during Principal Photography,
 (in each case, a **Loss**).

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- (b) Notwithstanding any other provision of this Deed, the Production Company will not be entitled to recover any Loss unless:
- (i) the total amount of Loss under this Deed exceeds the amount of the COVID-19 Contingency; and
 - (ii) the Production Company has first met (and provided evidence acceptable to the Crown (acting reasonably) that it has met) an amount of Loss equal to the COVID-19 Contingency,

with the result that the Production Company is only entitled to recover for Loss under this Deed which is (when taken together with all other Losses under this Deed) in excess of the amount of the COVID-19 Contingency.

5.2 Insolvency

If the Production Company is, or becomes, at any time prior to suffering a Loss Event, Insolvent, the Crown may, at its sole discretion, terminate this Deed by giving written notice to the Production Company.

5.3 Excluded Expenditure

- (a) Excluded Expenditure is:
- (i) the Deductible;
 - (ii) any amount that:
 - (A) in respect of any Claim made under clause 5.1(a)(i) exceeds the Delay Cap, whether as a result of a single Claim or aggregate Claims under this Deed; or
 - (B) in respect of any Claim made under clause 5.1(a)(ii), exceeds (when taken together with any other Claims made under this Deed) the Abandonment Cap;
 - (iii) any expenditure that is not incurred solely and directly due to a Loss Event;
 - (iv) any expenditure that is incurred outside of the New Zealand Production Budget or where a Loss Event arises and the Production Schedule has materially changed without the prior written approval of the Crown;
 - (v) any expenditure due to the loss of a third party;
 - (vi) any pure economic loss, loss of profits or loss of earnings or royalties;
 - (vii) any expenditure, loss or liability arising from any obligation or requirement to meet any schedule deadlines, transmission dates, release dates or any other delivery or completion date;
 - (viii) any interest, charges or penalties on loans, advances or other finance related costs other than any interest on loans, advances or other finance-related costs payable in the period during which the Production suffers from an interruption, delay, rearrangement of personnel, schedule or location or postponement;
 - (ix) any expenditure arising due to a failure to comply with the Business Case;

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- (x) any expenditure associated with a change in location of Pre-Production or Principal Photography without the prior written approval of the Crown;
- (xi) any prior expenditure incurred to obtain intellectual property rights, story rights, music rights and consents in connection with the Production;
- (xii) any depreciation in the value of real or personal property and any other kind of consequential or indirect loss;
- (xiii) any expenditure due to loss claimed in relation to any Loss Event which is not notified to the Crown in accordance with the requirements of this Deed;
- (xiv) any expenditure due to a Loss Event that has occurred before all of the conditions precedent under clause 3.2 have been satisfied or waived in accordance with the requirements of this Deed;
- (xv) any expenditure due to a Loss Event in relation to a Named Person where COVID-19 Negative Test Confirmation has not been provided in accordance with the terms of clauses 4.2;
- (xvi) any expenditure due to a Loss Event where genome sequencing (or other appropriate methodologies) identifies that the COVID-19 infection did not occur in New Zealand;
- (xvii) any expenditure incurred or relating to a period of time that is outside the Term;
- (xviii) any expenditure incurred as a result of a Loss Event that has occurred outside of New Zealand;
- (xix) any expenditure or loss claimed which is, in the reasonable opinion of the Crown, caused by the Production Company's negligence, fraud, failure to mitigate its loss, breach of any contract or breach of any law;
- (xx) any expenditure or loss which has been recovered, or is recoverable by the Production Company through taking reasonable steps, whether by way of insurance, refund or any other means; or
- (xxi) any expenditure or loss claimed where there is a breach of or failure to comply with this Deed by the Production Company, including if warranties provided by the Production Company under clause 10 are untrue or have been breached.

5.4 Mitigation of Loss

The Production Company must take all necessary steps to mitigate any Loss in connection with an actual or anticipated Loss Event, including:

- (a) if any expenditure or loss is recoverable under the Insurance Policy, the Production Company must make a claim under the Insurance Policy in accordance with the normal insurance applications procedure;
- (b) if any expenditure or loss is recoverable under another insurance policy, by refund, or any other means, the Production Company must take all necessary steps to seek to recover such expenditure or loss;
- (c) if any expenditure or loss could be offset by accessing other forms of funding made available, including any other funding made available by the New Zealand Government in relation to COVID-19;

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- (d) acting in accordance with any reasonable direction of the Crown, or its appointee, in dealing with and handling any actual or potential expenditure or loss arising from any Loss Event; and
- (e) taking any steps identified or set out in the Business Case.

5.5 No double counting

Notwithstanding any other provisions of this Deed, the Production Company shall not be entitled to make a Claim under this Deed in respect of any Loss that it has incurred to the extent that it has already been compensated in respect of that Loss under this Deed or otherwise.

5.6 Notification requirement

- (a) The Production Company must notify the Crown and the Insurer in writing within forty eight (48) hours of becoming aware of any actual or potential Loss Event.
- (b) The Production Company must include in a notice under clause 5.6(a) all relevant facts and circumstances related to the actual or potential Loss Event.

5.7 Claims

- (a) The Production Company may claim under the indemnity contained in this Deed for any Loss arising from a Loss Event by giving a notice in writing of the amount, which notice shall be accompanied by such supporting evidence as reasonably requested by the Crown that will enable the Crown to verify the Loss and/or support that claim (**a Claim**).
- (b) When submitting a Claim under the indemnity, the Production Company must ensure the Claim:
 - (i) is in writing and in the form set out in Schedule 2 (as amended to reflect the Claim) and is complete, containing all information required for a Claim;
 - (ii) in respect of a Named Person Loss Event includes written confirmation from a suitably qualified medical practice, medical professional or authorised COVID-19 testing authority, which:
 - (A) confirms that a Named Person has been tested for COVID-19 on a date which is during the Term; and
 - (B) confirms that the Named Person has received a positive test result;
 - (iii) attaches all other required supporting documentation;
 - (iv) includes details and evidence of any amounts refunded or recovered by the Production Company in relation to the expenditure or loss by any other means;
 - (v) contains only true and accurate information;
 - (vi) does not contain any misleading or potentially misleading information;
 - (vii) must be delivered to the Crown; and
 - (viii) will be deemed to be received in accordance with clause 13.2.

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If the Production Company makes a Claim under this Deed and also makes a claim under the Insurance Policy which relates, directly or indirectly, to the facts, circumstances and timing of an actual or potential Loss Event, the Production Company:

- (a) must notify the Crown in writing of the nature and details of the claim;
- (b) must provide the Crown with any further information that it reasonably requests in relation to the Claim;
- (c) consents to the Insurer sharing relevant details of the claim with the Crown; and
- (d) consents to the Crown sharing relevant details of any Claim with the Insurer.

6. Loss

6.1 Assessment of Loss

- (a) Following receipt of a Claim, the Crown will, acting reasonably, promptly assess whether it believes there is sufficient evidence to support any claimed Loss and, if not, will request such further information as it reasonably requires. Following which, the Crown will either:
 - (i) accept the Claim, following which clause 7.1(a) shall apply; or
 - (ii) refer the matter to the Loss Assessor, who shall assess the claimed quantum of Loss under and in accordance with this Deed.
- (b) If the Claim is referred by the Crown to a Loss Assessor, the appointed Loss Assessor will be required under their terms of engagement to, based on the information made available to them by the parties:
 - (i) notify the parties in writing of its provisional assessment of the appropriate quantum of the Loss as soon as possible and in any event within 15 Business Days of the referral of the Claim to them (or such later date as the parties agree), together with:
 - (A) a recommended progress payment which is to be based on the amounts that the Loss Assessor has been able to quantify and verify as at the time of compiling the provisional assessment (which shall not exceed 70% of the provisional assessment of the Loss) (the **Provisional Payment**); and
 - (B) reasons for its provisional assessment,
 - (ii) notify the parties in writing of:
 - (A) the Loss Assessor's final determination as soon as possible and in any event within 20 Business Days of the referral of the Claim to them (or such later date as the parties agree or that the Loss Assessor determines is necessary in the context) and
 - (B) provide reasons for their determination at the same time

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(the determination and the reasons together being the **Loss Assessor's Report**).

- (c) In reaching both its provisional assessment of the appropriate quantum of the Loss and its final determination as to the appropriate quantum of the Loss, the Loss Assessor:
 - (i) will rely on their own knowledge, skill and experience in relation to the matter to the Claim; and
 - (ii) may request further information and/or submissions on any information provided with the Claim.

7. Payments

7.1 Crown Payments

The Crown will:

- (a) if the Crown has accepted the Claim in accordance with clause 6.1(a)(i), pay the full amount of the Loss within 20 Business Days of accepting the Claim; or
- (b) if the Crown has appointed a Loss Assessor:
 - (i) pay the full amount of the Provisional Payment specified in the Provisional Assessment to the Production Company within 5 Business Days of having received Provisional Assessment, unless the Crown is not satisfied, acting reasonably, that there is sufficient evidence to support the claimed Loss; and
 - (ii) pay the full amount of the Loss specified in the Loss Assessor's Report (less any amounts paid under clause 7.1(b)(i) above) to the Production Company within 20 Business Days of having received the Loss Assessor's Report, unless the Crown is not satisfied, acting reasonably, that there is sufficient evidence to support the claimed Loss.

7.2 Payment mechanics

All payments to be made by under this Deed will be paid:

- (a) free and clear of any restriction or condition;
- (b) free and clear of and (except to the extent required by law) without any deduction or withholding on account of any tax; and
- (c) without any deduction (other than in accordance with clause 7.1(b)) or withholding on account of any other amount, whether by way of set-off, counterclaim or otherwise.

7.3 No interest

Under no circumstances is the Crown liable to pay interest on any Loss under this Deed.

7.4 Overpayments

In the event that the amount of the Provisional Payment that has been paid by the Crown in accordance with clause 7.1(b) exceeds the full amount of the Loss specified in the Loss Assessor's Report (the **Excess Amount**), the Production Company shall pay the Excess

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Amount to the Crown within 20 Business Days of receipt of the Loss Assessor's Report (and if not paid, the Excess Amount may be recovered by the Crown as a debt due).

8. Reporting

8.1 Reporting

- (a) The Production Company will report to the Crown (through the Ministry), following a request by the Crown in a manner which will enable the Crown to make provision for the Scheme in the Crown accounts.
- (b) In addition to the above reporting, following a Claim, the Crown may request for the Production Company to provide further detail and/or information so as to enable the Crown to assess the likely losses that it may suffer as a result of the Claim.

9. Termination

9.1 Termination

- (a) The Crown's obligations under this Deed may be terminated:
 - (i) by the Crown at any time after the date which is 24 months' after the date of this Deed, by giving one day's notice in writing to the Production Company;
 - (ii) at any time by agreement in writing between the Crown and the Production Company; and
 - (iii) by the Crown in the event that the Production Company or any Named Person breaches any law and such breach has, in the opinion of the Crown acting reasonably, a material adverse impact upon the reputation of New Zealand, the New Zealand government, or the New Zealand screen production industry.
- (b) This Deed will automatically terminate on the end of the Term.

9.2 Otherwise irrevocable

This Deed is irrevocable other than as set out in clauses 3.4, 5.2 and 9.1.

9.3 Continuing obligations

Unless this Deed is terminated in accordance with clauses 3.4, 5.2 or clause 9.1(a)(ii), termination of this Deed will not release:

- (a) the Crown from any liability in respect of Loss occurring after the date of termination in respect of Loss incurred in accordance with the terms of this Deed prior to the date of termination (**Surviving Indemnified Losses**); or
- (b) the Production Company from any of its obligations under this Deed, including in respect of Surviving Indemnified Losses.

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10. Representations and Warranties

10.1 Use of indemnification proceeds

The Production Company represents and warrants that:

- (a) it will only use amounts received from the Crown under the indemnity:
 - (i) towards the cost of completing the Production, in the event that the Production is delayed as a result of a Loss Event; and
 - (ii) towards the unavoidable additional costs incurred as a result of abandoning the Production in the event that the Loss Event results in the abandonment of the Production.
- (b) In the event that the Production Company makes a Claim in respect of Loss that has arisen due to the abandonment of the Production, the Production Company shall not be entitled to make any further Claims under this Deed.

10.2 General

The Production Company represents and warrants at the Execution Date and on an ongoing basis for the term of this Deed that:

- (a) it has full power and authority to enter into this Deed and to perform the obligations under it;
- (b) its execution of this Deed does not, and its performance of this Deed will not contravene:
 - (i) any law;
 - (ii) the constituent documents of the Production Company;
 - (iii) any agreement or instrument to which the Production Company is a party, or any obligation that the Production Company owes to another person;
- (c) the Production Company is not entering into this Deed as a trustee of any trust or settlement;
- (d) the Production Company is not Insolvent;
- (e) there is no claim or current or pending judicial action against the Production Company that could have an adverse effect on the Ministry's or the Crown's reputation;
- (f) it is not in breach of any obligation under any other agreement to which any part of the New Zealand Government and it are parties;
- (g) all representations of fact in any Claim are true, complete, accurate and not misleading, and any statements as to future matters in the Claim are made in good faith based on reasonable grounds;
- (h) the Budgeted Cost, New Zealand Production Budget and the Production Schedule are approved by all persons who are contributing to the Budgeted Cost, and by the completion guarantor for the Production (if any);

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- (i) it has a specific COVID-19 risk mitigation plan for the Production, which has been developed with reference to the COVID-19 Guidelines and is approved by all persons contributing to the Budgeted Cost who require approval of it;
- (j) it must not do or allow anything to be done, or omit to do anything, which might cause the Insurance Policy to be prejudiced, or which might increase the likelihood of an Claim being made by the Production Company under this Deed;
- (k) it does not hold a current 'film producers indemnity' insurance policy for the Production which covers any type of expenditure, loss or damage associated with (as applicable):
 - (i) Named Persons contracting COVID-19; and/or
 - (ii) delays associated with a COVID-19 Event;
- (l) it will not make any material changes to the cover under the Insurance Policy without the Crown's prior written consent;
- (m) it will notify the Crown in writing as soon as practicable after becoming aware of any matter or event which is inconsistent with information previously provided to the Crown;
- (n) it will properly discharge its duty to mitigate expenditure and loss in accordance with clause 5; and
- (o) it will promptly provide the Crown with any information that it reasonably requires in connection with the operation of this Deed.

10.3 Reliance

The Production Company acknowledges that the Crown has entered into this Deed in reliance on the warranties and representations contained in this Deed.

11. Production Company Liability

11.1 Indemnity

The Production Company indemnifies the Crown and the Ministry (and each of their officers, employees, agents and contractors) (the **Indemnified Parties**) from and against any:

- (a) cost or liability incurred by either of the Indemnified Parties;
 - (b) loss of or damage to property of either of the Indemnified Parties; or
 - (c) loss or expense incurred by either of the Indemnified Parties in dealing with any claim against it including legal costs on a solicitor own client basis;
- arising from:
- (d) a breach by the Production Company of this Deed;
 - (e) any representations or warranties given by the Production Company in this Deed being or becoming incorrect; or
 - (f) any unlawful, wrongful, wilful or negligent acts or omissions by the Production Company in its performance of this Deed.

BELL GULLY**11.2 Contribution**

The Production Company's liability to indemnify the Indemnities Parties under clause 11.1 will be reduced proportionately to the extent that any act or omission involving fault on the part of either of the Indemnified Parties contributed to the relevant cost, liability, loss, damage or expense.

