



NEW ZEALAND MUTUAL
LIABILITY RISKPOOL

ANNUAL REPORT 2011



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NEW ZEALAND MUTUAL
LIABILITY RISKPOOL



LIABILITY RISKPOOL | MISSION STATEMENT

- > Assisting and encouraging Local Government to take greater collective responsibility for managing liability risks.
- > Facilitating group support and the dissemination of collective knowledge, expertise and experience.
- > Proactively identifying, analysing and responding to emerging liability issues with practical and meaningful risk management advice and assistance.
- > Providing a complete and balanced service to all Members, incorporating scheme administration, risk management and loss control advice, and claims management services.
- > Providing a meaningful and practical risk management and loss control service which is effective, accountable and designed to meet the needs of Local Government.
- > Providing a claims management service which is equitable and achieves financial efficiency whilst promoting better public relations between local authorities and their communities.



CHAIRMAN'S REPORT

Councils in New Zealand own assets valued at \$79 billion, have annual operating revenue of \$5.5 billion, and employ around 40,000 staff. Even in a country that is not litigious that provides a lot of opportunity for something to go wrong for which a council could be sued.

Prior to 1997, New Zealand councils would try to buy suitable liability insurance, but the cover they wanted was not always available and the pricing for the cover that was available was becoming increasingly unattractive. This was not a problem unique to New Zealand (or to local authorities for that matter) and based on overseas models Riskpool was launched.

Riskpool is a mutual liability fund that operates for the benefit of its members, which exclusively are councils and council controlled organisations. In the 14 years to 30 June 2011, Riskpool received notification of 10,223 claims for a total expected cost of \$153 million. A breakdown of those claims by type is provided in the Scheme Manager's report on page 4.

Dominating Riskpool's claims since 2002 has been the so-called leaky building claims. These come from owners of buildings that councils consented to, inspected and issued code compliance certificates for, that subsequently developed weathertightness problems. Ironically the problem with 'leaky buildings' is not so much that they leak, but the fact that once water gets inside the building it cannot then easily get out. This over time causes any wooden components to rot, particularly if the wood is untreated. In a report to government in 2009, PricewaterhouseCoopers

estimated the total cost of leaky buildings to the country at a staggering NZ\$11.5 billion and theirs was not the highest estimate. Around 82% of Riskpool's expected claims costs for its first 14 years of operation relates to leaky building claims.

Underlying all leaky building claims to councils is a duty of care affirmed by the Privy Council in *Invercargill City Council v Hamlin* [1996]. This case illustrates better than anything else why councils need to act collectively with their liability claims management and think beyond the current year's cost of cover. In 1972 a building inspector employed by the Invercargill City Council was negligent with an inspection. In 1990 proceedings were commenced against Invercargill City Council. More than twenty years after that Auckland Council alone had uninsured building defect claims that will cost them hundreds of millions of dollars.

The claim statistics on page 5 also demonstrate that Riskpool deals with many other types of claim in addition to leaky building claims. Members continue to receive comprehensive liability cover through Riskpool at very competitive rates and to have their claims settled on satisfactory terms.

Notwithstanding additional revenue in the 2010-11 year of just over \$7 million from calls, this year's financial statements show only a slight improvement in the overall deficit. As a result your Board will need to consider during the year the expected call requirements for 2013 and 2014. There are a number of reasons why the cost of leaky building settlements has continued to grow, but the main ones are increased cost of repairs and the increasing frequency with which the Council is the 'last man standing'.

The introduction of the financial assistance package for owners of leaky homes in July 2011 allows the owners of leaky homes built in the last ten years to recover up to 50% of agreed remedial costs from central and local government providing they agree not to pursue a claim against their council. The take up of this package is not known, but it is thought that it will not have a large impact on claims against Riskpool.

The trend for leaky building settlements and provisions to grow is largely limited to claims through the Weathertight Homes Tribunal, which from fund year seven onwards are not covered by Riskpool's reinsurance. Leaky building claims through the High Court, which for Funds up to fund year nine were reinsured, have been recoverable from Riskpool's reinsurers. As at 30 June 2011, recoveries from Riskpool's reinsurers amounted to \$33.5 million.

Subsequent to balance date an agreement was reached with Riskpool's main reinsurer for fund years three to ten to

commute Riskpool's reinsurance claims with that reinsurer. A full and final settlement for an additional \$12 million was agreed. Payments to Riskpool by its reinsurers at the end of November 2011 including this amount totalled \$49.9 million. In accepting the commutation offer your Board carefully considered the benefits of certainty of payment and what was considered a very fair allowance within the offer for potential claims inflation. Policies with the other reinsurers for these fund years remain intact and further recoveries over the next couple of years or so of about \$5 million are expected.

The reports from the Claims Manager and Risk Manager describe the important changes in law that Riskpool cases have brought about. I would like to highlight one of those, which is another example of a single case that could have wide repercussions for the sector: Horizons Regional Council was sued by two farmers for failure to adequately maintain its stopbanks. The farmers said that because of this their crops were destroyed in the 2004 Manawatu floods and in 2011 they sued the council for about \$3 million. This case has significant implications for Regional/Unitary Authorities. The judgement held councils do owe a duty of care to third parties in respect of the maintenance and management of flood protection schemes. It was held that Horizons breached that duty in one main way, but it was found that the damage to third party property was not caused by that negligent breach as it would have occurred regardless, and Horizons escaped liability.

It cannot be emphasized enough - our role is not just about reducing the cost of claims paid (although we do work very hard at that), but extends to include helping our members as much as we can within the reasonable parameters of our protection wording and with regard to the overall wellbeing of the local government sector.

Riskpool has played, and continues to play, an important and valuable role in the local government liability sector. Despite that success, there is room for further improvement and the Board remains committed to the core values that underpinned the formation of Riskpool. Listening to members' concerns and responding to their needs remains a first priority.

Riskpool could not operate without the important work carried out by its advisors. I would like to formally thank on behalf of the Board the Scheme Manager (Jardine Lloyd Thompson), the Scheme Solicitor (Heaney & Co) and the Fund Manager (Civic Assurance) for their ongoing and valuable work.



Bryan Taylor
CHAIRMAN



SCHEME MANAGER'S OPERATIONAL OVERVIEW

The year under review saw the resolution or settlement of a significant number of claims and some good success in non-weathertight litigation. The year also saw a much reduced number of reported claims across most claim categories, although we do expect final numbers to increase slightly as late notified claims or incurred but not reported Public Liability claims make their way to our attention.

We continue to deal with the legacy of historical weathertight claims against local authorities. Significant settlement or resolution activity involving large multi-unit weathertight claims took place during the year. These claims are typically difficult to reserve for because of their complexity and the number of other parties to them. These claims have largely driven the volatility in our financial statements that Members will have seen over recent years. As the number of these that remain open reduces, so too should the magnitude of volatility they cause.

Notwithstanding that, weathertight claims are sensitive to changes in the litigation environment. As remedial costs continue to increase, and Councils are increasingly the only judgement-worthy defendant or third party, the costs associated with these claims has also increased. Local Government continues to bear a disproportionate burden.

The effect of this has been a further deterioration in the accounts, notwithstanding the resolution of claims and the call instalment made during the year.

The full effect of the Government's Financial Assistance Package is yet to be seen. The Package involves a 25% contribution towards remedial costs by Central Government and 25% from the local authority concerned, leaving the home-owner to independently pursue other parties. Our approach to this, where an application involves a notified claim which is covered, is to consider whether there is a financial benefit to the Council and/or Riskpool on a case by case basis, when measured against the merits of the claim from a litigation perspective.

We are also beginning to see the benefits of historical underwriting measures taken to relieve Riskpool from the effect of weathertight claims.

Those measures were:

- *The introduction of a multi-unit exclusion in Fund 10 for Councils with a frequency of these claims;*
- *The introduction of a \$500,000 annual aggregate sub-limit for all weathertight claims for each member for Funds 11 and 12 to limit the Fund's exposure to any Councils with a frequency or severity of claims; and*
- *The introduction of an exclusion for weathertight claims from 30 June 2009 except for 23 low risk Councils, for which the \$500,000 annual aggregate cover was maintained and is the subject of reinsurance protection.*

The penultimate step placed Riskpool with a clear path forward from June 2009.

We were pleased to successfully defend a significant Regional Council claim involving the failure of flood protection works resulting in large third party losses. However, it was a win only on causation. The risk of claims arising from the failure of these types of asset exhibit relative frequency linked to the frequency of flood event, and also severity given the nature of loss or damage that may be caused to third parties. We will be ready to assist with risk management work so that any future claim may be confidently defended and this should benefit Unitary and Regional authorities with relatively significant flood protection assets.

The recovery from the Canterbury earthquakes and aftershocks poses a significant burden on the building control resources of territorial authorities involved considering the sheer volume of consents, inspections and certification that will inevitably be required, in addition to "business as usual" building control activity. In anticipation of that, we have been involved with Christchurch City Council in particular, and the Department of Building and Housing as the Council works towards a manageable way of attending to its building control responsibilities in the face of the volume of work the recovery will inevitably require to ensure that the risks that might arise are identified, mitigated or managed.

CLAIMS MANAGEMENT

10,223 notifications of claims or circumstances that might give rise to claims have been received and managed over the past 14 years since the Scheme commenced in 1997.

The following is a summary of those notifications.

	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Number of Members	57	70	74	76	79	80	81	83	82	82	78	78	72	57
Cause of Claim/ Notification	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Building Control Matters	176	255	212	173	177	629	398	465	379	384	361	490	173	104
RMA Matters	81	159	86	98	76	90	78	76	47	31	32	59	72	32
Flooding/Blocked Drains	57	90	68	64	58	40	43	57	51	35	23	43	67	23
LIM's	51	57	39	46	36	75	62	79	56	61	38	54	55	35
Landslip/Subsidence	34	42	28	32	26	27	46	27	16	17	10	34	15	31
Sewage Discharge	11	19	12	15	10	14	16	20	15	24	10	8	15	14
Falling Trees	10	12	11	9	8	6	17	10	25	16	11	13	11	14
Defamation	7	9	6	5	4	1	4	3	3	4	2	1	2	1
Other	223	212	219	234	290	196	149	145	146	163	155	171	134	117
Total	650	855	681	676	685	1078	813	882	738	735	642	873	544	371
Claims per Member	11.4	12.2	9.2	8.9	8.7	13.5	10.0	10.6	9.0	9.0	8.2	11.2	7.6	6.5

The reduction in number of building control claims is the result of the weathertight claim exclusion introduced at the beginning of 2009-10 for most Councils, and modification to the cover available prior to that. Most of the claims notified are by Councils with the exclusion, but have taken advantage of our claim management services notwithstanding an exclusion applying, or allegedly involve non-weathertight building defects.

During the year under review the exclusion of weathertight claims continued to have a reduced impact on the number of new Building Control matters notified by our Members. For those notifications subject to the exclusion we provide proven claim management services that assist Members to successfully resolve allegations that arise.

Resource Consent matters notified appear to have diminished, however, such is the nature of these matters we expect there will be further notifications made that are not yet accounted for. Resource Consent notifications take a longer period of time to eventuate.

BUILDING CONTROL

Building defect claims involve the alleged negligent issuing of building consents, allegedly negligent inspections during the course of construction and the issuing of allegedly erroneous Code Compliance Certificates which might be relied upon by third parties. Last year we set out the development of case law for territorial authorities and

update it with developments that have occurred during the year under review.

- *No. Three Meade Street v Rotorua District Council* – Councils owe no duty of care to commercial property owners. This has been confirmed in a number of subsequent cases, most notably in *Charterall Trustees v Queenstown Lakes District Council* which involved a fire.
- *Te Mata Properties v Hastings District Council* – Councils owe no duty of care to non-vulnerable plaintiffs who can otherwise protect their interests for example through the engagement of clerks of works, project managers or otherwise protect their interests through contractual warranties, but chose not to.
- *Dicks v Waitakere City Council* – directors of liquidated or wound up building companies, or others involved in the building process, can be found personally liable.
- *Hartley v Waitakere City Council* – plaintiffs can be found liable for failing to mitigate their losses, 33% in this case.
- “Byron Avenue” and “Sunset Terraces” – builders and developers who participated in the building project cannot hide behind liquidated companies. During the year under review the judgement of the Supreme Court was delivered. On appeal, the court was invited to determine whether *Hamlin*, was wrongly decided, or if

not, whether it was now appropriate to depart from the *Hamlin* principle that territorial authorities owe a duty of care to residential homeowners. The court held that *Hamlin* was not wrongly decided, and even if it were, it was not appropriate to depart from it. The principal reason for that is one of long standing community reliance upon the decision in *Hamlin* by many people when organising their affairs.

- *Scandle v Far North District Council and Auckland City Council v McNamara* – the courts will generally not impose a liability on a territorial authority for the negligence of a private certifier, even if the private certifier was not properly accredited to do the work undertaken. The *McNamara* appeal was heard by the Supreme Court during the year and we await that court’s decision.
- *The Attorney General as successor to the Assets and Liability of the Building Industry Authority v North Shore City Council & Ors* – “The Grange” was a claim that settled prior to trial. However, the BIA was joined to the proceedings as it had carried out a review of the Council’s systems and procedures prior to the construction of the development and had given the Council a “clean bill of health” causing it to not make any change to the way it performed its building control functions. Also, prior to the construction it became aware of the issues with products and construction techniques that have the potential

to give rise to weathertightness problems, and it was alleged that it failed to warn territorial authorities so that they could have been vigilant during the construction of buildings. During the year, the claim against the BIA was struck out. An appeal of that decision is now before the Supreme Court.

Of note however, is the deterioration in provisions for legacy weathertight claims that remain open. Whilst a significant number have now been disposed of, those that remain continue to deteriorate because of increased remedial costs and Councils commonly being the “last man standing”.