12. Confidentiality**12.1 Confidentiality obligations**

Each party shall:

- (a) keep the Confidential Information confidential at all times;
- (b) not disclose any Confidential Information to any person other than where disclosure is made by such party to its personnel, contractors and/or advisers in connection with the performance of this Deed or to seek professional advice in respect of this Deed (provided that such persons are made aware of and agree to comply with confidentiality obligations in this clause 12); and
- (c) ensure that it has in place adequate security measures to safeguard the Confidential Information from access or use by unauthorised persons including, as a minimum, complying with all relevant requirements imposed from time to time by the New Zealand Government on the holding, access, use, retention and disposal of government information.

12.2 Exceptions

The obligations of confidentiality in clause 12.1 do not apply to any disclosure of Confidential Information:

- (a) where the other parties give their prior written consent to the disclosure of the Confidential Information;
- (b) where the disclosure of the Confidential Information is required for the purposes of this Deed;
- (c) to the extent disclosure of the Confidential Information is required by law (including in the case of the Ministry and/or the Crown, the requirements of the Official Information Act 1982 and any guidance or guidelines relating thereto) or by any regulator having jurisdiction over a party or pursuant to any rules or requirements of any government or stock exchange having jurisdiction over the Production Company (or any of its related companies, wherever incorporated);
- (d) to the extent disclosure of the Confidential Information is made in connection with parliamentary practice (including parliamentary questions), or by the Crown and/or the Ministry to a Select Committee or to a Minister of the Crown; or
- (e) where such Confidential Information has become public other than through a breach of the obligation of confidentiality in this clause 12 or was provided to the disclosing party on a non-confidential basis by a third party who is not in breach of any obligation of confidentiality.

BELL GULLY**13. General**

13.1 Amendments

No amendment to this Deed will be effective unless it is in writing and signed by all the parties.

13.2 Notices and communications

Each notice, request, demand, consent, approval, agreement or other communication under this Deed:

- (a) **Delivery Method:** must be made in writing by email to the email address from time to time designated by each party to receive notices.
- (b) **Delivery Address:** must be given to the addressee at the address or electronic mail address, and marked for the attention of the person or office holder (if any), from time to time designated for the purpose by the addressee to the other party. The initial details for each of the parties in respect of notices and communications are set out in Schedule 3 (and may be replaced by notice to the other party from time to time).
- (c) **Delivery:** will be deemed to be received by the addressee when actually received, provided that if such communication is received or deemed received after 5.00 pm on a Business Day, or on a non-Business Day, it shall be deemed to be received on the next Business Day in that place.

13.3 Counterparts

This Deed may be executed in any number of counterparts. Once the parties have executed the counterparts, and each party has received a copy of each signed counterpart which that party did not execute, each counterpart shall be deemed to be as valid and binding on the party executing it as if it had been executed by all the parties. A party may execute a counterpart copy of this Deed by photocopying a facsimile or a scanned/electronic copy of this Deed and executing that photocopy. Where a party executes such a counterpart copy and transmits the signed execution page of that counterpart copy by electronic mail to the other parties then, for the purposes of this Deed, the transmission shall be deemed proof of signature of the original and the signed counterpart copy shall be deemed an original.

13.4 Delivery

For the purposes of section 9 of the Property Law Act 2007, and without limiting any other mode of delivery, this Deed will be delivered by a party (each, a **Delivering Party**) immediately on the earlier of:

- (a) physical delivery of an original of this Deed, executed by the relevant Delivering Party, into the custody of each other party (or its solicitors); or
- (b) transmission by the relevant Delivering Party or its solicitors (or any other person authorised by the relevant Delivering Party) of a facsimile, photocopied, pdf or scanned copy of an original of this Deed, executed by the relevant Delivering Party, to each other party (or its solicitors).

13.5 Discretions

Except to the extent otherwise expressly provided, the Crown may act in its absolute and sole discretion when:

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- (a) forming any opinion;
- (b) exercising, or not exercising any right;
- (c) taking, or not taking, any action;
- (d) giving or withholding consents or releases;
- (e) dealing with any other matter; or
- (f) imposing any terms in respect of any such matter.

13.6 Partial invalidity

The illegality, invalidity, or unenforceability of any provision of this Deed under the law of any relevant jurisdiction will not impair the legality, validity or enforceability of:

- (a) the other remaining provisions; or
- (b) those provisions under the law of any other jurisdiction.

13.7 Costs

Each party bears its own costs and expenses (including legal costs) which may be incurred in entering into and administering this Deed.

13.8 Assignment

Neither party may assign any of its respective rights or transfer any of its respective rights or obligations under this Deed.

13.9 Survival of obligations

Clauses 1, 3, 5, 6, 7, 8, 9, 10, 11, 12 and this clause 13 of this Deed will survive the termination of this Deed until the date on which the Production Company has discharged all obligations under this Deed owed to the Crown.

13.10 Following Business Day Convention

In this document, unless the context otherwise requires, when any payment is due to be made or any other thing required to be done on a day that is not a Business Day, such payment will be made or thing will be done on the next Business Day.

13.11 Governing Law and Jurisdiction

This Deed will be governed by and construed in accordance with New Zealand law, and the parties submit to the exclusive jurisdiction of the courts of New Zealand.

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Execution

Executed and delivered as a deed by

SIGNED by **The Sovereign in Right of New Zealand acting by and through the Minister of Finance**)
in the presence of :)

Witness Signature

Print Name

Witness Occupation

Place of residence

s9(2)(a)



Director

Mia-Marama Henry-Teirney

Print Name

BELL GULLY**Schedule 1: Production Details**

#	Description	Production Details
1.	Production	Ngā Pouwhenua
2.	Does this Deed cover Loss resulting from COVID-19 Events	Yes
3.	Additional insurance cover (if any) (clause 4.1)	Extra Expense (Civil Authority)
4.	Deductible	5 per cent of the value of each Claim
5.	Condition Date	31 January 2021 or such other day as agreed
6.	COVID-19 Contingency	s9(2)(b)(ii)
7.	Delay Cap	
8.	Abandonment Cap	
9.	Insurer	Allianz
10.	New Zealand Budgeted Cost	s9(2)(b)(ii)
11.	Production Schedule	
12.	Principal Photography	
13.	Named Persons	NZ Film Directors - Miki Magasiva, Mario Gaoa, Renae Maihi,

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		Chantelle Burgoyne, Tim Worrall, Richard Curtis NZ Producer – Mia Henry-Tirney TBC for the character ‘ROB’ TBC for the character ‘COOK’ TBC for the character ‘BERNARD’
14.	Bank Account details	s9(2)(a)

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Schedule 2: Claim form

[Address details]

[date]

[Insert Production] – Deed of Indemnity – Claim

We refer to the Deed of Indemnity between the Crown and [Insert] (the **Production Company**) dated on or about [] (**Deed of Indemnity**). Terms defined in the Deed of Indemnity shall have the same meanings where used in this letter.

This letter comprises a Claim under clause 5.7 (Indemnity Claims) of the Deed of Indemnity.

We certify as follows:

1. *[Insert description of Loss Event].*
2. The following evidence to support the claimed Loss is attached to this letter.
3. *[Amount] is claimable as a Loss under the Deed of Indemnity and is therefore payable by the Crown under the Deed of Indemnity.*
4. The amount specified in paragraph 1 comprises *[describe nature of Loss.]*
5. *[Insert whether any insurance policies or other funding mechanisms will partially or fully cover the Loss associated with the Loss Event.]*
6. The signatory to this letter is duly authorised to issue this Claim on behalf of the Production Company.
7. The Bank Account details for payment of the amounts claimed under this letter are contained in Schedule 1 to the Deed of Indemnity.

[Production Company]

By:

[signoff]

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Schedule 3: Notice details

For the Crown:

Attention: James Dempsey
Addressee: Screen Sector Indemnity Scheme – Project Manager
Address: Public Trust Building
131 Lambton Quay
Wellington 6011
Email address: james.dempsey@mch.govt.nz

With a copy to (where appropriate in the circumstances):

Attention: Customer Services
Addressee: Screen Sector Indemnity Scheme
Address: Public Trust Building
131 Lambton Quay
Wellington 6011
Email address: film.sector-indemnity@mch.govt.nz

For the Production Company:

Attention: s9(2)(a)
Addressee:
Address:
Email address:



With a copy to (where appropriate in the circumstances):

s9(2)(a)



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Schedule 4: New Zealand Production Budget

Ser	Source	Amount
1.	New Zealand Film Commission	s9(2)(b)(ii)
2.	SPRF	
3.	Other Funder/ Financiers not needing guarantees	
a.	Producer Equity	s9(2)(b)(ii)
b.	Rialto Distribution	
c.	Mārama Productions – equity investment	
d.	Mārama Productions – SPG Holdback	
e.	Te Māngai Pāho	
4.	Private Funder/ Financier requiring FPI and EE(CA) indemnity	
a.	Fulcrum Media Finance/ Indigenous Business Australia	s9(2)(b)(ii)
5.	Total NZ Production Budget	

BELL GULLY**Schedule 5: Business Case**

[Drafting Note: to be attached]

Deed of Indemnity

relating to

Manatū Taonga - Ministry for Culture and Heritage's Screen Sector
Indemnity Scheme

**The Sovereign in Right of New Zealand acting by and through the
Minister of Finance**

Crown

and

Libertine Pictures (UTV) Limited

Production Company

Date

BELL GULLY

WELLINGTON 171 FEATHERSTON STREET
P O BOX 1291, WELLINGTON 6140, DX SX11164, NEW ZEALAND
TEL 64 4 915 6800 FAX 64 4 915 6810

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This **Deed of Indemnity** is made on 2020

between (1) **The Sovereign in Right of New Zealand acting by and through the Minister of Finance (Crown)**
and (2) **Libertine Pictures (UTV) Limited (Production Company)**

Introduction

- A. Manatū Taonga - Ministry for Culture and Heritage (the **Ministry**) has become aware that the domestic screen sector is experiencing difficulty in accessing funding required to enable the current pipeline of planned domestic productions to continue due to the unavailability of insurance to protect against the risk of delays associated with COVID-19
- B. The Ministry has developed the Screen Sector Indemnity Scheme (the **Scheme**) which provides for the Crown to indemnify participants for certain costs relating to the COVID-19 pandemic that occur during certain pre-production and production phases on the terms and conditions of this Deed.

It is agreed

1. Definitions

1.1 Definitions

In this Deed (including the Introduction), unless the context otherwise requires:

Abandonment Cap has the meaning given to that term in Schedule 1;

Alert Levels means Alert Level 1, 2, 3 or 4 as notified by the New Zealand Government with the characteristics applicable to those Alert Levels as detailed in any Order made under the COVID-19 Public Health Response Act 2020;

Budgeted Cost means the budgeted costs specified in Schedule 1 in respect of the New Zealand production elements;

Business Case means the business case for the Production that has been submitted to the Crown and which is included as Schedule 5;

Business Day means a day other than a Saturday or Sunday or a public holiday in New Zealand;

Claim has the meaning given to that term in clause 5.7(a);

Condition Date has the meaning given to that term in Schedule 1;

Conditions Precedent means the conditions precedent set out in clause 3.2 to this Deed;

Confidential Information means the fact of entry into this Deed, the terms and conditions of this Deed and all confidential information and data (in any form) produced or acquired by a

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party (including its personnel, agents or advisers) from or on behalf of another party in connection with this Deed or the performance of its obligations under this Deed;

COVID-19 means the novel coronavirus described as COVID-19 and includes any mutations of such coronavirus;

COVID-19 Contingency is the amount specified in Schedule 1;

COVID-19 Loss Event has the meaning given to that term in clause 5.1(a)(iv);

COVID-19 Event means:

(a) any member of the cast or crew of the Production:

- (i) testing positive for COVID-19 in New Zealand; and
- (ii) being legally required to comply with a requirement in New Zealand which is imposed or issued by a New Zealand governmental entity, or a person acting under law in New Zealand, in relation to COVID-19 (including, for the avoidance of doubt, any isolation or quarantine order),

which has the effect that Pre-Production or Principal Photography is prevented or impeded; or

(b) any:

- (i) return to Alert Level 2, Alert Level 3 or Alert Level 4 (or their equivalents having the same or more onerous restrictions or effect as Alert Levels 2, 3 or 4 as applied at the Scheme Date as determined by the Crown acting reasonably); or
- (ii) COVID-19 Requirement having a more onerous restriction or effect than those in operation at Alert Level 2 as at the Scheme Date,

which has the effect that the Pre-Production or Principal Photography is prevented or impeded in the applicable to the region(s) in which Pre-Production and/or the period of Principal Photography is occurring, or will, or is planned to, occur,

and, in each case, which occurs after the date on which the Conditions Precedent are satisfied or waived, but does not include any Named Person Loss Event;

COVID-19 Guidelines means the guidelines developed by ScreenSafe New Zealand in respect of COVID-19, including the Health and Safety Standard and Health and Safety Protocol dated 19 August 2020 (and any revisions, amendments or updates thereto whether made before or after the Execution Date);

COVID-19 Negative Test Confirmation has the meaning given to that term in clause 4.2(a);

COVID-19 Requirement means a requirement which the Production Company must legally comply with which is imposed or issued by a New Zealand governmental entity, or a person acting under law in New Zealand, in relation to COVID-19;

Deductible means amount specified as such in Schedule 1, being an amount of expenditure that the Production Company must incur as a result of a Loss Event and that cannot be claimed under this Deed (but would otherwise qualify as a Loss);

Deed means this Deed of Indemnity, and includes any amendments agreed in writing by the parties;

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Delay Cap has the meaning given to that term in Schedule 1;

Excluded Expenditure has the meaning given in clause 5.3;

Execution Date means the date on which this Deed is executed by the Crown;

Insolvent means, in relation to a person, any one or more of the following events occurring or subsisting:

- (a) an order is made or resolution passed that the person be put in liquidation, administration, statutory or other management or receivership or be wound up; or
- (b) an order is made or a resolution is passed appointing a liquidator or provisional liquidator in respect of the person, or one of them is appointed, whether or not under an order or resolution; or
- (c) a receiver, receiver and manager, administrator, or official or statutory manager is appointed in respect of the person or the assets or undertaking of the person or any part of those assets or that undertaking; or
- (d) the person enters into, or resolves to enter into, a scheme of arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them; or
- (e) the person resolves to go into liquidation, administration, statutory or other management, receivership, or otherwise dissolve itself, or notifies of its intention to do so; or
- (f) the person is unable to pay its debts or perform its obligations as and when they become due or payable or threatens not to pay its debts or perform its obligations as they become due; or
- (g) the person is presumed to be unable to pay its debts within the meaning of any applicable legislation; or
- (h) anything having the same or similar effect to any of the events specified above under the law of any applicable jurisdiction;

Insurance Policy means any contract of insurance that meets the requirements of clause 4.1;

Insurer means the company that provides an Insurance Policy to the Production Company and is listed as the 'Insurer' in Schedule 1;

Loss has the meaning given to that term in clause 5.1(a);

Loss Assessor means a person who is suitably experienced and qualified at assessing losses under insurance policies in the New Zealand screen sector as determined by the Crown;

Loss Assessor's Report has the meaning given to that term in clause 6.1(b)

Loss Event a Named Person Loss Event and/or a COVID-19 Loss Event (each as applicable);

Named Person means the first ten natural persons listed as a 'Named Person' in Schedule 1 who is specified and covered as an 'Essential Element' in the Insurance Policy;

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Named Person Loss Event has the meaning given to that term in clause 5.1(a)(iii)

New Zealand Production Budget means the Production's budget for production elements taking place in New Zealand which has been approved by the producer and the financiers of the Production, and which is included as Schedule 4;

Pre-Production means the period of the Production Schedule occurring in New Zealand that immediately precedes Principal Photography as specified in Schedule 1;

Principal Photography means the phase of the Production in which filming for the purposes of scripted content or storyline (excluding preliminary, incidental or scouting filming), takes place in New Zealand, and which ends with the commencement of post-production as the main effort of the Production, the planned dates for which are set out in Schedule 1;

Production Schedule means the proposed schedule for the Production in New Zealand, which must include the Pre-Production phase and Principal Photography;

Production means the production described in Schedule 1;

Scheme has the meaning given to that term in the Introduction to this Deed; and

Scheme Date means 11 December 2020, being the date that the Scheme commenced.