LAND INFORMATION MEMORANDA

These claims largely reflect the nature of the New Zealand property market. That market has slowed in recent years but the proportion of notifications that become active claims has increased. Notwithstanding that, these claims are characterised by being relatively modest in cost. Extensive risk management initiatives have been developed and are currently being implemented within Councils. In addition to that, we have run the first case involving an allegedly negligently issued LIM.

- *Altmarloch Limited v Marlborough District Council* – it was alleged that the Council omitted information (that arguably was not mandatory information) in a LIM. The court confirmed that Council’s owe a duty of care when releasing information in a LIM. The Supreme Court

appeal in this case was heard during the year under review. Regrettably, leave to argue the point on appeal that had the most potential to give some clarity and certainty to Local Government was declined. This means that the outcome of the appeal will be specific to this case and is unlikely to have any precedent value for Councils and Riskpool. The decision is awaited.

ASSET OWNERSHIP, MANAGEMENT AND MAINTENANCE

Local authorities own, manage and maintain a vast variety of assets. The spectrum for potential failure and consequent third party property damage is quite vast. Accordingly this makes risk management for the avoidance of liability claims particularly challenging. To an extent we have dealt with litigation when it arises with a view to avoiding a finding in nuisance, or in the case of negligence claims, the finding of a duty, or at least if a duty is found, its discharge is found to be reasonable in that instance. From that, it can be seen that each case will be particularly fact specific and as such, difficult to build a favourable body of case law for Local Government. The other feature of these claims is that even if a Council is found to have been negligent, a claim can be avoided for want of causation, that is to say the loss complained of would have occurred regardless of the Council’s act or omission, and that will always be very “fact specific”.

Over the years we have succeeded in claims arising from Local Government’s ownership, management and

maintenance of assets. The notable examples are *Atlas Properties Ltd and Ors v Kapiti Coast District Council* and *Tindall & Ors v Far North District Council*. However, during the year we defended a claim that is of particular note for regional authorities with significant flood protection works.

- *Easton Agriculture Ltd & Anor v Manawatu-Wanganui Regional Council* – This claim involved a significant floodway stopbank failure during the 2004 Manawatu floods. There was a multi-million dollar loss to crops alleged. The High Court held that Council did owe a duty of care in the monitoring and maintenance of its flood protection assets, and that was largely expected. What surprised us was a finding that Council had failed to discharge its duty to a reasonable standard given that its practices at first glance appeared to be entirely reasonable. The plaintiffs ultimately failed in their claim due to a finding that the loss would have occurred regardless of any act or omission by the Council. This gives rise to risk management issues, particularly for Regional and Unitary authorities which we will be addressing in the coming months.



RISK MANAGEMENT

Considering the events of the last 12 months it is not surprising that calls to our risk management help desk has been dominated by enquiries surrounding what information relating to the land is required to be in Land Information Memoranda and Project Information Memoranda; also, what information should be provided under general requests for information.

A common thread is that some Members now hold a number of geological reports, often for the one area, and these reports differ. This is understandable considering recent earthquake events. The important thing to remember is that The Local Government Official Information and Meetings Act requires Councils to provide

'information'. It does not require staff to interpret, analyse, or provide opinion on that information. At the time of writing we await the Supreme Court decision in *Marlborough District Council v Altmarloch JV and Ors* which should hopefully clear up the law as it relates to some of these matters.

Last year we reported that we had not seen a pattern in decline in our non-weathertight claims as ordinarily expected due to some emerging issues during the year, including a number of severe weather events. We are pleased to report that we have seen a decline in both non-weathertight and weathertight claims. This, we are sure, is a reflection of the continued good risk management practices that we are now seeing at so many Councils. It has been a

real pleasure to carry out liability assessments and see such an improvement in the procedures and practices, and to be able to issue so many positive reports.

Obviously the Canterbury earthquakes and aftershocks have affected our Canterbury Member Councils. The forthcoming challenge of managing vast numbers of building consent applications and subsequent inspections and issuing of Code Compliance Certificates present potential risks, and we will continue to work with those Councils, Christchurch City Council in particular on the issues as they arise.

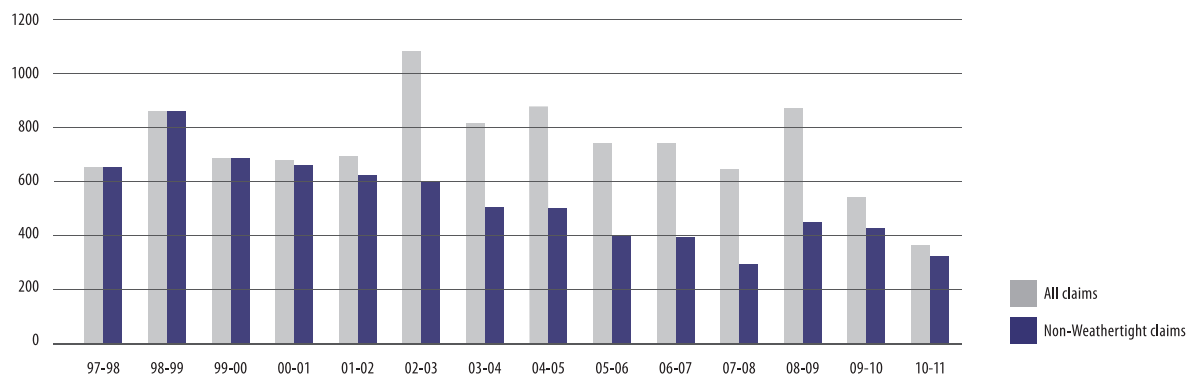
EASTON AGRICULTURE LTD V MANAWATU-WANGANUI REGIONAL COUNCIL

This Judgement deals with duty of care and negligence and will be of particular interest to Regional and Unitary authorities.

Early in 2004 a floodway stopbank adjacent to a trestle bridge failed following a one in 110 year flood. Nearby croplands were flooded.

The main questions in this case were whether the Regional Council was negligent in its monitoring and maintenance of the stopbank, and whether any such negligence caused the plaintiffs' loss.

FIGURE 1



The court first considered whether or not Council owed a duty of care to the plaintiffs in its monitoring and maintenance of the stopbank. He concluded that a duty of care did exist for three reasons. First, he considered s 148 of the Soil Conservation and Rivers Control Act 1941 and made the following two points:

- a) it would be a remarkable consequence if s 148 were to have the effect of excluding causes of action other than negligence, but that negligence itself could then arise. The Council's stance effectively would render it immune for all practical purposes from civil liability; and
- b) the purpose of s 148 (and its adjacent provisions) is in part to confirm that bodies such as the Council should be liable if they are negligent in the construction or maintenance of stopbanks.

His second point, in brief, was that Council explicitly undertakes monitoring and maintenance of the stopbanks, and budgets for that activity.

Thirdly the court stated that, although the breach of duty alleged in this case was an omission to repair, landowners in New Zealand may be held to owe a duty to maintain their land and to take positive steps to prevent harm to adjacent landowners resulting from the operation or use of their land.

In conclusion the court held that the Council owed the plaintiffs a duty of care in monitoring and maintaining the floodway stopbank.

With regard to negligence, the court concluded that the failure of the Council to identify and remedy the gap between the cement bags topping the stopbank, and the underside of the bridge, in the course of its routine monitoring and maintenance of stopbanks, was in breach of its duty of care. In that respect alone the court found the Council to have acted negligently. He went on to say, however, that he agreed with the tenor of the evidence given by experts called by the Council that it was unlikely that the potential failure site beneath the bridge caused the catastrophic failures that occurred to the stopbank upstream and downstream of the bridge and that it was more probable than not that those failures were caused by factors independent of the gap, exposed in the course of the exceptional one in 110 year, over-standard weather event. It is more probable than not that the floods that damaged the plaintiffs' crops would have occurred to exactly the same extent had the gap not been there.

It is clear from this judgement that the standard of the discharge of the duty is higher than we thought it would be. We thought that Council had acted appropriately and that its actions, at first glance appeared to be entirely reasonable.

The messages from this judgement are that Regional and Unitary Councils do owe a duty of care for the maintenance and management of flood protection works. Despite Council having a comprehensive monitoring and maintenance management plan it was still found to be in breach of that duty of care. Monitoring and maintenance plans must be particularly robust, especially in relation to the frequency of inspections and the identification and response to any weaknesses. Any problems identified should be well documented and all maintenance works carried out should be timely and, again, well documented. If monitoring and maintenance is outsourced Council needs to ensure that it is being carried out to the appropriate standard and that comprehensive documented is maintained.

The sole reason Council succeeded in its defence was the fact that the loss would have occurred anyway, regardless of Council's negligence.

The important thing to remember following any event is to involve us early on in the process. Often, if we are involved early enough, we can prevent the issue escalating so please do not hesitate to contact us in relation to any potential liability matters.

We look forward to working with you all in the coming year.



INDEPENDENT AUDITOR'S REPORT

To the readers of New Zealand Mutual Liability Riskpool's Financial Statements for the year ended 30 June 2011

The Auditor-General is the auditor of the New Zealand Mutual Liability Riskpool (the "Scheme"), comprising of Fund 1 to Fund 15 (the "Funds"). The Auditor-General has appointed me, Michael Wilkes, using the staff and resources of Deloitte, to carry out an audit of the financial statements of the Scheme on her behalf.

We have audited the financial statements of the Scheme on pages 12 to 26, that comprise the statement of financial position as at 30 June 2011, the statement of financial performance, statement of movements of trust funds and statement of cash flows for the year ended on that date and notes to the financial statements that include accounting policies and other explanatory information.

OPINION ON THE FINANCIAL STATEMENTS

In our opinion the financial statements of the Scheme on pages 12 to 26:

- comply with generally accepted accounting practice in New Zealand; and
- fairly reflect the Scheme's:

- financial position as at 30 June 2011; and
- financial performance and cash flows for the year ended on that date.

EMPHASIS OF MATTER – UNCERTAINTIES ASSOCIATED WITH THE OUTSTANDING CLAIMS PROVISION AND REINSURANCE RECEIVABLES, AND THE APPROPRIATENESS OF THE GOING CONCERN ASSUMPTION

Without modifying our opinion, we draw your attention to Notes 2 and 10 to the financial statements. Those notes describe how the Weathertightness Home Resolution Service may affect the outstanding claims provision and related reinsurance receivables of the Scheme. Those notes also describe the inherent uncertainties involved in estimating the outstanding claims provision and related reinsurance receivables using actuarial assumptions.

Also, without modifying our opinion, we draw your attention to Note 2 to the financial statements about the going concern assumption, which notes that for Funds 7 to 13 while the total liabilities exceed total assets, their ability to

continue on a going concern basis is appropriate because the Trustee is able to levy the members of the Funds to cover any shortfall in equity in any Fund under the terms of the Deed of Trust.

We consider the disclosures about both of the above matters to be adequate.

Our audit was completed on 2 December 2011. This is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Trustee and our responsibilities, and explain our independence.

BASIS OF OPINION

We carried out our audit in accordance with the Auditor-General's Auditing Standards, which incorporate the International Standards on Auditing (New Zealand). Those standards require that we comply with ethical requirements and plan and carry out our audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

An audit involves carrying out procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on our judgement, including our assessment of risks of material misstatement of the financial statements whether due to fraud or error. In making those risk assessments we consider internal control relevant to the Scheme's preparation of the financial statements that fairly reflect the matters to which they relate. We consider internal control in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the Scheme's internal control.

An audit also involves evaluating:

- the appropriateness of accounting policies used and whether they have been consistently applied;
- the reasonableness of the significant accounting estimates and judgements made by the Trustee;
- the adequacy of all disclosures in the financial statements; and
- the overall presentation of the financial statements.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements. We have obtained all the information and explanations we have required and we believe we have obtained sufficient and appropriate audit evidence to provide a basis for our audit opinion.

RESPONSIBILITIES OF THE TRUSTEE

The Trustee is responsible for preparing financial statements that:

- comply with generally accepted accounting practice in New Zealand;
- fairly reflect the Scheme's financial position, financial performance and cash flows.

The Trustee is also responsible for such internal control as it determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The Trustee's responsibilities arise from the Public Finance Act 1989.

RESPONSIBILITIES OF THE AUDITOR

We are responsible for expressing an independent opinion on the financial statements and reporting that opinion to you based on our audit. Our responsibility arises from section 15 of the Public Audit Act 2001.

INDEPENDENCE

When carrying out the audit, we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the New Zealand Institute of Chartered Accountants.

In addition to the audit, our firm has provided taxation compliance services to the Scheme during the year which is compatible with those independence requirements. Other than the audit and taxation compliance services, we have no relationship with, or interests in, the Scheme.



Michael Wilkes

DELOITTE

On behalf of the Auditor-General
Christchurch, New Zealand



NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Statement of Financial Performance for the year ended 30 June 2011