1.2 Interpretation

In this Deed, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a person includes:
 - (i) a partnership (including a limited partnership) and also a body of persons, whether corporate or unincorporated; and
 - (ii) reference to its respective successors in title and permitted assigns;
- (c) a reference to documentation includes:
 - (i) a reference to that document as varied, supplemented, novated or substituted from time to time; and
 - (ii) a reference to that documentation in any form, whether paper based or in electronic form encoded on or as part of any form of media;
- (i) a law:
 - (i) includes a reference to any constitutional provision, subordinate legislation, treaty, decree, convention, statute, regulation, rule, ordinance, proclamation, by-law, judgment, rule of common law or equity or rule of any applicable stock exchange;
 - (ii) is a reference to that law as amended, consolidated, re-enacted, supplemented or replaced (whether before or after the Execution Date); and
 - (iii) is a reference to any regulation, rule, ordinance, proclamation, by-law or judgment made under that law;

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- (d) headings are included for the purpose of ease of reference only and are not to have any effect on construction and interpretation;
- (e) a reference to currency is a reference to New Zealand currency;
- (f) unless stated otherwise, a reference to a clause is to a clause of this Deed;
- (g) a reference to including means, including without limitation; and
- (h) each provision of this Deed is to be read separately and independently of the other provisions and not in a way which limits the Crown's rights, powers and discretions under such provision.

1.3 Performance of obligations

The Production Company acknowledges and agrees that:

- (a) the Minister of Finance may delegate certain powers and functions in relation to this Deed and the administration of this Deed and the funding arrangement contemplated by this Deed;
- (b) where any provision of this Deed requires the Crown's approval or determination, such Crown approval or determination may (at the Crown's discretion) be administered (and may be given or withheld) by Ministry officials on behalf of the Crown (unless such approval is specified in this Deed as being required by or from the Minister);
- (c) to the extent that Ministry officials perform obligations or exercise powers of the Crown under this Deed, the Crown shall for the purposes of this Deed be regarded as having discharged those obligations or exercised those powers; and
- (d) this clause 1.3 is for the benefit of the Ministry, and is intended to be enforceable by the Ministry.

2. Statutory approval and notification

The parties acknowledge that:

- (a) this Deed is being provided to the Production Company by the Minister of Finance on behalf of the Crown under section 65ZD of the Public Finance Act 1989; and
- (b) if and to the extent that the contingent liability of the Crown under this Deed exceeds \$10,000,000, the Minister of Finance is accordingly required, under section 65ZD(3) of the Public Finance Act 1989, to present a statement to the House of Representatives in relation to this Deed as soon as practicable after its execution.

3. Term and conditions precedent

3.1 Term

- (a) Subject to clause 3.2, the terms and conditions of this Deed apply on and from the Execution Date and continue in full force and effect until the earliest of:
 - (i) this Deed is terminated in accordance with clauses 3.4, 5.2 or 9;

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- (ii) the end of Principal Photography as determined by the Crown acting reasonably; and
 - (iii) the date on which each party agrees in writing that this Deed is no longer required.
- (b) Except where expressly stated otherwise in this Deed, the expiry or termination of this Deed will not release a party from any liability arising from this Deed that occurred prior to the date of expiry or termination.

3.2 Conditions Precedent

The Crown's obligations under this Deed are subject to and conditional upon the following conditions precedent being completed and fulfilled (to the Crown's satisfaction):

- (a) to the extent that the Production is an international co-production or involves Pre-Production or Principal Photography occurring outside New Zealand, the receipt by the Production Company of equivalent protection (as assessed by the Crown, acting reasonably) to the indemnification provided by the Crown under this Deed from such jurisdictions outside New Zealand that benefit from the Production as the Crown determines acting reasonably;
- (b) a certificate, signed by two directors of the Production Company (or, if the Production Company only has one director, that director) certifying that, in their view, subject to the entry into this Deed and Conditions Precedent set out in this Deed being satisfied or waived, the Production Company has obtained sufficient committed financing so as to complete the Production;
- (c) the Production Company providing the Crown with a valid certificate of currency for the Insurance Policy; and
- (d) the Production Company satisfying such other requirements as are advised to it by the Crown in writing on or before the date the Production Company enters into and delivers this Deed to the Crown.

3.3 Waiver of condition

The conditions in clause 3.2 have been inserted for the benefit of the Crown and only the Crown may waive any of them.

3.4 Non fulfilment of conditions

If any of the conditions set out in clause 3.2 have not been satisfied or waived on or before the Condition Date (or by such later time as agreed in writing by the parties), the Crown may at any time thereafter, by written notice to the Production Company:

- (a) waive or defer (to a date set out in the written notice) the satisfaction of the relevant condition in clause 3.2; or
- (b) terminate this Deed.

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4. Insurance and COVID-19 testing

4.1 Insurance

The Production Company must accept, pay the premium for and maintain an Insurance Policy for the Production with the Insurer that as a minimum provides the Production Company with film production insurance under a policy that is on usual and customary terms for usual and customary periods, including coverage for 'film producers indemnity' and any other insurance cover specified in Schedule 1 until the completion of Principal Photography. It is recognised by the Crown that the Insurance Policy may contain an exclusion in relation to liability for loss arising from or related to COVID-19.

4.2 COVID-19 testing

- (a) In respect of each Named Person, the Production Company must provide the Crown, within 3 Business Days of the date on which it was issued, written confirmation from a suitably qualified medical practice, medical professional or authorised COVID-19 testing authority or facility, which confirms that the Named Person has been tested for COVID-19 and has received a negative test result (a **COVID-19 Negative Test Confirmation**).
- (b) The testing date of a COVID-19 Negative Test Confirmation must not pre-date the date on which the Named Person starts work on the Production by more than five (5) days (or such longer period as may be agreed to in writing by the Crown).

5. Indemnity

5.1 Indemnity

- (a) With effect on and from the date that all of the Conditions Precedent have been satisfied (or waived), the Crown agrees to indemnify, in accordance with, and subject to, the terms and conditions of this Deed, the Production Company in respect of all liability, loss, cost, expense or other charge incurred by the Production Company in respect of the Production (excluding any Excluded Expenditure) arising direct as a result of:
 - (i) an interruption, delay, rearrangement of personnel, schedule or location or postponement of the Production up to the Delay Cap; or
 - (ii) the cancellation or abandonment of the Production up to the Abandonment Cap,
 in each case due to:
 - (iii) a Named Person contracting COVID-19 in New Zealand (**Named Person Loss Event**) during the final two weeks of Pre-Production and/or during Principal Photography; and/or
 - (iv) if stated in Schedule 1 as being covered by this Deed, a COVID-19 Event (a **COVID-19 Loss Event**) occurring during Pre-Production and/or during Principal Photography,
 (in each case, a **Loss**).

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- (b) Notwithstanding any other provision of this Deed, the Production Company will not be entitled to recover any Loss unless:
- (i) the total amount of Loss under this Deed exceeds the amount of the COVID-19 Contingency; and
 - (ii) the Production Company has first met (and provided evidence acceptable to the Crown (acting reasonably) that it has met) an amount of Loss equal to the COVID-19 Contingency,

with the result that the Production Company is only entitled to recover for Loss under this Deed which is (when taken together with all other Losses under this Deed) in excess of the amount of the COVID-19 Contingency.

5.2 Insolvency

If the Production Company is, or becomes, at any time prior to suffering a Loss Event, Insolvent, the Crown may, at its sole discretion, terminate this Deed by giving written notice to the Production Company.

5.3 Excluded Expenditure

- (a) Excluded Expenditure is:
- (i) the Deductible;
 - (ii) any amount that:
 - (A) in respect of any Claim made under clause 5.1(a)(i) exceeds the Delay Cap, whether as a result of a single Claim or aggregate Claims under this Deed; or
 - (B) in respect of any Claim made under clause 5.1(a)(ii), exceeds (when taken together with any other Claims made under this Deed) the Abandonment Cap;
 - (iii) any expenditure that is not incurred solely and directly due to a Loss Event;
 - (iv) any expenditure that is incurred outside of the New Zealand Production Budget or where a Loss Event arises and the Production Schedule has materially changed without the prior written approval of the Crown;
 - (v) any expenditure due to the loss of a third party;
 - (vi) any pure economic loss, loss of profits or loss of earnings or royalties;
 - (vii) any expenditure, loss or liability arising from any obligation or requirement to meet any schedule deadlines, transmission dates, release dates or any other delivery or completion date;
 - (viii) any interest, charges or penalties on loans, advances or other finance related costs other than any interest on loans, advances or other finance-related costs payable in the period during which the Production suffers from an interruption, delay, rearrangement of personnel, schedule or location or postponement;
 - (ix) any expenditure arising due to a failure to comply with the Business Case;

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- (x) any expenditure associated with a change in location of Pre-Production or Principal Photography without the prior written approval of the Crown;
- (xi) any prior expenditure incurred to obtain intellectual property rights, story rights, music rights and consents in connection with the Production;
- (xii) any depreciation in the value of real or personal property and any other kind of consequential or indirect loss;
- (xiii) any expenditure due to loss claimed in relation to any Loss Event which is not notified to the Crown in accordance with the requirements of this Deed;
- (xiv) any expenditure due to a Loss Event that has occurred before all of the conditions precedent under clause 3.2 have been satisfied or waived in accordance with the requirements of this Deed;
- (xv) any expenditure due to a Loss Event in relation to a Named Person where COVID-19 Negative Test Confirmation has not been provided in accordance with the terms of clauses 4.2;
- (xvi) any expenditure due to a Loss Event where genome sequencing (or other appropriate methodologies) identifies that the COVID-19 infection did not occur in New Zealand;
- (xvii) any expenditure incurred or relating to a period of time that is outside the Term;
- (xviii) any expenditure incurred as a result of a Loss Event that has occurred outside of New Zealand;
- (xix) any expenditure or loss claimed which is, in the reasonable opinion of the Crown, caused by the Production Company's negligence, fraud, failure to mitigate its loss, breach of any contract or breach of any law;
- (xx) any expenditure or loss which has been recovered, or is recoverable by the Production Company through taking reasonable steps, whether by way of insurance, refund or any other means; or
- (xxi) any expenditure or loss claimed where there is a breach of or failure to comply with this Deed by the Production Company, including if warranties provided by the Production Company under clause 10 are untrue or have been breached.

5.4 Mitigation of Loss

The Production Company must take all necessary steps to mitigate any Loss in connection with an actual or anticipated Loss Event, including:

- (a) if any expenditure or loss is recoverable under the Insurance Policy, the Production Company must make a claim under the Insurance Policy in accordance with the normal insurance applications procedure;
- (b) if any expenditure or loss is recoverable under another insurance policy, by refund, or any other means, the Production Company must take all necessary steps to seek to recover such expenditure or loss;
- (c) if any expenditure or loss could be offset by accessing other forms of funding made available, including any other funding made available by the New Zealand Government in relation to COVID-19;

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- (d) acting in accordance with any reasonable direction of the Crown, or its appointee, in dealing with and handling any actual or potential expenditure or loss arising from any Loss Event; and
- (e) taking any steps identified or set out in the Business Case.

5.5 No double counting

Notwithstanding any other provisions of this Deed, the Production Company shall not be entitled to make a Claim under this Deed in respect of any Loss that it has incurred to the extent that it has already been compensated in respect of that Loss under this Deed or otherwise.

5.6 Notification requirement

- (a) The Production Company must notify the Crown and the Insurer in writing within forty eight (48) hours of becoming aware of any actual or potential Loss Event.
- (b) The Production Company must include in a notice under clause 5.6(a) all relevant facts and circumstances related to the actual or potential Loss Event.

5.7 Claims

- (a) The Production Company may claim under the indemnity contained in this Deed for any Loss arising from a Loss Event by giving a notice in writing of the amount, which notice shall be accompanied by such supporting evidence as reasonably requested by the Crown that will enable the Crown to verify the Loss and/or support that claim (a **Claim**).
- (b) When submitting a Claim under the indemnity, the Production Company must ensure the Claim:
 - (i) is in writing and in the form set out in Schedule 2 (as amended to reflect the Claim) and is complete, containing all information required for a Claim;
 - (ii) in respect of a Named Person Loss Event includes written confirmation from a suitably qualified medical practice, medical professional or authorised COVID-19 testing authority, which:
 - (A) confirms that a Named Person has been tested for COVID-19 on a date which is during the Term; and
 - (B) confirms that the Named Person has received a positive test result;
 - (iii) attaches all other required supporting documentation;
 - (iv) includes details and evidence of any amounts refunded or recovered by the Production Company in relation to the expenditure or loss by any other means;
 - (v) contains only true and accurate information;
 - (vi) does not contain any misleading or potentially misleading information;
 - (vii) must be delivered to the Crown; and
 - (viii) will be deemed to be received in accordance with clause 13.2.

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If the Production Company makes a Claim under this Deed and also makes a claim under the Insurance Policy which relates, directly or indirectly, to the facts, circumstances and timing of an actual or potential Loss Event, the Production Company:

- (a) must notify the Crown in writing of the nature and details of the claim;
- (b) must provide the Crown with any further information that it reasonably requests in relation to the Claim;
- (c) consents to the Insurer sharing relevant details of the claim with the Crown; and
- (d) consents to the Crown sharing relevant details of any Claim with the Insurer.

6. Loss

6.1 Assessment of Loss

- (a) Following receipt of a Claim, the Crown will, acting reasonably, promptly assess whether it believes there is sufficient evidence to support any claimed Loss and, if not, will request such further information as it reasonably requires. Following which, the Crown will either:
 - (i) accept the Claim, following which clause 7.1(a) shall apply; or
 - (ii) refer the matter to the Loss Assessor, who shall assess the claimed quantum of Loss under and in accordance with this Deed.
- (b) If the Claim is referred by the Crown to a Loss Assessor, the appointed Loss Assessor will be required under their terms of engagement to, based on the information made available to them by the parties:
 - (i) notify the parties in writing of its provisional assessment of the appropriate quantum of the Loss as soon as possible and in any event within 15 Business Days of the referral of the Claim to them (or such later date as the parties agree), together with:
 - (A) a recommended progress payment which is to be based on the amounts that the Loss Assessor has been able to quantify and verify as at the time of compiling the provisional assessment (which shall not exceed 70% of the provisional assessment of the Loss) (the **Provisional Payment**); and
 - (B) reasons for its provisional assessment,
 - (ii) notify the parties in writing of:
 - (A) the Loss Assessor's final determination as soon as possible and in any event within 20 Business Days of the referral of the Claim to them (or such later date as the parties agree or that the Loss Assessor determines is necessary in the context) and
 - (B) provide reasons for their determination at the same time

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(the determination and the reasons together being the **Loss Assessor's Report**).

- (c) In reaching both its provisional assessment of the appropriate quantum of the Loss and its final determination as to the appropriate quantum of the Loss, the Loss Assessor:
 - (i) will rely on their own knowledge, skill and experience in relation to the matter to the Claim; and
 - (ii) may request further information and/or submissions on any information provided with the Claim.

7. Payments

7.1 Crown Payments

The Crown will:

- (a) if the Crown has accepted the Claim in accordance with clause 6.1(a)(i), pay the full amount of the Loss within 20 Business Days of accepting the Claim; or
- (b) if the Crown has appointed a Loss Assessor:
 - (i) pay the full amount of the Provisional Payment specified in the Provisional Assessment to the Production Company within 5 Business Days of having received Provisional Assessment, unless the Crown is not satisfied, acting reasonably, that there is sufficient evidence to support the claimed Loss; and
 - (ii) pay the full amount of the Loss specified in the Loss Assessor's Report (less any amounts paid under clause 7.1(b)(i) above) to the Production Company within 20 Business Days of having received the Loss Assessor's Report, unless the Crown is not satisfied, acting reasonably, that there is sufficient evidence to support the claimed Loss.

7.2 Payment mechanics

All payments to be made by under this Deed will be paid:

- (a) free and clear of any restriction or condition;
- (b) free and clear of and (except to the extent required by law) without any deduction or withholding on account of any tax; and
- (c) without any deduction (other than in accordance with clause 7.1(b)) or withholding on account of any other amount, whether by way of set-off, counterclaim or otherwise.

7.3 No interest

Under no circumstances is the Crown liable to pay interest on any Loss under this Deed.

7.4 Overpayments

In the event that the amount of the Provisional Payment that has been paid by the Crown in accordance with clause 7.1(b) exceeds the full amount of the Loss specified in the Loss Assessor's Report (the **Excess Amount**), the Production Company shall pay the Excess

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Amount to the Crown within 20 Business Days of receipt of the Loss Assessor's Report (and if not paid, the Excess Amount may be recovered by the Crown as a debt due).

8. Reporting

8.1 Reporting

- (a) The Production Company will report to the Crown (through the Ministry), following a request by the Crown in a manner which will enable the Crown to make provision for the Scheme in the Crown accounts.
- (b) In addition to the above reporting, following a Claim, the Crown may request for the Production Company to provide further detail and/or information so as to enable the Crown to assess the likely losses that it may suffer as a result of the Claim.

9. Termination

9.1 Termination

- (a) The Crown's obligations under this Deed may be terminated:
 - (i) by the Crown at any time after the date which is 24 months' after the date of this Deed, by giving one day's notice in writing to the Production Company;
 - (ii) at any time by agreement in writing between the Crown and the Production Company; and
 - (iii) by the Crown in the event that the Production Company or any Named Person breaches any law and such breach has, in the opinion of the Crown acting reasonably, a material adverse impact upon the reputation of New Zealand, the New Zealand government, or the New Zealand screen production industry.
- (b) This Deed will automatically terminate on the end of the Term.

9.2 Otherwise irrevocable

This Deed is irrevocable other than as set out in clauses 3.4, 5.2 and 9.1.

9.3 Continuing obligations

Unless this Deed is terminated in accordance with clauses 3.4, 5.2 or clause 9.1(a)(ii), termination of this Deed will not release:

- (a) the Crown from any liability in respect of Loss occurring after the date of termination in respect of Loss incurred in accordance with the terms of this Deed prior to the date of termination (**Surviving Indemnified Losses**); or
- (b) the Production Company from any of its obligations under this Deed, including in respect of Surviving Indemnified Losses.

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10. Representations and Warranties

10.1 Use of indemnification proceeds

The Production Company represents and warrants that:

- (a) it will only use amounts received from the Crown under the indemnity:
 - (i) towards the cost of completing the Production, in the event that the Production is delayed as a result of a Loss Event; and
 - (ii) towards the unavoidable additional costs incurred as a result of abandoning the Production in the event that the Loss Event results in the abandonment of the Production.
- (b) In the event that the Production Company makes a Claim in respect of Loss that has arisen due to the abandonment of the Production, the Production Company shall not be entitled to make any further Claims under this Deed.

10.2 General

The Production Company represents and warrants at the Execution Date and on an ongoing basis for the term of this Deed that:

- (a) it has full power and authority to enter into this Deed and to perform the obligations under it;
- (b) its execution of this Deed does not, and its performance of this Deed will not contravene:
 - (i) any law;
 - (ii) the constituent documents of the Production Company;
 - (iii) any agreement or instrument to which the Production Company is a party, or any obligation that the Production Company owes to another person;
- (c) the Production Company is not entering into this Deed as a trustee of any trust or settlement;
- (d) the Production Company is not Insolvent;
- (e) there is no claim or current or pending judicial action against the Production Company that could have an adverse effect on the Ministry's or the Crown's reputation;
- (f) it is not in breach of any obligation under any other agreement to which any part of the New Zealand Government and it are parties;
- (g) all representations of fact in any Claim are true, complete, accurate and not misleading, and any statements as to future matters in the Claim are made in good faith based on reasonable grounds;
- (h) the Budgeted Cost, New Zealand Production Budget and the Production Schedule are approved by all persons who are contributing to the Budgeted Cost, and by the completion guarantor for the Production (if any);

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- (i) it has a specific COVID-19 risk mitigation plan for the Production, which has been developed with reference to the COVID-19 Guidelines and is approved by all persons contributing to the Budgeted Cost who require approval of it;
- (j) it must not do or allow anything to be done, or omit to do anything, which might cause the Insurance Policy to be prejudiced, or which might increase the likelihood of an Claim being made by the Production Company under this Deed;
- (k) it does not hold a current 'film producers indemnity' insurance policy for the Production which covers any type of expenditure, loss or damage associated with (as applicable):
 - (i) Named Persons contracting COVID-19; and/or
 - (ii) delays associated with a COVID-19 Event;
- (l) it will not make any material changes to the cover under the Insurance Policy without the Crown's prior written consent;
- (m) it will notify the Crown in writing as soon as practicable after becoming aware of any matter or event which is inconsistent with information previously provided to the Crown;
- (n) it will properly discharge its duty to mitigate expenditure and loss in accordance with clause 5; and
- (o) it will promptly provide the Crown with any information that it reasonably requires in connection with the operation of this Deed.

10.3 Reliance

The Production Company acknowledges that the Crown has entered into this Deed in reliance on the warranties and representations contained in this Deed.

11. Production Company Liability

11.1 Indemnity

The Production Company indemnifies the Crown and the Ministry (and each of their officers, employees, agents and contractors) (the **Indemnified Parties**) from and against any:

- (a) cost or liability incurred by either of the Indemnified Parties;
 - (b) loss of or damage to property of either of the Indemnified Parties; or
 - (c) loss or expense incurred by either of the Indemnified Parties in dealing with any claim against it including legal costs on a solicitor own client basis;
- arising from:
- (d) a breach by the Production Company of this Deed;
 - (e) any representations or warranties given by the Production Company in this Deed being or becoming incorrect; or
 - (f) any unlawful, wrongful, wilful or negligent acts or omissions by the Production Company in its performance of this Deed.

BELL GULLY**11.2 Contribution**

The Production Company's liability to indemnify the Indemnities Parties under clause 11.1 will be reduced proportionately to the extent that any act or omission involving fault on the part of either of the Indemnified Parties contributed to the relevant cost, liability, loss, damage or expense.

12. Confidentiality

12.1 Confidentiality obligations

Each party shall:

- (a) keep the Confidential Information confidential at all times;
- (b) not disclose any Confidential Information to any person other than where disclosure is made by such party to its personnel, contractors and/or advisers in connection with the performance of this Deed or to seek professional advice in respect of this Deed (provided that such persons are made aware of and agree to comply with confidentiality obligations in this clause 12); and
- (c) ensure that it has in place adequate security measures to safeguard the Confidential Information from access or use by unauthorised persons including, as a minimum, complying with all relevant requirements imposed from time to time by the New Zealand Government on the holding, access, use, retention and disposal of government information.

12.2 Exceptions

The obligations of confidentiality in clause 12.1 do not apply to any disclosure of Confidential Information:

- (a) where the other parties give their prior written consent to the disclosure of the Confidential Information;
- (b) where the disclosure of the Confidential Information is required for the purposes of this Deed;
- (c) to the extent disclosure of the Confidential Information is required by law (including in the case of the Ministry and/or the Crown, the requirements of the Official Information Act 1982 and any guidance or guidelines relating thereto) or by any regulator having jurisdiction over a party or pursuant to any rules or requirements of any government or stock exchange having jurisdiction over the Production Company (or any of its related companies, wherever incorporated);
- (d) to the extent disclosure of the Confidential Information is made in connection with parliamentary practice (including parliamentary questions), or by the Crown and/or the Ministry to a Select Committee or to a Minister of the Crown; or
- (e) where such Confidential Information has become public other than through a breach of the obligation of confidentiality in this clause 12 or was provided to the disclosing party on a non-confidential basis by a third party who is not in breach of any obligation of confidentiality.

BELL GULLY**13. General**

13.1 Amendments

No amendment to this Deed will be effective unless it is in writing and signed by all the parties.

13.2 Notices and communications

Each notice, request, demand, consent, approval, agreement or other communication under this Deed:

- (a) **Delivery Method:** must be made in writing by email to the email address from time to time designated by each party to receive notices.
- (b) **Delivery Address:** must be given to the addressee at the address or electronic mail address, and marked for the attention of the person or office holder (if any), from time to time designated for the purpose by the addressee to the other party. The initial details for each of the parties in respect of notices and communications are set out in Schedule 3 (and may be replaced by notice to the other party from time to time).
- (c) **Delivery:** will be deemed to be received by the addressee when actually received, provided that if such communication is received or deemed received after 5.00 pm on a Business Day, or on a non-Business Day, it shall be deemed to be received on the next Business Day in that place.

13.3 Counterparts

This Deed may be executed in any number of counterparts. Once the parties have executed the counterparts, and each party has received a copy of each signed counterpart which that party did not execute, each counterpart shall be deemed to be as valid and binding on the party executing it as if it had been executed by all the parties. A party may execute a counterpart copy of this Deed by photocopying a facsimile or a scanned/electronic copy of this Deed and executing that photocopy. Where a party executes such a counterpart copy and transmits the signed execution page of that counterpart copy by electronic mail to the other parties then, for the purposes of this Deed, the transmission shall be deemed proof of signature of the original and the signed counterpart copy shall be deemed an original.

13.4 Delivery

For the purposes of section 9 of the Property Law Act 2007, and without limiting any other mode of delivery, this Deed will be delivered by a party (each, a **Delivering Party**) immediately on the earlier of:

- (a) physical delivery of an original of this Deed, executed by the relevant Delivering Party, into the custody of each other party (or its solicitors); or
- (b) transmission by the relevant Delivering Party or its solicitors (or any other person authorised by the relevant Delivering Party) of a facsimile, photocopied, pdf or scanned copy of an original of this Deed, executed by the relevant Delivering Party, to each other party (or its solicitors).

13.5 Discretions

Except to the extent otherwise expressly provided, the Crown may act in its absolute and sole discretion when:

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- (a) forming any opinion;
- (b) exercising, or not exercising any right;
- (c) taking, or not taking, any action;
- (d) giving or withholding consents or releases;
- (e) dealing with any other matter; or
- (f) imposing any terms in respect of any such matter.

13.6 Partial invalidity

The illegality, invalidity, or unenforceability of any provision of this Deed under the law of any relevant jurisdiction will not impair the legality, validity or enforceability of:

- (a) the other remaining provisions; or
- (b) those provisions under the law of any other jurisdiction.

13.7 Costs

Each party bears its own costs and expenses (including legal costs) which may be incurred in entering into and administering this Deed.

13.8 Assignment

Neither party may assign any of its respective rights or transfer any of its respective rights or obligations under this Deed.

13.9 Survival of obligations

Clauses 1, 3, 5, 6, 7, 8, 9, 10, 11, 12 and this clause 13 of this Deed will survive the termination of this Deed until the date on which the Production Company has discharged all obligations under this Deed owed to the Crown.

13.10 Following Business Day Convention

In this document, unless the context otherwise requires, when any payment is due to be made or any other thing required to be done on a day that is not a Business Day, such payment will be made or thing will be done on the next Business Day.

13.11 Governing Law and Jurisdiction

This Deed will be governed by and construed in accordance with New Zealand law, and the parties submit to the exclusive jurisdiction of the courts of New Zealand.

BELL GULLY**Execution****Executed** and delivered as a deed by

SIGNED by The Sovereign in Right of New
Zealand acting by and through the Minister
of Finance)
in the presence of :)

Witness Signature

Print Name

Witness Occupation

Place of residence

SIGNED for and on behalf of **Libertine Pictures (UTV) Limited** by its Director
in the presence of:

s9(2)(a)

s9(2)(a)

Richard Fletcher

Witness Signature

SANDY GILDEA

Print Name

Executive Director

Witness Occupation

Wellington, New Zealand

Place of residence

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Schedule 1: Production Details

#	Description	Production Details
1.	Production	Under the Vines
2.	Does this Deed cover Loss resulting from COVID-19 Events	Yes
3.	Additional insurance cover (if any) (clause 4.1)	Extra Expense (Civil Authority) (EE(CA)) Covid-19 Indemnity
4.	Deductible	5 per cent of the value of each Claim
5.	Condition Date	18 December 2020
6.	COVID-19 Contingency	s9(2)(b)(ii)
7.	Delay Cap	
8.	Abandonment Cap	
9.	Insurer	Sura Film and Entertainment
10.	New Zealand Budgeted Cost	s9(2)(b)(ii)
11.	Production Schedule	
12.	Principal Photography	
13.	Named Persons	Rebecca Gibney, Charles Edwards, Danny Mulheron, Erin White, David Paul, Trae Te Wiki, Simon Mead and John Bach
14.	Bank Account details	s9(2)(a)

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Schedule 2: Claim form

[Address details]

[date]

[Insert Production] – Deed of Indemnity – Claim

We refer to the Deed of Indemnity between the Crown and [Insert] (the **Production Company**) dated on or about [] (**Deed of Indemnity**). Terms defined in the Deed of Indemnity shall have the same meanings where used in this letter.

This letter comprises a Claim under clause 5.7 (Indemnity Claims) of the Deed of Indemnity.

We certify as follows:

1. *[Insert description of Loss Event].*
2. The following evidence to support the claimed Loss is attached to this letter.
3. *[Amount]* is claimable as a Loss under the Deed of Indemnity and is therefore payable by the Crown under the Deed of Indemnity.
4. The amount specified in paragraph 1 comprises *[describe nature of Loss.]*
5. *[Insert whether any insurance policies or other funding mechanisms will partially or fully cover the Loss associated with the Loss Event.]*
6. The signatory to this letter is duly authorised to issue this Claim on behalf of the Production Company.
7. The Bank Account details for payment of the amounts claimed under this letter are contained in Schedule 1 to the Deed of Indemnity.