	Note	Fund No. 15 (11-12)	Fund No. 14 (10-11)		Fund No. 13 (09-10)		Fund No. 12 (08-09)		Fund No. 11 (07-08)	
		2011	2011	2010	2011	2010	2011	2010	2011	2010
		\$	\$	\$	\$	\$	\$	\$	\$	\$
Revenue										
Members' Contributions		-	3,752,667	-	-	4,098,500	-	-	-	-
Calls Received	9	-	-	-	-	-	-	824,705	-	696,573
Contribution to expenses from prior fund years		-	688,918	-	-	7,999	-	-	-	-
Reinsurance Recoveries	10	-	1,464,297	-	1,378,736	380,957	1,854,671	437,633	747,611	-
Direct Claims Expense	10	-	(1,885,839)	-	(1,230,521)	(1,954,719)	(3,640,903)	(1,865,871)	87,426	64,572
Claims Administration Expense		-	-	-	(204,610)	-	(338,271)	-	(96,600)	-
Reinsurance Expense		-	(2,140,050)	-	-	(1,466,300)	-	-	-	-
Net Result for the Period		-	1,879,993	-	(56,395)	1,066,437	(2,124,503)	(603,533)	738,437	761,145
Investment Revenue		-	20,842	-	8,426	28,450	22,167	37,262	17,953	34,982
Total Revenue		-	1,900,835	-	(47,969)	1,094,887	(2,102,336)	(566,271)	756,390	796,127
Expenditure										
Scheme Manager's Fee		-	1,252,771	-	(131,850)	1,294,720	-	20,148	-	-
Fund Manager's Fee		-	280,000	-	13,337	262,306	-	-	-	-
Audit Fees		-	9,157	-	1,294	7,407	1,850	2,813	1,850	2,026
Other Fees Paid to Auditors		-	10,000	-	2,200	20,000	-	-	-	-
Consultancy		-	152,005	-	34,793	99,831	-	24,174	-	-
Directors' Fees		-	45,917	-	1,500	50,854	-	-	-	-
Meeting/Travel Expenses		-	22,099	-	563	39,271	-	3,887	-	-
Directors & Officers Liability Insurance		-	11,400	-	-	12,600	-	-	-	-
Legal Fees		-	7,460	-	-	530	-	-	-	-
Printing and Stationery		-	4,500	-	14,061	11,144	-	-	-	-
Sundry Expenses		-	4,233	-	-	2,540	9	-	-	-
Total Expenditure		-	1,799,542	-	(64,102)	1,801,203	1,859	51,022	1,850	2,026
Net Surplus/(Deficit) before Tax		-	101,293	-	16,133	(706,316)	(2,104,195)	(617,293)	754,540	794,101
Tax Expense		-	-	-	-	-	-	-	-	-
Net Surplus/(Deficit) after Tax		-	101,293	-	16,133	(706,316)	(2,104,195)	(617,293)	754,540	794,101

This statement is to be read in conjunction with the Statement of Accounting Policies and Notes to the Financial Statements.

Fund No. 10 (06-07)		Fund No. 9 (05-06)		Fund No. 8 (04-05)		Fund No. 7 (03-04)		Fund No. 6 (02-03)		Fund No. 1-5 (97-02)		TOTAL	
2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
-	-	-	-	-	-	-	-	-	-	-	-	3,752,667	4,098,500
-	2,553,684	3,089,653	1,350,500	3,129,945	963,662	788,657	290,226	-	-	-	-	7,008,255	6,679,350
-	-	-	-	-	-	-	-	-	-	-	-	688,918	7,999
-	-	(1,289,281)	(7,166,113)	(573,068)	(3,358,956)	3,152,892	(8,226,564)	383,906	(3,907,762)	1,447,794	(1,526,137)	8,567,558	(23,366,942)
(3,738,575)	2,380,370	692,509	5,637,798	352,383	1,614,780	(3,648,442)	4,144,775	(575,775)	3,733,531	(1,530,956)	1,485,903	(15,118,693)	15,241,139
(21,884)	-	(4,352)	(7,269)	(9,122)	-	(4,871)	-	(8,252)	-	(956)	(730)	(688,918)	(7,999)
-	-	-	-	-	-	-	-	-	-	-	-	(2,140,050)	(1,466,300)
(3,760,459)	4,934,054	2,488,529	(185,084)	2,900,138	(780,514)	288,236	(3,791,563)	(200,121)	(174,231)	(84,118)	(40,964)	2,069,737	1,185,747
29,305	20,503	4,377	-	2	3,330	1,288	-	7,928	-	77,003	45,423	189,291	169,950
(3,731,154)	4,954,557	2,492,906	(185,084)	2,900,140	(777,184)	289,524	(3,791,563)	(192,193)	(174,231)	(7,115)	4,459	2,259,028	1,355,697
-	-	-	-	-	-	-	-	-	-	-	-	1,120,921	1,314,868
-	-	-	-	-	-	-	-	-	-	-	-	293,337	262,306
1,850	2,026	1,850	2,026	1,850	2,026	1,850	2,026	1,850	2,026	1,850	2,726	25,251	25,102
-	-	-	-	-	-	-	-	-	-	-	-	12,200	20,000
-	-	-	-	-	-	-	-	-	-	-	-	186,798	124,005
-	-	-	-	-	-	-	-	-	-	-	-	47,417	50,854
-	-	-	-	-	-	-	-	-	-	-	-	22,662	43,158
-	-	-	-	-	-	-	-	-	-	-	-	11,400	12,600
-	-	-	-	-	-	-	-	-	-	-	-	7,460	530
-	-	-	-	-	-	-	-	-	-	-	-	18,561	11,144
-	-	-	-	15	-	-	-	-	-	-	-	4,257	2,540
1,850	2,026	1,850	2,026	1,865	2,026	1,850	2,026	1,850	2,026	1,850	2,726	1,750,264	1,867,107
(3,733,004)	4,952,531	2,491,056	(187,110)	2,898,275	(779,210)	287,674	(3,793,589)	(194,043)	(176,257)	(8,965)	1,733	508,764	(511,410)
-	-	-	-	-	-	-	-	-	-	-	-	-	-
(3,733,004)	4,952,531	2,491,056	(187,110)	2,898,275	(779,210)	287,674	(3,793,589)	(194,043)	(176,257)	(8,965)	1,733	508,764	(511,410)



NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Statement of Movements in Trust Funds for the year ended 30 June 2011

	Note	Fund No. 15 (11-12)	Fund No. 14 (10-11)		Fund No. 13 (09-10)		Fund No. 12 (08-09)		Fund No. 11 (07-08)	
		2011	2011	2010	2011	2010	2011	2010	2011	2010
		\$	\$	\$	\$	\$	\$	\$	\$	\$
Total Trust Funds at 1 July		-	-	-	(706,316)	-	(3,227,185)	(2,609,892)	(2,112,994)	(2,907,095)
Net Surplus/(Deficit)		-	101,293	-	16,133	(706,316)	(2,104,195)	(617,293)	754,540	794,101
Capital Contribution		-	-	-	-	-	-	-	-	-
Total Trust Funds at 30 June	9	-	101,293	-	(690,183)	(706,316)	(5,331,380)	(3,227,185)	(1,358,454)	(2,112,994)

This statement is to be read in conjunction with the Statement of Accounting Policies and Notes to the Financial Statements.