[Production Company]

By:

[signoff]

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Schedule 3: Notice details

For the Crown:

Attention: James Dempsey
Addressee: Screen Sector Indemnity Scheme – Project Manager
Address: Public Trust Building
131 Lambton Quay
Wellington 6011
Email address: james.dempsey@mch.govt.nz

With a copy to (where appropriate in the circumstances):

Attention: Customer Services
Addressee: Screen Sector Indemnity Scheme
Address: Public Trust Building
131 Lambton Quay
Wellington 6011
Email address: film.sector-indemnity@mch.govt.nz

For the Production Company:

Attention: s9(2)(a)
Addressee:
Address:

Email address:

With a copy to (where appropriate in the circumstances):

Attention: s9(2)(a)
Addressee:
Address:

Email address:

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Schedule 4: New Zealand Production Budget

Ser	Source	Amount
1.	NZ Government Funding	s9(2)(b)(ii)
2.	Other Funder/ Financiers not needing guarantees	
a.	TVNZ	
b.	Libertine Pictures	
c.	EQ Media Group (NZ)	
3.	Private Funder/ Financier requiring FPI and EE(CA) indemnity	
a.	Fulcrum Media Financing	s9(2)(b)(ii)
b.	Acorn Media Enterprises (AME) – Licence Fee (North America, UK, Ireland & Australia)	
c.	AME – Distribution Advance (ROW)	
4.	Total NZ Production Budget	

BELL GULLY**Schedule 5: Business Case**

[*Drafting Note: to be attached*]

Deed of Indemnity

relating to

Manatū Taonga - Ministry for Culture and Heritage's Screen Sector
Indemnity Scheme

**The Sovereign in Right of New Zealand acting by and through the
Minister of Finance**

Crown

and

Cave Hunters Ltd

Production Company

Date: 9 December 2020

BELL GULLY

WELLINGTON 171 FEATHERSTON STREET
P O BOX 1291, WELLINGTON 6140, DX SX11164, NEW ZEALAND
TEL 64 4 915 6800 FAX 64 4 915 6810

BELL GULLY**Contents**

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This **Deed of Indemnity** is made on 2020

between (1) **The Sovereign in Right of New Zealand acting by and through the Minister of Finance (Crown)**
and (2) **Cave Hunters Ltd (Production Company)**

Introduction

- A. Manatū Taonga - Ministry for Culture and Heritage (the **Ministry**) has become aware that the domestic screen sector is experiencing difficulty in accessing funding required to enable the current pipeline of planned domestic productions to continue due to the unavailability of insurance to protect against the risk of delays associated with COVID-19
- B. The Ministry has developed the Screen Sector Indemnity Scheme (the **Scheme**) which provides for the Crown to indemnify participants for certain costs relating to the COVID-19 pandemic that occur during certain pre-production and production phases on the terms and conditions of this Deed.

It is agreed

1. Definitions

1.1 Definitions

In this Deed (including the Introduction), unless the context otherwise requires:

Abandonment Cap has the meaning given to that term in Schedule 1;

Alert Levels means Alert Level 1, 2, 3 or 4 as notified by the New Zealand Government with the characteristics applicable to those Alert Levels as detailed in any Order made under the COVID-19 Public Health Response Act 2020;

Budgeted Cost means the budgeted costs specified in Schedule 1 in respect of the New Zealand production elements;

Business Case means the business case for the Production that has been submitted to the Crown and which is included as Schedule 5;

Business Day means a day other than a Saturday or Sunday or a public holiday in New Zealand;

Claim has the meaning given to that term in clause 5.7(a);

Condition Date has the meaning given to that term in Schedule 1;

Conditions Precedent means the conditions precedent set out in clause 3.2 to this Deed;

Confidential Information means the fact of entry into this Deed, the terms and conditions of this Deed and all confidential information and data (in any form) produced or acquired by a

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party (including its personnel, agents or advisers) from or on behalf of another party in connection with this Deed or the performance of its obligations under this Deed;

COVID-19 means the novel coronavirus described as COVID-19 and includes any mutations of such coronavirus;

COVID-19 Contingency is the amount specified in Schedule 1;

COVID-19 Loss Event has the meaning given to that term in clause 5.1(a)(iv);

COVID-19 Event means:

(a) any member of the cast or crew of the Production:

- (i) testing positive for COVID-19 in New Zealand; and
- (ii) being legally required to comply with a requirement in New Zealand which is imposed or issued by a New Zealand governmental entity, or a person acting under law in New Zealand, in relation to COVID-19 (including, for the avoidance of doubt, any isolation or quarantine order),

which has the effect that Pre-Production or Principal Photography is prevented or impeded; or

(b) any:

- (i) return to Alert Level 2, Alert Level 3 or Alert Level 4 (or their equivalents having the same or more onerous restrictions or effect as Alert Levels 2, 3 or 4 as applied at the Scheme Date as determined by the Crown acting reasonably); or
- (ii) COVID-19 Requirement having a more onerous restriction or effect than those in operation at Alert Level 2 as at the Scheme Date,

which has the effect that the Pre-Production or Principal Photography is prevented or impeded in the applicable to the region(s) in which Pre-Production and/or the period of Principal Photography is occurring, or will, or is planned to, occur,

and, in each case, which occurs after the date on which the Conditions Precedent are satisfied or waived, but does not include any Named Person Loss Event;

COVID-19 Guidelines means the guidelines developed by ScreenSafe New Zealand in respect of COVID-19, including the Health and Safety Standard and Health and Safety Protocol dated 19 August 2020 (and any revisions, amendments or updates thereto whether made before or after the Execution Date);

COVID-19 Negative Test Confirmation has the meaning given to that term in clause 4.2(a);

COVID-19 Requirement means a requirement which the Production Company must legally comply with which is imposed or issued by a New Zealand governmental entity, or a person acting under law in New Zealand, in relation to COVID-19;

Deductible means amount specified as such in Schedule 1, being an amount of expenditure that the Production Company must incur as a result of a Loss Event and that cannot be claimed under this Deed (but would otherwise qualify as a Loss);

Deed means this Deed of Indemnity, and includes any amendments agreed in writing by the parties;

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Delay Cap has the meaning given to that term in Schedule 1;

Excluded Expenditure has the meaning given in clause 5.3;

Execution Date means the date on which this Deed is executed by the Crown;

Insolvent means, in relation to a person, any one or more of the following events occurring or subsisting:

- (a) an order is made or resolution passed that the person be put in liquidation, administration, statutory or other management or receivership or be wound up; or
- (b) an order is made or a resolution is passed appointing a liquidator or provisional liquidator in respect of the person, or one of them is appointed, whether or not under an order or resolution; or
- (c) a receiver, receiver and manager, administrator, or official or statutory manager is appointed in respect of the person or the assets or undertaking of the person or any part of those assets or that undertaking; or
- (d) the person enters into, or resolves to enter into, a scheme of arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them; or
- (e) the person resolves to go into liquidation, administration, statutory or other management, receivership, or otherwise dissolve itself, or notifies of its intention to do so; or
- (f) the person is unable to pay its debts or perform its obligations as and when they become due or payable or threatens not to pay its debts or perform its obligations as they become due; or
- (g) the person is presumed to be unable to pay its debts within the meaning of any applicable legislation; or
- (h) anything having the same or similar effect to any of the events specified above under the law of any applicable jurisdiction;

Insurance Policy means any contract of insurance that meets the requirements of clause 4.1;

Insurer means the company that provides an Insurance Policy to the Production Company and is listed as the 'Insurer' in Schedule 1;

Loss has the meaning given to that term in clause 5.1(a);

Loss Assessor means a person who is suitably experienced and qualified at assessing losses under insurance policies in the New Zealand screen sector as determined by the Crown;

Loss Assessor's Report has the meaning given to that term in clause 6.1(b)

Loss Event a Named Person Loss Event and/or a COVID-19 Loss Event (each as applicable);

Named Person means the first ten natural persons listed as a 'Named Person' in Schedule 1 who is specified and covered as an 'Essential Element' in the Insurance Policy;

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Named Person Loss Event has the meaning given to that term in clause 5.1(a)(iii)

New Zealand Production Budget means the Production's budget for production elements taking place in New Zealand which has been approved by the producer and the financiers of the Production, and which is included as Schedule 4;

Pre-Production means the period of the Production Schedule occurring in New Zealand that immediately precedes Principal Photography as specified in Schedule 1;

Principal Photography means the phase of the Production in which filming for the purposes of scripted content or storyline (excluding preliminary, incidental or scouting filming), takes place in New Zealand, and which ends with the commencement of post-production as the main effort of the Production, the planned dates for which are set out in Schedule 1;

Production Schedule means the proposed schedule for the Production in New Zealand, which must include the Pre-Production phase and Principal Photography;

Production means the production described in Schedule 1;

Scheme has the meaning given to that term in the Introduction to this Deed; and

Scheme Date means 11 December 2020, being the date that the Scheme commenced.

1.2 Interpretation

In this Deed, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a person includes:
 - (i) a partnership (including a limited partnership) and also a body of persons, whether corporate or unincorporated; and
 - (ii) reference to its respective successors in title and permitted assigns;
- (c) a reference to documentation includes:
 - (i) a reference to that document as varied, supplemented, novated or substituted from time to time; and
 - (ii) a reference to that documentation in any form, whether paper based or in electronic form encoded on or as part of any form of media;
- (i) a law:
 - (i) includes a reference to any constitutional provision, subordinate legislation, treaty, decree, convention, statute, regulation, rule, ordinance, proclamation, by-law, judgment, rule of common law or equity or rule of any applicable stock exchange;
 - (ii) is a reference to that law as amended, consolidated, re-enacted, supplemented or replaced (whether before or after the Execution Date); and
 - (iii) is a reference to any regulation, rule, ordinance, proclamation, by-law or judgment made under that law;

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- (d) headings are included for the purpose of ease of reference only and are not to have any effect on construction and interpretation;
- (e) a reference to currency is a reference to New Zealand currency;
- (f) unless stated otherwise, a reference to a clause is to a clause of this Deed;
- (g) a reference to including means, including without limitation; and
- (h) each provision of this Deed is to be read separately and independently of the other provisions and not in a way which limits the Crown's rights, powers and discretions under such provision.

1.3 Performance of obligations

The Production Company acknowledges and agrees that:

- (a) the Minister of Finance may delegate certain powers and functions in relation to this Deed and the administration of this Deed and the funding arrangement contemplated by this Deed;
- (b) where any provision of this Deed requires the Crown's approval or determination, such Crown approval or determination may (at the Crown's discretion) be administered (and may be given or withheld) by Ministry officials on behalf of the Crown (unless such approval is specified in this Deed as being required by or from the Minister);
- (c) to the extent that Ministry officials perform obligations or exercise powers of the Crown under this Deed, the Crown shall for the purposes of this Deed be regarded as having discharged those obligations or exercised those powers; and
- (d) this clause 1.3 is for the benefit of the Ministry, and is intended to be enforceable by the Ministry.

2. Statutory approval and notification

The parties acknowledge that:

- (a) this Deed is being provided to the Production Company by the Minister of Finance on behalf of the Crown under section 65ZD of the Public Finance Act 1989; and
- (b) if and to the extent that the contingent liability of the Crown under this Deed exceeds \$10,000,000, the Minister of Finance is accordingly required, under section 65ZD(3) of the Public Finance Act 1989, to present a statement to the House of Representatives in relation to this Deed as soon as practicable after its execution.

3. Term and conditions precedent

3.1 Term

- (a) Subject to clause 3.2, the terms and conditions of this Deed apply on and from the Execution Date and continue in full force and effect until the earliest of:
 - (i) this Deed is terminated in accordance with clauses 3.4, 5.2 or 9;

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- (ii) the end of Principal Photography as determined by the Crown acting reasonably; and
 - (iii) the date on which each party agrees in writing that this Deed is no longer required.
- (b) Except where expressly stated otherwise in this Deed, the expiry or termination of this Deed will not release a party from any liability arising from this Deed that occurred prior to the date of expiry or termination.

3.2 Conditions Precedent

The Crown's obligations under this Deed are subject to and conditional upon the following conditions precedent being completed and fulfilled (to the Crown's satisfaction):

- (a) to the extent that the Production is an international co-production or involves Pre-Production or Principal Photography occurring outside New Zealand, the receipt by the Production Company of equivalent protection (as assessed by the Crown, acting reasonably) to the indemnification provided by the Crown under this Deed from such jurisdictions outside New Zealand that benefit from the Production as the Crown determines acting reasonably;
- (b) a certificate, signed by two directors of the Production Company (or, if the Production Company only has one director, that director) certifying that, in their view, subject to the entry into this Deed and Conditions Precedent set out in this Deed being satisfied or waived, the Production Company has obtained sufficient committed financing so as to complete the Production;
- (c) the Production Company providing the Crown with a valid certificate of currency for the Insurance Policy; and
- (d) the Production Company satisfying such other requirements as are advised to it by the Crown in writing on or before the date the Production Company enters into and delivers this Deed to the Crown.

3.3 Waiver of condition

The conditions in clause 3.2 have been inserted for the benefit of the Crown and only the Crown may waive any of them.

3.4 Non fulfilment of conditions

If any of the conditions set out in clause 3.2 have not been satisfied or waived on or before the Condition Date (or by such later time as agreed in writing by the parties), the Crown may at any time thereafter, by written notice to the Production Company:

- (a) waive or defer (to a date set out in the written notice) the satisfaction of the relevant condition in clause 3.2; or
- (b) terminate this Deed.

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4. Insurance and COVID-19 testing

4.1 Insurance

The Production Company must accept, pay the premium for and maintain an Insurance Policy for the Production with the Insurer that as a minimum provides the Production Company with film production insurance under a policy that is on usual and customary terms for usual and customary periods, including coverage for 'film producers indemnity' and any other insurance cover specified in Schedule 1 until the completion of Principal Photography. It is recognised by the Crown that the Insurance Policy may contain an exclusion in relation to liability for loss arising from or related to COVID-19.

4.2 COVID-19 testing

- (a) In respect of each Named Person, the Production Company must provide the Crown, within 3 Business Days of the date on which it was issued, written confirmation from a suitably qualified medical practice, medical professional or authorised COVID-19 testing authority or facility, which confirms that the Named Person has been tested for COVID-19 and has received a negative test result (a **COVID-19 Negative Test Confirmation**).
- (b) The testing date of a COVID-19 Negative Test Confirmation must not pre-date the date on which the Named Person starts work on the Production by more than five (5) days (or such longer period as may be agreed to in writing by the Crown).

5. Indemnity

5.1 Indemnity

- (a) With effect on and from the date that all of the Conditions Precedent have been satisfied (or waived), the Crown agrees to indemnify, in accordance with, and subject to, the terms and conditions of this Deed, the Production Company in respect of all liability, loss, cost, expense or other charge incurred by the Production Company in respect of the Production (excluding any Excluded Expenditure) arising direct as a result of:
 - (i) an interruption, delay, rearrangement of personnel, schedule or location or postponement of the Production up to the Delay Cap; or
 - (ii) the cancellation or abandonment of the Production up to the Abandonment Cap,
 in each case due to:
 - (iii) a Named Person contracting COVID-19 in New Zealand (**Named Person Loss Event**) during the final two weeks of Pre-Production and/or during Principal Photography; and/or
 - (iv) if stated in Schedule 1 as being covered by this Deed, a COVID-19 Event (a **COVID-19 Loss Event**) occurring during Pre-Production and/or during Principal Photography,
 (in each case, a **Loss**).

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- (b) Notwithstanding any other provision of this Deed, the Production Company will not be entitled to recover any Loss unless:
- (i) the total amount of Loss under this Deed exceeds the amount of the COVID-19 Contingency; and
 - (ii) the Production Company has first met (and provided evidence acceptable to the Crown (acting reasonably) that it has met) an amount of Loss equal to the COVID-19 Contingency,

with the result that the Production Company is only entitled to recover for Loss under this Deed which is (when taken together with all other Losses under this Deed) in excess of the amount of the COVID-19 Contingency.

5.2 Insolvency

If the Production Company is, or becomes, at any time prior to suffering a Loss Event, Insolvent, the Crown may, at its sole discretion, terminate this Deed by giving written notice to the Production Company.