Fund No. 10 (06-07)		Fund No. 9 (05-06)		Fund No. 8 (04-05)		Fund No. 7 (03-04)		Fund No. 6 (02-03)		Fund No. 1 - 5 (97-02)		TOTAL	
2011	2010	2011	2010	2011	2010	2010	2010	2011	2010	2011	2010	2011	2010
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
(4,408,815)	(9,361,346)	(6,121,125)	(5,934,015)	(5,209,549)	(4,430,339)	(5,166,848)	(1,373,259)	388,824	565,081	4,934,035	4,932,302	(21,629,973)	(21,118,563)
(3,733,004)	4,952,531	2,491,056	(187,110)	2,898,275	(779,210)	287,674	(3,793,589)	(194,043)	(176,257)	(8,965)	1,733	508,764	(511,410)
-	-	-	-	-	-	-	-	-	-	-	-	-	-
(8,141,819)	(4,408,815)	(3,630,069)	(6,121,125)	(2,311,274)	(5,209,549)	(4,879,174)	(5,166,848)	194,781	388,824	4,925,070	4,934,035	(21,121,209)	(21,629,973)

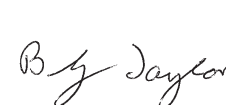
NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Statement of Financial Position as at 30 June 2011

	Note	Fund No. 15 (11-12)	Fund No. 14 (10-11)		Fund No. 13 (09-10)		Fund No. 12 (08-09)		Fund No. 11 (07-08)	
		2011	2011	2010	2011	2010	2011	2010	2011	2010
		\$	\$	\$	\$	\$	\$	\$	\$	\$
Trust Funds										
Trust Accounts		-	101,293	-	(690,183)	(706,316)	(5,331,380)	(3,227,185)	(1,358,454)	(2,112,994)
Trust Capital Account		-	-	-	-	-	-	-	-	-
Total	9	-	101,293	-	(690,183)	(706,316)	(5,331,380)	(3,227,185)	(1,358,454)	(2,112,994)
Represented by:										
Assets										
Bank – ANZ Banking Group		409,583	(209,949)	232,172	155,568	472,405	(1,922,625)	1,954,987	481,412	1,241,109
Short Term Bank Deposits		-	-	-	-	240,000	-	370,000	425,000	250,000
Accrued Interest		-	-	-	-	18	-	28	64	19
Accounts Receivable		-	-	-	131,850	-	-	-	-	-
Prepayments		30,841	-	38,953	-	-	-	-	-	-
Taxation Receivable/(Payable)		-	7,955	-	946	1,785	4,587	18,413	2,811	113,405
GST Receivable/(Payable)		(53,424)	60,029	(30,125)	38,862	70,313	269,318	243,413	46,511	142,220
Reinsurance Receivable	10	-	1,464,297	-	1,759,693	380,957	2,763,393	908,722	747,611	-
Total Assets		387,000	1,322,332	241,000	2,086,919	1,165,478	1,114,673	3,495,563	1,703,409	1,746,753
Current Liabilities										
Accounts Payable		-	81,709	-	2,035	51,485	2,035	15,369	2,256	4,497
Interfund Payable/(Receivable)		-	(688,918)	-	196,611	(7,999)	(1,138,315)	(1,476,586)	502,904	406,304
Contributions Received in Advance		387,000	-	241,000	-	-	-	-	-	-
Total Current Liabilities		387,000	(607,209)	241,000	198,646	43,486	(1,136,280)	(1,461,217)	505,160	410,801
Claims Provision	10	-	1,828,248	-	2,578,456	1,828,308	7,582,333	8,183,965	2,556,703	3,448,946
Total Liabilities		387,000	1,221,039	241,000	2,777,102	1,871,794	6,446,053	6,722,748	3,061,863	3,859,747
EXCESS/(DEFICIT) ASSETS OVER LIABILITIES		-	101,293	-	(690,183)	(706,316)	(5,331,380)	(3,227,185)	(1,358,454)	(2,112,994)

Signed on behalf of the Trustee, Local Government
Mutual Funds Trustee Limited on 2 December 2011

B Taylor
DIRECTOR



T Marryatt
DIRECTOR



This statement is to be read in conjunction with the Statement of Accounting Policies and Notes to the Financial Statements.

Fund No. 10 (06-07)		Fund No. 9 (05-06)		Fund No. 8 (04-05)		Fund No. 7 (03-04)		Fund No. 6 (02-03)		Fund No. 1-5 (97-02)		TOTAL	
2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
(8,141,819)	(4,408,815)	(3,630,069)	(6,121,125)	(2,311,274)	(5,209,549)	(5,025,365)	(5,313,039)	63,616	257,659	4,548,656	4,557,621	(21,774,979)	(22,283,743)
-	-	-	-	-	-	146,191	146,191	131,165	131,165	376,414	376,414	653,770	653,770
(8,141,819)	(4,408,815)	(3,630,069)	(6,121,125)	(2,311,274)	(5,209,549)	(4,879,174)	(5,166,848)	194,781	388,824	4,925,070	4,934,035	(21,121,209)	(21,629,973)
550,958	2,325,007	830,495	(5,776,219)	(477,400)	(2,064,058)	(1,522,972)	(286,883)	(951,658)	(1,807,129)	3,457,614	5,211,458	801,026	1,502,849
400,000	540,000	850,000	-	-	-	-	-	-	-	2,445,000	600,000	4,120,000	2,000,000
60	41	128	-	-	-	-	-	-	-	367	45	619	151
-	-	-	-	-	-	-	89,925	-	13,625	-	-	131,850	103,550
-	-	-	-	-	-	-	-	-	-	-	-	30,841	38,953
7,417	2,922	1,157	-	-	79	396	-	2,028	-	13,563	17,750	40,860	154,354
55,159	3,107	225,511	606,210	1,681	312,416	(224,888)	(227,033)	(85,605)	181,005	(71,442)	(64,612)	261,712	1,236,914
(59,683)	-	4,644,518	11,348,884	3,184,582	9,822,406	6,701,150	2,750,558	8,374,956	14,884,931	319,804	1,455,038	29,900,321	41,551,496
953,911	2,871,077	6,551,809	6,178,875	2,708,863	8,070,843	4,953,686	2,326,567	7,339,721	13,272,432	6,164,906	7,219,679	35,287,229	46,588,267
202,035	52,426	6,441	9,982	2,035	10,214	141,447	8,316	52,035	6,746	2,035	2,083	494,063	161,118
847,463	825,579	(548,972)	(553,324)	393,839	384,717	(309,526)	(314,397)	256,524	248,272	488,390	487,434	-	-
-	-	-	139,370	-	142,167	-	34,994	-	-	-	-	387,000	557,531
1,049,498	878,005	(542,531)	(403,972)	395,874	537,098	(168,079)	(271,087)	308,559	255,018	490,425	489,517	881,063	718,649
8,046,232	6,401,887	10,724,409	12,703,972	4,624,263	12,743,294	10,000,939	7,764,502	6,836,381	12,628,590	749,411	1,796,127	55,527,375	67,499,591
9,095,730	7,279,892	10,181,878	12,300,000	5,020,137	13,280,392	9,832,860	7,493,415	7,144,940	12,883,608	1,239,836	2,285,644	56,408,438	68,218,240
(8,141,819)	(4,408,815)	(3,630,069)	(6,121,125)	(2,311,274)	(5,209,549)	(4,879,174)	(5,166,848)	194,781	388,824	4,925,070	4,934,035	(21,121,209)	(21,629,973)



NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Statement of Cash Flows for the year ended 30 June 2011

	Note	Fund No. 15 (11–12)	Fund No. 14 (10–11)		Fund No. 13 (09–10)		Fund No. 12 (08–09)		Fund No. 11 (07–08)	
		2011	2011	2010	2011	2010	2011	2010	2011	2010
		\$	\$	\$	\$	\$	\$	\$	\$	\$
Cash flows from operating activities										
Cash was provided from:										
Members' Contributions		387,000	3,511,667	241,000	-	4,098,500	-	-	-	-
Calls Received	9	-	-	-	-	-	-	824,705	-	696,573
Interest Received – Bank		-	20,842	-	8,444	28,432	22,195	69,767	17,908	348,516
Reinsurance recoveries received		-	-	-	-	-	-	-	-	-
		387,000	3,532,509	241,000	8,444	4,126,932	22,195	894,472	17,908	1,045,089
Cash was applied to:										
Reinsurance		-	(2,140,050)	-	-	(1,466,300)	-	-	-	-
Scheme Manager's Fee		-	(1,252,771)	-	-	(1,294,720)	-	(20,148)	-	-
Fund Manager's Fee		-	(280,000)	-	(13,337)	(262,306)	-	-	-	-
Legal Fees		-	(7,460)	-	-	(530)	-	(7,500)	-	-
Claims		-	(57,591)	-	(495,119)	(111,665)	(4,254,344)	(1,359,719)	(806,770)	(2,641,449)
Consultants		(30,841)	(69,416)	(38,953)	(55,568)	(76,721)	-	(41,849)	-	-
Audit Fees		-	-	-	(6,666)	-	(1,667)	(8,368)	(1,667)	(1,521)
Other Expenses		-	(70,975)	-	(23,124)	(109,409)	(9)	(26,563)	-	-
Taxation Refunded/(Paid)		-	(7,955)	-	839	(1,785)	13,826	(12,690)	110,594	(70,785)
GST Refunded/(Paid)		53,424	(88,412)	30,125	27,694	(63,489)	(27,613)	(35,463)	95,238	(23,790)
		22,583	(3,974,630)	(8,828)	(565,281)	(3,386,925)	(4,269,807)	(1,512,300)	(602,605)	(2,737,545)
Net Cash inflow/(outflow) from operating activities	8	409,583	(442,121)	232,172	(556,837)	740,007	(4,247,612)	(617,828)	(584,697)	(1,692,456)
Net increase/(decrease) in cash held		409,583	(442,121)	232,172	(556,837)	740,007	(4,247,612)	(617,828)	(584,697)	(1,692,456)
Opening cash at 1 July		-	232,172	-	712,405	(27,602)	2,324,987	2,942,815	1,491,109	3,183,565
Closing cash at 30 June		409,583	(209,949)	232,172	155,568	712,405	(1,922,625)	2,324,987	906,412	1,491,109
Comprising of:										
Bank – ANZ Banking Group		409,583	(209,949)	232,172	155,568	472,405	(1,922,625)	1,954,987	481,412	1,241,109
Short Term Bank Deposits		-	-	-	-	240,000	-	370,000	425,000	250,000
Total		409,583	(209,949)	232,172	155,568	712,405	(1,922,625)	2,324,987	906,412	1,491,109

This statement is to be read in conjunction with the Statement of Accounting Policies and Notes to the Financial Statements.

Fund No. 10 (06-07)		Fund No. 9 (05-06)		Fund No. 8 (04-05)		Fund No. 7 (03-04)		Fund No. 6 (02-03)		Fund No. 1-5 (97-02)		TOTAL	
2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
-	-	-	-	-	-	-	-	-	-	-	-	3,898,667	4,339,500
-	2,553,684	2,950,283	1,489,870	2,987,778	1,105,829	843,588	3,735,295	13,625	486,375	-	-	6,795,274	10,892,331
29,286	79,577	4,249	-	2	4,343	1,288	-	7,928	-	76,681	165,135	188,823	695,770
59,683	-	5,415,085	2,026,048	6,064,756	387,138	(797,700)	1,097,836	6,893,881	1,690,847	2,583,028	464,242	20,218,733	5,666,111
88,969	2,633,261	8,369,617	3,515,918	9,052,536	1,497,310	47,176	4,833,131	6,915,434	2,177,222	2,659,709	629,377	31,101,497	21,593,712
-	-	-	-	-	-	-	-	-	-	-	-	(2,140,050)	(1,466,300)
-	-	-	-	-	-	-	-	-	-	-	-	(1,252,771)	(1,314,868)
-	-	-	-	-	-	-	-	-	-	-	-	(293,337)	(262,306)
-	-	-	-	-	-	-	-	-	-	-	-	(7,460)	(8,030)
(1,965,066)	(1,182,302)	(1,290,243)	(6,616,994)	(7,773,875)	(5,163,800)	(1,296,317)	(2,498,024)	(6,328,651)	(4,064,273)	(2,577,672)	(314,637)	(26,845,648)	(23,952,863)
-	-	-	-	-	-	-	-	-	-	-	-	(155,825)	(157,523)
(1,667)	(1,521)	(1,667)	(1,521)	(1,667)	(1,521)	(1,667)	(1,521)	(1,667)	(1,521)	(1,667)	(7,609)	(20,002)	(25,103)
-	-	-	-	(15)	-	-	-	-	-	-	-	(94,123)	(135,972)
(4,495)	41,289	(1,157)	-	79	20,709	(396)	-	(2,028)	-	4,187	13,975	113,494	(9,287)
(31,790)	(878)	380,164	(335,543)	309,600	(248,963)	15,115	(50,165)	272,383	(301,377)	6,599	2,506	1,012,402	(1,027,037)
(2,003,018)	(1,143,412)	(912,903)	(6,954,058)	(7,465,878)	(5,393,575)	(1,283,265)	(2,549,710)	(6,059,963)	(4,367,171)	(2,568,553)	(305,765)	(29,683,320)	(28,359,289)
(1,914,049)	1,489,849	7,456,714	(3,438,140)	1,586,658	(3,896,265)	(1,236,089)	2,283,421	855,471	(2,189,949)	91,156	323,612	1,418,177	(6,765,577)
(1,914,049)	1,489,849	7,456,714	(3,438,140)	1,586,658	(3,896,265)	(1,236,089)	2,283,421	855,471	(2,189,949)	91,156	323,612	1,418,177	(6,765,577)
2,865,007	1,375,158	(5,776,219)	(2,338,079)	(2,064,058)	1,832,207	(286,883)	(2,570,304)	(1,807,129)	382,820	5,811,458	5,487,846	3,502,849	10,268,426
950,958	2,865,007	1,680,495	(5,776,219)	(477,400)	(2,064,058)	(1,522,972)	(286,883)	(951,658)	(1,807,129)	5,902,614	5,811,458	4,921,026	3,502,849
550,958	2,325,007	830,495	(5,776,219)	(477,400)	(2,064,058)	(1,522,972)	(286,883)	(951,658)	(1,807,129)	3,457,614	5,211,458	801,026	1,502,849
400,000	540,000	850,000	-	-	-	-	-	-	-	2,445,000	600,000	4,120,000	2,000,000
950,958	2,865,007	1,680,495	(5,776,219)	(477,400)	(2,064,058)	(1,522,972)	(286,883)	(951,658)	(1,807,129)	5,902,614	5,811,458	4,921,026	3,502,849



NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Notes to the Financial Statements for the year ended 30 June 2011

Note 1. Statement of Accounting Policies

REPORTING ENTITY

The New Zealand Mutual Liability Riskpool (the "Scheme") is governed by a Deed of Trust dated 1 July 1997 and the provision of the Deed of Variation of Deed of Trust dated 22 June 2007.