5.3 Excluded Expenditure

- (a) Excluded Expenditure is:
- (i) the Deductible;
 - (ii) any amount that:
 - (A) in respect of any Claim made under clause 5.1(a)(i) exceeds the Delay Cap, whether as a result of a single Claim or aggregate Claims under this Deed; or
 - (B) in respect of any Claim made under clause 5.1(a)(ii), exceeds (when taken together with any other Claims made under this Deed) the Abandonment Cap;
 - (iii) any expenditure that is not incurred solely and directly due to a Loss Event;
 - (iv) any expenditure that is incurred outside of the New Zealand Production Budget or where a Loss Event arises and the Production Schedule has materially changed without the prior written approval of the Crown;
 - (v) any expenditure due to the loss of a third party;
 - (vi) any pure economic loss, loss of profits or loss of earnings or royalties;
 - (vii) any expenditure, loss or liability arising from any obligation or requirement to meet any schedule deadlines, transmission dates, release dates or any other delivery or completion date;
 - (viii) any interest, charges or penalties on loans, advances or other finance related costs other than any interest on loans, advances or other finance-related costs payable in the period during which the Production suffers from an interruption, delay, rearrangement of personnel, schedule or location or postponement;
 - (ix) any expenditure arising due to a failure to comply with the Business Case;

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- (x) any expenditure associated with a change in location of Pre-Production or Principal Photography without the prior written approval of the Crown;
- (xi) any prior expenditure incurred to obtain intellectual property rights, story rights, music rights and consents in connection with the Production;
- (xii) any depreciation in the value of real or personal property and any other kind of consequential or indirect loss;
- (xiii) any expenditure due to loss claimed in relation to any Loss Event which is not notified to the Crown in accordance with the requirements of this Deed;
- (xiv) any expenditure due to a Loss Event that has occurred before all of the conditions precedent under clause 3.2 have been satisfied or waived in accordance with the requirements of this Deed;
- (xv) any expenditure due to a Loss Event in relation to a Named Person where COVID-19 Negative Test Confirmation has not been provided in accordance with the terms of clauses 4.2;
- (xvi) any expenditure due to a Loss Event where genome sequencing (or other appropriate methodologies) identifies that the COVID-19 infection did not occur in New Zealand;
- (xvii) any expenditure incurred or relating to a period of time that is outside the Term;
- (xviii) any expenditure incurred as a result of a Loss Event that has occurred outside of New Zealand;
- (xix) any expenditure or loss claimed which is, in the reasonable opinion of the Crown, caused by the Production Company's negligence, fraud, failure to mitigate its loss, breach of any contract or breach of any law;
- (xx) any expenditure or loss which has been recovered, or is recoverable by the Production Company through taking reasonable steps, whether by way of insurance, refund or any other means; or
- (xxi) any expenditure or loss claimed where there is a breach of or failure to comply with this Deed by the Production Company, including if warranties provided by the Production Company under clause 10 are untrue or have been breached.

5.4 Mitigation of Loss

The Production Company must take all necessary steps to mitigate any Loss in connection with an actual or anticipated Loss Event, including:

- (a) if any expenditure or loss is recoverable under the Insurance Policy, the Production Company must make a claim under the Insurance Policy in accordance with the normal insurance applications procedure;
- (b) if any expenditure or loss is recoverable under another insurance policy, by refund, or any other means, the Production Company must take all necessary steps to seek to recover such expenditure or loss;
- (c) if any expenditure or loss could be offset by accessing other forms of funding made available, including any other funding made available by the New Zealand Government in relation to COVID-19;

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- (d) acting in accordance with any reasonable direction of the Crown, or its appointee, in dealing with and handling any actual or potential expenditure or loss arising from any Loss Event; and
- (e) taking any steps identified or set out in the Business Case.

5.5 No double counting

Notwithstanding any other provisions of this Deed, the Production Company shall not be entitled to make a Claim under this Deed in respect of any Loss that it has incurred to the extent that it has already been compensated in respect of that Loss under this Deed or otherwise.

5.6 Notification requirement

- (a) The Production Company must notify the Crown and the Insurer in writing within forty eight (48) hours of becoming aware of any actual or potential Loss Event.
- (b) The Production Company must include in a notice under clause 5.6(a) all relevant facts and circumstances related to the actual or potential Loss Event.

5.7 Claims

- (a) The Production Company may claim under the indemnity contained in this Deed for any Loss arising from a Loss Event by giving a notice in writing of the amount, which notice shall be accompanied by such supporting evidence as reasonably requested by the Crown that will enable the Crown to verify the Loss and/or support that claim (a **Claim**).
- (b) When submitting a Claim under the indemnity, the Production Company must ensure the Claim:
 - (i) is in writing and in the form set out in Schedule 2 (as amended to reflect the Claim) and is complete, containing all information required for a Claim;
 - (ii) in respect of a Named Person Loss Event includes written confirmation from a suitably qualified medical practice, medical professional or authorised COVID-19 testing authority, which:
 - (A) confirms that a Named Person has been tested for COVID-19 on a date which is during the Term; and
 - (B) confirms that the Named Person has received a positive test result;
 - (iii) attaches all other required supporting documentation;
 - (iv) includes details and evidence of any amounts refunded or recovered by the Production Company in relation to the expenditure or loss by any other means;
 - (v) contains only true and accurate information;
 - (vi) does not contain any misleading or potentially misleading information;
 - (vii) must be delivered to the Crown; and
 - (viii) will be deemed to be received in accordance with clause 13.2.

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If the Production Company makes a Claim under this Deed and also makes a claim under the Insurance Policy which relates, directly or indirectly, to the facts, circumstances and timing of an actual or potential Loss Event, the Production Company:

- (a) must notify the Crown in writing of the nature and details of the claim;
- (b) must provide the Crown with any further information that it reasonably requests in relation to the Claim;
- (c) consents to the Insurer sharing relevant details of the claim with the Crown; and
- (d) consents to the Crown sharing relevant details of any Claim with the Insurer.

6. Loss

6.1 Assessment of Loss

- (a) Following receipt of a Claim, the Crown will, acting reasonably, promptly assess whether it believes there is sufficient evidence to support any claimed Loss and, if not, will request such further information as it reasonably requires. Following which, the Crown will either:
 - (i) accept the Claim, following which clause 7.1(a) shall apply; or
 - (ii) refer the matter to the Loss Assessor, who shall assess the claimed quantum of Loss under and in accordance with this Deed.
- (b) If the Claim is referred by the Crown to a Loss Assessor, the appointed Loss Assessor will be required under their terms of engagement to, based on the information made available to them by the parties:
 - (i) notify the parties in writing of its provisional assessment of the appropriate quantum of the Loss as soon as possible and in any event within 15 Business Days of the referral of the Claim to them (or such later date as the parties agree), together with:
 - (A) a recommended progress payment which is to be based on the amounts that the Loss Assessor has been able to quantify and verify as at the time of compiling the provisional assessment (which shall not exceed 70% of the provisional assessment of the Loss) (the **Provisional Payment**); and
 - (B) reasons for its provisional assessment,
 - (ii) notify the parties in writing of:
 - (A) the Loss Assessor's final determination as soon as possible and in any event within 20 Business Days of the referral of the Claim to them (or such later date as the parties agree or that the Loss Assessor determines is necessary in the context) and
 - (B) provide reasons for their determination at the same time

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(the determination and the reasons together being the **Loss Assessor's Report**).

- (c) In reaching both its provisional assessment of the appropriate quantum of the Loss and its final determination as to the appropriate quantum of the Loss, the Loss Assessor:
 - (i) will rely on their own knowledge, skill and experience in relation to the matter to the Claim; and
 - (ii) may request further information and/or submissions on any information provided with the Claim.

7. Payments

7.1 Crown Payments

The Crown will:

- (a) if the Crown has accepted the Claim in accordance with clause 6.1(a)(i), pay the full amount of the Loss within 20 Business Days of accepting the Claim; or
- (b) if the Crown has appointed a Loss Assessor:
 - (i) pay the full amount of the Provisional Payment specified in the Provisional Assessment to the Production Company within 5 Business Days of having received Provisional Assessment, unless the Crown is not satisfied, acting reasonably, that there is sufficient evidence to support the claimed Loss; and
 - (ii) pay the full amount of the Loss specified in the Loss Assessor's Report (less any amounts paid under clause 7.1(b)(i) above) to the Production Company within 20 Business Days of having received the Loss Assessor's Report, unless the Crown is not satisfied, acting reasonably, that there is sufficient evidence to support the claimed Loss.

7.2 Payment mechanics

All payments to be made by under this Deed will be paid:

- (a) free and clear of any restriction or condition;
- (b) free and clear of and (except to the extent required by law) without any deduction or withholding on account of any tax; and
- (c) without any deduction (other than in accordance with clause 7.1(b)) or withholding on account of any other amount, whether by way of set-off, counterclaim or otherwise.

7.3 No interest

Under no circumstances is the Crown liable to pay interest on any Loss under this Deed.

7.4 Overpayments

In the event that the amount of the Provisional Payment that has been paid by the Crown in accordance with clause 7.1(b) exceeds the full amount of the Loss specified in the Loss Assessor's Report (the **Excess Amount**), the Production Company shall pay the Excess

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Amount to the Crown within 20 Business Days of receipt of the Loss Assessor's Report (and if not paid, the Excess Amount may be recovered by the Crown as a debt due).

8. Reporting

8.1 Reporting

- (a) The Production Company will report to the Crown (through the Ministry), following a request by the Crown in a manner which will enable the Crown to make provision for the Scheme in the Crown accounts.
- (b) In addition to the above reporting, following a Claim, the Crown may request for the Production Company to provide further detail and/or information so as to enable the Crown to assess the likely losses that it may suffer as a result of the Claim.

9. Termination

9.1 Termination

- (a) The Crown's obligations under this Deed may be terminated:
 - (i) by the Crown at any time after the date which is 24 months' after the date of this Deed, by giving one day's notice in writing to the Production Company;
 - (ii) at any time by agreement in writing between the Crown and the Production Company; and
 - (iii) by the Crown in the event that the Production Company or any Named Person breaches any law and such breach has, in the opinion of the Crown acting reasonably, a material adverse impact upon the reputation of New Zealand, the New Zealand government, or the New Zealand screen production industry.
- (b) This Deed will automatically terminate on the end of the Term.

9.2 Otherwise irrevocable

This Deed is irrevocable other than as set out in clauses 3.4, 5.2 and 9.1.

9.3 Continuing obligations

Unless this Deed is terminated in accordance with clauses 3.4, 5.2 or clause 9.1(a)(ii), termination of this Deed will not release:

- (a) the Crown from any liability in respect of Loss occurring after the date of termination in respect of Loss incurred in accordance with the terms of this Deed prior to the date of termination (**Surviving Indemnified Losses**); or
- (b) the Production Company from any of its obligations under this Deed, including in respect of Surviving Indemnified Losses.

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10. Representations and Warranties

10.1 Use of indemnification proceeds

The Production Company represents and warrants that:

- (a) it will only use amounts received from the Crown under the indemnity:
 - (i) towards the cost of completing the Production, in the event that the Production is delayed as a result of a Loss Event; and
 - (ii) towards the unavoidable additional costs incurred as a result of abandoning the Production in the event that the Loss Event results in the abandonment of the Production.
- (b) In the event that the Production Company makes a Claim in respect of Loss that has arisen due to the abandonment of the Production, the Production Company shall not be entitled to make any further Claims under this Deed.

10.2 General

The Production Company represents and warrants at the Execution Date and on an ongoing basis for the term of this Deed that:

- (a) it has full power and authority to enter into this Deed and to perform the obligations under it;
- (b) its execution of this Deed does not, and its performance of this Deed will not contravene:
 - (i) any law;
 - (ii) the constituent documents of the Production Company;
 - (iii) any agreement or instrument to which the Production Company is a party, or any obligation that the Production Company owes to another person;
- (c) the Production Company is not entering into this Deed as a trustee of any trust or settlement;
- (d) the Production Company is not Insolvent;
- (e) there is no claim or current or pending judicial action against the Production Company that could have an adverse effect on the Ministry's or the Crown's reputation;
- (f) it is not in breach of any obligation under any other agreement to which any part of the New Zealand Government and it are parties;
- (g) all representations of fact in any Claim are true, complete, accurate and not misleading, and any statements as to future matters in the Claim are made in good faith based on reasonable grounds;
- (h) the Budgeted Cost, New Zealand Production Budget and the Production Schedule are approved by all persons who are contributing to the Budgeted Cost, and by the completion guarantor for the Production (if any);

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- (i) it has a specific COVID-19 risk mitigation plan for the Production, which has been developed with reference to the COVID-19 Guidelines and is approved by all persons contributing to the Budgeted Cost who require approval of it;
- (j) it must not do or allow anything to be done, or omit to do anything, which might cause the Insurance Policy to be prejudiced, or which might increase the likelihood of an Claim being made by the Production Company under this Deed;
- (k) it does not hold a current 'film producers indemnity' insurance policy for the Production which covers any type of expenditure, loss or damage associated with (as applicable):
 - (i) Named Persons contracting COVID-19; and/or
 - (ii) delays associated with a COVID-19 Event;
- (l) it will not make any material changes to the cover under the Insurance Policy without the Crown's prior written consent;
- (m) it will notify the Crown in writing as soon as practicable after becoming aware of any matter or event which is inconsistent with information previously provided to the Crown;
- (n) it will properly discharge its duty to mitigate expenditure and loss in accordance with clause 5; and
- (o) it will promptly provide the Crown with any information that it reasonably requires in connection with the operation of this Deed.

10.3 Reliance

The Production Company acknowledges that the Crown has entered into this Deed in reliance on the warranties and representations contained in this Deed.

11. Production Company Liability

11.1 Indemnity

The Production Company indemnifies the Crown and the Ministry (and each of their officers, employees, agents and contractors) (the **Indemnified Parties**) from and against any:

- (a) cost or liability incurred by either of the Indemnified Parties;
 - (b) loss of or damage to property of either of the Indemnified Parties; or
 - (c) loss or expense incurred by either of the Indemnified Parties in dealing with any claim against it including legal costs on a solicitor own client basis;
- arising from:
- (d) a breach by the Production Company of this Deed;
 - (e) any representations or warranties given by the Production Company in this Deed being or becoming incorrect; or
 - (f) any unlawful, wrongful, wilful or negligent acts or omissions by the Production Company in its performance of this Deed.

BELL GULLY**11.2 Contribution**

The Production Company's liability to indemnify the Indemnities Parties under clause 11.1 will be reduced proportionately to the extent that any act or omission involving fault on the part of either of the Indemnified Parties contributed to the relevant cost, liability, loss, damage or expense.

12. Confidentiality**12.1 Confidentiality obligations**

Each party shall:

- (a) keep the Confidential Information confidential at all times;
- (b) not disclose any Confidential Information to any person other than where disclosure is made by such party to its personnel, contractors and/or advisers in connection with the performance of this Deed or to seek professional advice in respect of this Deed (provided that such persons are made aware of and agree to comply with confidentiality obligations in this clause 12); and
- (c) ensure that it has in place adequate security measures to safeguard the Confidential Information from access or use by unauthorised persons including, as a minimum, complying with all relevant requirements imposed from time to time by the New Zealand Government on the holding, access, use, retention and disposal of government information.

12.2 Exceptions

The obligations of confidentiality in clause 12.1 do not apply to any disclosure of Confidential Information:

- (a) where the other parties give their prior written consent to the disclosure of the Confidential Information;
- (b) where the disclosure of the Confidential Information is required for the purposes of this Deed;
- (c) to the extent disclosure of the Confidential Information is required by law (including in the case of the Ministry and/or the Crown, the requirements of the Official Information Act 1982 and any guidance or guidelines relating thereto) or by any regulator having jurisdiction over a party or pursuant to any rules or requirements of any government or stock exchange having jurisdiction over the Production Company (or any of its related companies, wherever incorporated);
- (d) to the extent disclosure of the Confidential Information is made in connection with parliamentary practice (including parliamentary questions), or by the Crown and/or the Ministry to a Select Committee or to a Minister of the Crown; or
- (e) where such Confidential Information has become public other than through a breach of the obligation of confidentiality in this clause 12 or was provided to the disclosing party on a non-confidential basis by a third party who is not in breach of any obligation of confidentiality.

BELL GULLY**13. General****13.1 Amendments**

No amendment to this Deed will be effective unless it is in writing and signed by all the parties.

13.2 Notices and communications

Each notice, request, demand, consent, approval, agreement or other communication under this Deed:

- (a) **Delivery Method:** must be made in writing by email to the email address from time to time designated by each party to receive notices.
- (b) **Delivery Address:** must be given to the addressee at the address or electronic mail address, and marked for the attention of the person or office holder (if any), from time to time designated for the purpose by the addressee to the other party. The initial details for each of the parties in respect of notices and communications are set out in Schedule 3 (and may be replaced by notice to the other party from time to time).
- (c) **Delivery:** will be deemed to be received by the addressee when actually received, provided that if such communication is received or deemed received after 5.00 pm on a Business Day, or on a non-Business Day, it shall be deemed to be received on the next Business Day in that place.

13.3 Counterparts

This Deed may be executed in any number of counterparts. Once the parties have executed the counterparts, and each party has received a copy of each signed counterpart which that party did not execute, each counterpart shall be deemed to be as valid and binding on the party executing it as if it had been executed by all the parties. A party may execute a counterpart copy of this Deed by photocopying a facsimile or a scanned/electronic copy of this Deed and executing that photocopy. Where a party executes such a counterpart copy and transmits the signed execution page of that counterpart copy by electronic mail to the other parties then, for the purposes of this Deed, the transmission shall be deemed proof of signature of the original and the signed counterpart copy shall be deemed an original.

13.4 Delivery

For the purposes of section 9 of the Property Law Act 2007, and without limiting any other mode of delivery, this Deed will be delivered by a party (each, a **Delivering Party**) immediately on the earlier of:

- (a) physical delivery of an original of this Deed, executed by the relevant Delivering Party, into the custody of each other party (or its solicitors); or
- (b) transmission by the relevant Delivering Party or its solicitors (or any other person authorised by the relevant Delivering Party) of a facsimile, photocopied, pdf or scanned copy of an original of this Deed, executed by the relevant Delivering Party, to each other party (or its solicitors).

13.5 Discretions

Except to the extent otherwise expressly provided, the Crown may act in its absolute and sole discretion when:

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- (a) forming any opinion;
- (b) exercising, or not exercising any right;
- (c) taking, or not taking, any action;
- (d) giving or withholding consents or releases;
- (e) dealing with any other matter; or
- (f) imposing any terms in respect of any such matter.

13.6 Partial invalidity

The illegality, invalidity, or unenforceability of any provision of this Deed under the law of any relevant jurisdiction will not impair the legality, validity or enforceability of:

- (a) the other remaining provisions; or
- (b) those provisions under the law of any other jurisdiction.

13.7 Costs

Each party bears its own costs and expenses (including legal costs) which may be incurred in entering into and administering this Deed.

13.8 Assignment

Neither party may assign any of its respective rights or transfer any of its respective rights or obligations under this Deed.

13.9 Survival of obligations

Clauses 1, 3, 5, 6, 7, 8, 9, 10, 11, 12 and this clause 13 of this Deed will survive the termination of this Deed until the date on which the Production Company has discharged all obligations under this Deed owed to the Crown.

13.10 Following Business Day Convention

In this document, unless the context otherwise requires, when any payment is due to be made or any other thing required to be done on a day that is not a Business Day, such payment will be made or thing will be done on the next Business Day.

13.11 Governing Law and Jurisdiction

This Deed will be governed by and construed in accordance with New Zealand law, and the parties submit to the exclusive jurisdiction of the courts of New Zealand.

BELL GULLY**Execution****Executed** and delivered as a deed by

SIGNED by **The Sovereign in Right of New Zealand acting by and through the Minister of Finance**)
in the presence of :)

Witness Signature _____

Print Name _____

Witness Occupation _____

Place of residence _____

Production Company

s9(2)(a)

James Heyward
Cave Hunters Ltd
195 Ponsonby Rd
Auckland

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Schedule 1: Production Details

#	Description	Production Details
1.	Production	Cave Hunters (working title)
2.	Does this Deed cover Loss resulting from COVID-19 Events	Yes
3.	Additional insurance cover (if any) (clause 4.1)	Extra Expense (Civil Authority)
4.	Deductible	5 per cent of the value of each Claim
5.	Condition Date	February 28, 2021
6.	COVID-19 Contingency	General Contingency (not Covid-19 exclusive): \$200,000
7.	Delay Cap	s9(2)(b)(ii)
8.	Abandonment Cap	
9.	Insurer	Crombie Lockwood
10.	New Zealand Budgeted Cost	s9(2)(b)(ii)
11.	Production Schedule	
12.	Principal Photography	
13.	Named Persons	James Heyward
14.	Bank Account details	s9(2)(a) or as may be amended by written notice to the Crown.

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Schedule 2: Claim form

[Address details]

[date]

[Insert Production] – Deed of Indemnity – Claim

We refer to the Deed of Indemnity between the Crown and [Insert] (the **Production Company**) dated on or about [] (**Deed of Indemnity**). Terms defined in the Deed of Indemnity shall have the same meanings where used in this letter.

This letter comprises a Claim under clause 5.7 (Indemnity Claims) of the Deed of Indemnity.

We certify as follows:

1. *[Insert description of Loss Event].*
2. The following evidence to support the claimed Loss is attached to this letter.
3. *[Amount]* is claimable as a Loss under the Deed of Indemnity and is therefore payable by the Crown under the Deed of Indemnity.
4. The amount specified in paragraph 1 comprises *[describe nature of Loss.]*
5. *[Insert whether any insurance policies or other funding mechanisms will partially or fully cover the Loss associated with the Loss Event.]*
6. The signatory to this letter is duly authorised to issue this Claim on behalf of the Production Company.
7. The Bank Account details for payment of the amounts claimed under this letter are contained in Schedule 1 to the Deed of Indemnity.

[Production Company]

By:

[signoff]

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Schedule 3: Notice details

For the Crown:

Attention: James Dempsey
Addressee: Screen Sector Indemnity Scheme – Project Manager
Address: Public Trust Building
131 Lambton Quay
Wellington 6011
Email address: james.dempsey@mch.govt.nz

With a copy to (where appropriate in the circumstances):

Attention: Customer Services
Addressee: Screen Sector Indemnity Scheme
Address: Public Trust Building
131 Lambton Quay
Wellington 6011
Email address: film.sector-indemnity@mch.govt.nz

For the Production Company:

Attention: s9(2)(a)
Addressee:
Address:
Email address:



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Schedule 4: New Zealand Production Budget

Ser	Source	Amount
1.	NZ Government Funding	s9(2)(b)(ii)
2.	Other Funder/ Financiers not needing guarantees	
a.	Prime NZ	
b.	Nova	
c.	Flame	
d.	GegrueDerBeetz (arte1 x90)	
e.	Duo2 (Ancine) Grifa Films	
f.	Producers Equity	
3.	Private Funder/ Financier requiring FPI and EE(CA) indemnity	
a.	Making Movies (SPG finance)	s9(2)(b)(ii)
4.	Total NZ Production Budget	

BELL GULLY**Schedule 5: Business Case**

[*Drafting Note: to be attached*]

DELEGATION BY THE MINISTER OF FINANCE – SCREEN SECTOR INDEMNITY SCHEME

Date: 15 December 2020

From: Minister of Finance

To: Secretary to the Treasury

SCREEN SECTOR INDEMNITY SCHEME

1. Delegation

Pursuant to clause 5, Schedule 6 of the Public Service Act 2020 and sections 65ZD and 65ZG of the Public Finance Act 1989, I, the Honourable Grant Robertson, **MINISTER OF FINANCE**, delegate to the **SECRETARY TO THE TREASURY** (and any person acting in such role from time to time) the authority to manage and administer any contracts or deeds of indemnity entered into by me under section 65ZD of the Public Finance Act 1989 in order to support film productions included in the 'Screen Sector Indemnity' scheme developed by the Ministry for Culture and Heritage, including to:

- (a) take any action required to give effect to any such contract or deed of indemnity (excluding the entry into of any such contract or deed);
- (b) make any payments required under any such contract or deed, and pay any related expenses incurred by the Crown; and
- (c) do all other acts or things required to exercise or perform the Crown's rights and obligations under any such contract or deed.

This delegation comes into effect on the date of its execution and continues in force until it is revoked.

2. Consent to sub-delegation

Pursuant to clause 2(2)(a), Schedule 6 of the Public Service Act 2020, I, the Honourable Grant Robertson, **MINISTER OF FINANCE**, consent to the sub-delegation by:

- a) the **SECRETARY TO THE TREASURY** pursuant to clause 2(1), Schedule 6 of the Public Service Act 2020, of all or any of the authority and powers delegated by me in this instrument, to the **CHIEF EXECUTIVE OF THE MINISTRY FOR CULTURE AND HERITAGE**; and
- b) the **CHIEF EXECUTIVE OF THE MINISTRY FOR CULTURE AND HERITAGE** pursuant to clause 2(3), Schedule 6 of the Public Service Act 2020 (provided that the **SECRETARY TO THE TREASURY** has consented in writing), of all or any of the authority and powers delegated by me in this instrument, to any **DEPUTY CHIEF EXECUTIVE OF THE MINISTRY FOR CULTURE AND HERITAGE**,

(together with any persons acting in such role from time to time).

3. No consent to further sub-delegation

I, the Honourable Grant Robertson, **MINISTER OF FINANCE**, do not consent to any further sub-delegation of all or any of the authority and powers delegated by me in this instrument.

SIGNED by the **MINISTER OF FINANCE**
the Honourable Grant Robertson

Signature



Treasury Report: Decommissioning Tui Oil Field: Options for ensuring compliance with the Maritime Transport Act 1994

Date:	15 December 2020	Report No:	T2020/3798
		File Number:	SH-11

Action sought

	Action sought	Deadline
Hon Grant Robertson Minister of Finance	Agree to sign and send the attached letter to Maritime New Zealand stating that the Crown will meet liabilities up to s9(2)(i) in fulfilment of the Crown's obligations under the Maritime Transport Act 1994.	15 December 2020

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
George Wibberley	Senior Analyst, Transitions, Regions, and Economic Development	s9(2)(k)	N/A (mob) ✓
Jean Le Roux	Manager, Transitions, Regions, and Economic Development		N/A (mob)

Minister's Office actions (if required)

Return the signed report to Treasury and if agreed to sign the attached letter.

Refer this report and decision to the Minister of Energy and Resources, Hon Dr Megan Woods

Note any feedback on the quality of the report

Enclosure: Yes (attached)

Treasury Report: Decommissioning Tui Oil Field: Options for ensuring compliance with the Maritime Transport Act 1994

Executive Summary

- The Crown has responsibility for decommissioning the Tui oil field. The Ministry of Business, Innovation and Employment (MBIE) is leading the project and the demobilisation phase of the programme is due to begin in January 2021. Delays in the programme could cost between s9(2)(i) per month.
- The Crown has obligations under the Marine Transport Act 1994 (MTA) to meet the clean-up costs and associated damages of any oil spill incurred during the decommissioning of the Tui oil field. There is no limit to the Crown's liability.
- The MTA is regulated by Maritime New Zealand (MNZ). MNZ indicated on 4 December 2020 that it requires MBIE to purchase an additional s9(2)(i), s9(2)(j) in insurance cover to ensure total coverage of up to s9(2)(i), s9(2)(j) in the event of an oil spill. This is based on MNZ's independent assessment of the risk profile for the field, s9(2)(i)
- s9(2)(j)

- There are two main options to resolve this issue:
 - **Option A (preferred option):** send a letter of assurance from you to MNZ stating that the Crown will meet MTA liabilities up to s9(2)(i). Under this option, MBIE's existing insurance would cover the first s9(2)(i) of costs in the event of a spill and the Crown would provide up to an additional s9(2)(i) (taking the total coverage up to s9(2)(i)).
 - **Option B:** do not provide a letter of assurance and rely on MBIE purchasing an additional s9(2)(i) in insurance coverage (taking the total coverage up to s9(2)(i)).
- Option A is the preferred option as it generates no immediate costs to the Crown and MNZ has confirmed that this approach would satisfy its requirements. This in turn would enable the near immediate issuance of a certificate of insurance. We have attached a draft letter to this report, in line with this option. If agreed, officials will work with your office to send the letter of assurance to MNZ.

Recommended Action

We recommend that you:

- a. **note** that the Ministry of Business, Innovation and Employment (MBIE) is leading the Tui oil field decommissioning project under delegated authority and the demobilisation phase of the programme is due to begin in January 2021.
- b. **note** that the Crown has obligations under the Marine Transport Act 1994, which is regulated by Maritime New Zealand, to meet the clean-up costs and associated damages of any oil spill incurred during the decommissioning of the Tui oil field and there is no limit to the Crown's liability.
- c. **note** that Maritime New Zealand indicated on 4 December 2020 that it requires MBIE to purchase an additional s9(2)(i) in insurance cover to ensure coverage of up to s9(2)(i) in the event of an oil spill and the project will be delayed with significant associated costs unless this issue can be resolved before early January 2021.
- d. **agree** to one of the following options:

- **Option A (Recommended option):** send a letter of assurance from you to Maritime New Zealand stating that the Crown will meet liabilities up to s9(2)(i) s9(2)(i) in fulfilment of the Crown's obligations under the Maritime Transport Act 1994.

Agree / disagree

- **Option B:** do not provide a letter of assurance and rely on MBIE purchasing an additional s9(2)(i) in insurance coverage (taking the total coverage up to s9(2)(i)).

Agree / disagree

Jean Le Roux
Manager, Transition, Regions, and Economic Development

Hon Grant Robertson
Minister of Finance

Treasury Report: Decommissioning Tui Oil Field: Options for ensuring compliance with the Maritime Transport Act 1994

Purpose of Report

1. This report seeks your agreement to send the attached letter to Maritime New Zealand (MNZ) to provide assurance that the Crown will meet liabilities of up to s9(2)(i) in fulfilment of the Crown's statutory obligations under the Maritime Transport Act 1994 (MTA), in regard to the decommissioning of the Tui Oil Field.

Context

2. The Tui oil field is located 50 km off the coast of Taranaki in New Zealand's Exclusive Economic Zone. Tamarind Taranaki Limited assumed operatorship in 2017. However, Tamarind was placed into liquidation in December 2019. In April 2020, Tui's subsea assets were disclaimed to the Crown. The Crown is now the owner of the Tui assets through the common law principle of *bona vacantia* and has responsibility for decommissioning the field.
3. In February 2020, the Crown recognised a constructive obligation to meet the costs of decommissioning. Cabinet agreed to appropriate \$154.6 million to provide for this obligation [CBC-20-MIN-0008 refers].
4. Under delegated authority, the chief executive and officials at the Ministry of Business, Innovation and Employment (MBIE) are now leading the decommissioning project on behalf of the Crown (T2020/1650 refers).

The demobilisation phase of the programme is due to begin in January 2021 and any delays to this work will generate significant additional costs to the Crown.

5. On 18 November 2020, MBIE agreed a Demobilisation Agreement with BW Umuroa Pte Ltd (BWU), the operator of the FPSO (floating production storage and offloading vessel)¹. The initial deadline for completing the demobilisation is May 2021, however, there is a provision in the Agreement for extension until June 2022 should the work be delayed by unforeseen events (such as Covid-19).
6. BWU plan to commence offshore activity in early January 2021. The work employs expensive equipment such as construction vessels and tugs, which at peak equate to over s9(2)(j).
7. Delays in the peak programme could cost s9(2)(j)

Therefore there is a strong incentive to have the work start in January 2021 and be completed as expeditiously as possible.

¹ This vessel the MV *Umuroa* has operated as the offshore production facility for the Tui field

Compliance with Maritime Transport Act 1994

The demobilisation of the FPSO and subsequent decommissioning is considered a marine operation which would be covered by the MTA.

8. Under the MTA the owner of a marine structure or the person in charge of a marine operation must pay the Crown or a marine agency (which includes MNZ) the costs of dealing with the discharge or escape of a harmful substance, such as oil, into New Zealand waters. The person responsible is also liable in damages to third parties for all pollution damage resulting from the escape of oil into New Zealand waters.
9. These obligations now sit with the Crown as it has assumed responsibility for the decommissioning of the Tui field. The extent of the liability is unlimited.
10. The MTA also requires that a current certificate of insurance must be in force in respect of every regulated offshore installation, such as Tui. This is issued by the Director of MNZ and provides assurance that the obligations described in paragraph 8 will be met. The Director must be satisfied that the contracts of insurance or other financial security provide cover to a specified amount.

MNZ indicated on 4 December 2020 that it requires MBIE to purchase additional insurance cover.

11. MBIE currently has s9(2)(i) of coverage which was deemed fully appropriate for the inherent risks associated with the project. The field ceased production in late 2019² and there are only very minor volumes of hydrocarbons in the flow-lines and wells compared with a field which is actively producing. s9(2)(i)

12. After many months of dialogue, MNZ informed MBIE on 4 December 2020 that MBIE would be required to increase its insurance cover to s9(2)(i). This is based on MNZ's independent assessment of the risk profile for the field.
s9(2)(i)
s9(2)(i)


13. s9(2)(i)


² This followed an abatement notice being issued by the Environmental Protection Agency following discovery of an oil sheen in the vicinity of the FPSO

Options and proposed approach

A letter of assurance from you to MNZ stating that the Crown will meet s9(2)(i) of costs in the event of a spill is the most cost effective and expeditious solution. We have attached a draft letter to this report for your consideration.

14. There are two main options to resolve this issue:

- **Option A (preferred option):** send a letter of assurance from you to MNZ stating that the Crown will meet liabilities up to s9(2)(i). Under this option, MBIE's existing insurance would cover the first s9(2)(i) of costs in the event of a spill and the Crown would provide up to an additional s9(2)(i) (taking the total coverage up to s9(2)(i)).
- **Option B:** do not provide a letter of assurance and rely on MBIE purchasing an additional \$50 million in insurance coverage (taking the total coverage up to \$100 million). The cost of this is estimated to be around \$500,000.

15. Option A is the preferred option as it generates no immediate costs to the Crown and would satisfy MNZ's requirements to allow for the near immediate issuance of a certificate of insurance. This is also the quickest solution to implement and therefore minimises the risks of delay and the associated costs for the Crown. MBIE has tested this approach with MNZ and it has confirmed that this will satisfy its requirements.

16. Option B is not recommended, s9(2)(i)

. MBIE has already approached the insurance market to try to increase insurance cover from s9(2)(i). There is only a very limited time to complete this extension of cover and this may not be possible within the desired timeframes. s9(2)(i)

The costs of this increase are expected to be in excess of

17. Under option A in the event of a spill, MBIE's existing insurance would cover the first s9(2)(i) of any costs incurred. However, the Crown would incur all costs above s9(2)(i). Under option B, insurance would be in place and so the Crown would only incur costs above s9(2)(i)

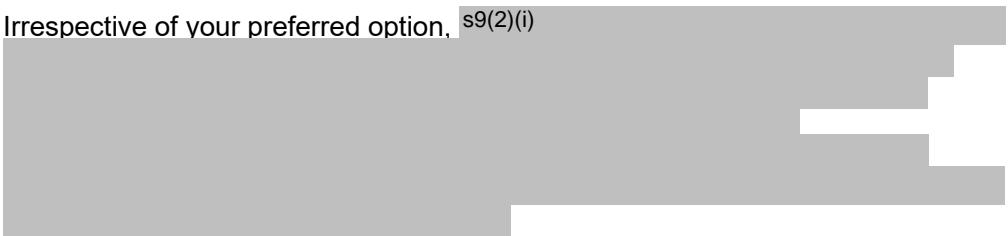
As such, option A is still the preferred option, given that this avoids the up-front costs of insurance and will provide the quickest route to a certificate of insurance.

s9(2)(h)

s9(2)(h)



Next steps

20. If you agree to Option A, officials will work with your office to send the agreed letter of assurance to MNZ. If you do not wish to send a letter, then MBIE will seek to purchase an additional s9(2)(i) in insurance coverage to ensure compliance with the MTA. There is a risk that this may cause delays to work due to commence in early January 2021.
21. Irrespective of your preferred option, s9(2)(i)


Hon Grant Robertson

MP for Wellington Central

Deputy Prime Minister

Minister of Finance

Minister for Infrastructure

Minister for Sport and Recreation

Minister for Racing



16 December 2020

The Director
Maritime New Zealand
PO Box 25620
Wellington 6140

Attention: s9(2)(g)(ii)
[REDACTED]

Tui decommissioning project

As you are aware, following the insolvency of Tamarind Taranaki Limited the Crown has assumed the responsibility for decommissioning the Tui oil field.

The subsea assets, including the wellheads and flowlines and associated equipment have also now vested in the Crown under the principle of *bona vacantia*. The Crown is therefore in the position of being the owner of a marine structure and in charge of a marine operation for the purposes of the Maritime Transport Act 1994 (MTA).

The first stage of the process involves the demobilisation (disconnection) of the floating production, storage and offloading vessel, the *MV Umuroa*, from the subsea assets and I am informed MBIE is planning to commence these activities in January 2021 with a view to completing them by May 2021.

Under Part 26A of the MTA, the Crown is required to have in place an insurance policy in respect of liabilities relating to the release of hydrocarbons. MNZ is responsible for issuing the certificate of insurance that confirms that the type and level of insurance proposed meets the requirements of the Act and the Maritime Protection Rules.

MBIE has already arranged insurance cover of up to s9(2)(i) [REDACTED] for the demobilisation and decommissioning phase of the project. s9(2)(i) [REDACTED]

In light of that I confirm, on behalf of the Crown, that in the event that there is a release of oil from the Tui field, the Crown will meet its statutory liabilities under part 26A of the MTA up to s9(2)(i) [REDACTED] in relation to all phases of the Tui demobilisation and decommissioning.

Yours sincerely,

Hon Grant Robertson
Minister of Finance



Treasury Report: Advanced Vaccine Purchasing: Entering Definitive Agreement - Pfizer

Date:	Friday 18 December 2020	Report No:	T2020/3756
		File Number:	SH-1-6-1-3-3-13-1

Action sought

	Action sought	Deadline
Hon Grant Robertson Minister of Finance	<p>Agree to provide an indemnity to Pfizer Inc, BioNTech and specific persons associated with them</p> <p>Sign and have witnessed the Advanced Purchase Agreement.</p>	Friday 18 December 2020

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Jess Jenkins	Analyst, Health & ACC	s9(2)(k)	s9(2)(g)(ii) ✓
Jess Hewat	Manager, Health & ACC	s9(2)(k)	s9(2)(g)(ii)
Stacey Lulham	Senior Solicitor	N/A (wk)	s9(2)(g)(ii)

Minister's Office actions (if required)

Return the signed report and signed and witnessed Advanced Purchase Agreement to Treasury.
Present a statement of indemnity to the House of Representatives.

Note any feedback on the quality of the report

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- Enclosure:**
1. Treasury report T2020/3097 (the 'Earlier Pfizer Report')
 2. Pfizer / BioNTech Advanced Purchase Agreement for execution
 3. Statement of Indemnity for presenting

The documents listed above are withheld under s9(2)(ba)(i), s9(2)(ba)(ii), s9(2)(h) and s9(2)(j)

Recommended Action

We recommend that you:

1. s9(2)(ba)(i) & s9(2)(ba)(ii)
2. **note** that the indemnity is not within the permitted categories of indemnity that MBIE can give under section 65ZE of the Public Finance Act 1989 and the Public Finance (Departmental Guarantees and Indemnities) Regulations 2007
3. **note** that under section 65ZD of the Public Finance Act 1989, the Minister of Finance may, on behalf of the Crown, give an indemnity if it appears to the Minister to be necessary or expedient in the public interest to do so
4. **note** that in the circumstances Treasury considers giving an indemnity to the Indemnified Parties to be necessary or expedient in the public interest
5. **note** that you have previously granted an indemnity to the Indemnified Parties under section 65ZD of the Public Finance Act 1989, by way of the Deed of Indemnity
6. **agree** to provide a further indemnity to the Indemnified Parties under section 65ZD of the Public Finance Act 1989, on substantively the same terms as the Deed of Indemnity

Agree / Disagree

7. **sign, date, and have witnessed** the attached Definitive APA in order to grant the indemnity
8. **note** that as the contingent liability of the indemnity is considered likely to exceed \$10.0 million, section 65ZD(3) of the Public Finance Act 1989 requires you to present as soon as practicable a statement to the House of Representatives that the indemnity has been granted
9. **agree** to present a statement to the House of Representatives that this indemnity has been given, as soon as practicable after giving the indemnity, as the contingent liability of the indemnity is likely to exceed \$10 million

Agree / Disagree

10. s9(2)(h)

Agree / Disagree

Jess Hewat
Manager, Health & ACC

Hon Grant Robertson
Minister of Finance

Treasury Report: Advanced Vaccine Purchasing: Entering Definitive Agreement - Pfizer

Purpose of Report

1. This report seeks your agreement to provide Pfizer Inc ('Pfizer') and BioNTech (the 'Suppliers') and specific persons associated with them (together the 'Indemnified Parties') with an indemnity for the purpose of entering into a definitive advanced purchase agreement for the procurement of 750,000 courses of BNT162, the Suppliers' COVID-19 vaccine candidate, for delivery in the first half of 2021.
2. s9(2)(ba)(i) & s9(2)(ba)(ii)

3. As with the most recent advanced purchase agreement ('APA'), Novavax, there is no separate Deed of Indemnity, and instead all indemnity provisions are contained in the Agreement itself. Therefore, should you agree to grant the indemnity you will need to execute the Agreement in relation to the indemnity provisions.
4. In the near future you will receive advice from the Ministry for Business, Innovation and Employment ('MBIE') seeking joint Vaccine Ministers' approval to execute the definitive supply agreement and appropriate funds for the purchase.

Background

5. New Zealand executed and announced a binding terms sheet with Pfizer on 6 and 12 October (respectively) this year, setting out the key terms for the purchase of 750,000 courses of Pfizer's vaccine candidate.
6. You have already approved, and signed, a deed of indemnity (the 'Deed of Indemnity') in favour of the Indemnified Parties, conditional on and commencing at the execution of a definitive supply agreement by all parties (Treasury report T2020/3097 refers (the 'Earlier Pfizer Report')). The Earlier Pfizer Report is attached as Appendix 1. That Deed of Indemnity was signed on 5 October 2020, at the time of entry into the binding terms sheet.

7. s9(2)(h)

8. A statement about the indemnity was presented to the House of Representatives on 26 November 2020.
9. A definitive agreement (based on the key terms set out in the term sheet) (the 'Definitive APA') has now been agreed with the Suppliers, to be entered into with Pfizer New Zealand Limited. As the Definitive APA contains indemnity provisions, your approval to the grant of the indemnity will be required, and you will need to sign the Definitive APA.

s9(2)(h)

Officials' assessment that indemnifying the Indemnified Parties on the terms outlined in the Terms Sheet is 'necessary or expedient in the public interest'.

16. It is a matter for you to decide whether you are satisfied that it is necessary or expedient in the public interest to give an indemnity to the Indemnified Parties on the terms outlined in the Definitive APA.
17. As noted above, the indemnity provision in the Definitive APA is on substantively identical terms to the indemnity provision in the Deed of Indemnity (other than minor drafting changes). s9(2)(ba)(i) & s9(2)(ba)(ii)

[REDACTED] we remain of the view that in the circumstances giving the requested indemnity on such terms satisfies the "necessary or expedient in the public interest" test in section 65ZD of the PFA, and therefore it is open to you to give the indemnity.

18. The reasons for our view (including risks and mitigations) are set out in detail in our Earlier Pfizer Report (attached as Appendix 1) and in paragraphs 22-25 of this Report, which discuss the additional risks.
19. Once this indemnity is granted, there will be two indemnities in force that are in substance identical – one in the Deed of Indemnity and one in the Definitive APA.

s9(2)(h)



s9(2)(ba)(i) & s9(2)(ba)(ii)



s9(2)(ba)(i)



s9(2)(ba)(i) & s9(2)(ba)(ii)

27. Officials consider, taking into account the additional risks as well as all the reasons set out in the Earlier Pfizer Report, it remains open to you to grant the indemnity, and that the benefits of granting the indemnity outweigh the risks.

Financial implications

28. We previously advised you of the full financial implications associated with entering into the Agreement in the early Pfizer report. However, no funding was drawn down at the time of entering into the Heads of Terms.
29. Due to packaging requirements, New Zealand will be purchasing 260 additional courses of the vaccine (raising the total purchase cost s9(2)(ba)(i) & s9(2)(ba)(ii))
30. If you agree to the indemnity and Vaccine Ministers agree to enter into the Agreement, you must also agree to draw down [REDACTED] million from the vaccine tagged contingency to make the necessary payments to Pfizer for 750,260 courses of the vaccine. s9(2)(ba)(i) & s9(2)(ba)(ii)
31. s9(2)(ba)(i) & s9(2)(ba)(ii)

Next Steps

32. If you agree that it is necessary or expedient in the public interest to give the indemnity and you would like to grant the indemnity, you will need to sign the attached Definitive APA.
33. We note that section 65ZD(3) of the PFA provides:
- If the contingent liability of the Crown under a guarantee or an indemnity given by the Minister under subsection (1) exceeds \$10 million, the Minister must, as soon as practicable after giving the guarantee or indemnity, present a statement to the House of Representatives that the guarantee or indemnity has been given.*
34. s9(2)(ba) we consider potential maximum exposure likely to exceed \$10 million. We therefore recommend that, if you decide to grant the indemnity, you present the required statement to the House. A form of statement is attached as Appendix 3.
35. On 27 November 2020 you presented a statement to the House regarding the indemnity to the Indemnified Parties under the Deed of Indemnity.
36. s9(2)(h)

[REDACTED] s9(2)(ba)

s9(2)(ba)

37. Entering the Agreement requires a drawdown of ^{s9(2)(ba)(i) & s9(2)(ba)(ii)} [REDACTED] million from the Vaccine Tagged Contingency in Vote Health to make the necessary payments to Pfizer. Note that this drawdown does not include the costs of additional liabilities which may arise upon the vaccine becoming available to New Zealand. The Ministry of Health will record these costs as contingent liabilities and then if the costs arise, Vaccine Ministers will be separately notified of the expenditure.