The purpose of the Scheme is to provide professional indemnity and public liability cover to Member local governments and to manage all claims for civil liabilities made against Members. A separate Fund is established for each year providing cover for the period from 4pm 30 June to the following 4pm 30 June.

Local Government Mutual Funds Trustee Limited (LGMFTL) has been appointed to act as the Trustee for the Scheme.

New Zealand Local Government Insurance Corporation Limited trading as Civic Assurance (Civic) is the Fund Manager for the Scheme and holds all the shares in LGMFTL in trust for the Members of the Scheme.

GENERAL ACCOUNTING POLICIES

The financial statements for each fund year have been prepared in accordance with generally accepted accounting practice in New Zealand. Accrual accounting is used to match expenses and revenue.

MEASUREMENT BASE

The measurement base adopted is that of historical cost.

PARTICULAR ACCOUNTING POLICIES

The following particular accounting policies which materially affect the measurement of financial performance and financial position have been applied:

Goods and Services Tax

The financial statements are prepared on a GST exclusive basis except for receivables and payables which are stated inclusive of GST.

Revenue

Members' contributions are recognised in the relevant fund in the year for which they are invoiced.

Claims

All claims are provided for when notified and claims provisions are recognised at management's best estimate of future expected claims costs. The claims provision includes provision for future expected claims settlement, incurred but not reported claims, and incurred but not enough reported. It also includes expected future claims handling costs.

Reinsurance Recoverable

Reinsurance recoveries are provided for when the claims incurred exceed the reinsurance excess level. These debtors are stated at estimated realisable value.

Short Term Deposits

Short Term Deposits are held at cost and any accrued interest is recorded separately in the Statement of Financial Position.

Taxation

The income tax expense charged against the surplus for the year is the estimated liability in respect of that surplus and is calculated after an allowance for permanent differences. The liability method of accounting for deferred taxation is applied on a comprehensive basis. Future tax benefits attributable to tax losses or timing differences are only recognised when there is virtual certainty of realisation.

DIFFERENTIAL REPORTING

The Scheme qualifies for differential reporting as it is not publicly accountable and is not large. The Scheme has taken advantage of all exemptions except for FRS-10: *Statement of Cash Flows*.

CHANGES IN ACCOUNTING POLICIES

There have been no changes in accounting policies during the year.

Note 2. Going concern and areas of estimation uncertainties

Many assumptions were made in arriving at the estimated figure of the claims provision. The final outcome will depend on many variables including the percentage of The Weathertightness Home Resolution Service (WHRS) registrations that will not proceed, the percentage that will involve private certifiers and will have no impact on Riskpool and the contribution applied to other parties. The estimate takes into account all known relevant factors and draws on Riskpool's historical experience of these types of claims and external actuarial advice. The figure invariably will be subject to upwards or downwards adjustments in the future as claims are resolved.

For Funds 7 to 13, while the total liabilities exceed total assets, indicating a shortfall in equity, their ability to continue in existence on a going concern basis is appropriate because the Scheme provides mutual protection from risk on a discretionary basis and because the Trustee is able to levy the members of the Funds to cover any shortfall in equity in any Fund under the terms of the Deed of Trust.

Note 3. Taxation

The Scheme has not recognised a deferred tax asset in respect of either tax losses of \$24.5m (2010: \$25.3m) or timing differences of \$0.8m (2010: \$0.4m) as at 30 June 2011.

Note 4. Statement of cash flows

The Statement of cash flows is prepared on a GST exclusive basis which is consistent with the Statement of Financial Performance.

- a) Cash is considered to be cash on hand and current accounts in banks, net of overdrafts, and short term bank deposits.
- b) Investing activities are those relating to the acquisition, holding and disposal of investments.
- c) Financing activities are those activities which result in changes in the size and composition of the capital structure of the Scheme.
- d) Operating activities include all transactions and other events that are not investing or financing activities.

Note 5. Merger of funds

Prior to 30 June 2009 the Board decided that as all Fund 1 claims had been settled resulting in a small surplus and that Funds 2 – 4 had excess assets over liabilities and it was extremely unlikely to have claims settlements which would result in those excesses turning into deficits, it was appropriate that in exchange for the surplus within each of Funds 1 to 4, that Fund 5 (2001-02) accept any losses not recoverable by reinsurance on the operations of Funds 1 to 4 and that the surplus remaining in Funds 1 to 4 be applied by way of transfer to Fund 5 on or before 30 June 2009.

Note 6. Related parties

During the reporting period the Scheme had related party transactions with Civic who is the Fund Manager and a Reinsurer for the Scheme and holds all the shares in LGMFTL in trust for the Members of the Scheme.

In addition the Board of Directors of the Trustee consists of Chief Executive Officers of Member local governments who transact with the Scheme on an arms length basis.

Note 7. Contingent liabilities and commitments

Other than possible future liabilities in respect of claims which have not yet been notified, the Scheme had no contingent liabilities at 30 June 2011 (2010: Nil).

The Scheme had no capital or operating lease commitments at 30 June 2011 (2010: Nil).



NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Notes to the Financial Statements for the year ended 30 June 2011 *(continued)*

Note 8. Reconciliation Of Net Surplus/(Deficit) To Net Cash Inflow/(Outflow) From Operating Activities

	Fund No. 15 (11-12)	Fund No. 14 (10-11)		Fund No. 13 (09-10)		Fund No. 12 (08-09)		Fund No. 11 (07-08)		Fund No. 10 (06-07)	
	2011	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Net Surplus/(Deficit)	-	101,293	-	16,133	(706,316)	(2,104,195)	(617,293)	754,540	794,101	(3,733,004)	4,952,531
Add/(less) non cash items											
Claims Provision	-	363,951	-	(628,588)	1,447,351	(2,456,303)	64,532	(1,639,854)	(2,650,874)	1,704,028	(3,557,922)
Add/(less) movements in other working capital items	-	363,951	-	(628,588)	1,447,351	(2,456,303)	64,532	(1,639,854)	(2,650,874)	1,704,028	(3,557,922)
Accrued Interest	-	-	-	18	(18)	28	32,505	(45)	313,534	(19)	59,074
GST Receivable	53,424	(90,154)	30,125	31,451	(67,246)	(25,905)	(31,516)	95,709	(16,960)	(52,052)	(348)
Taxation Receivable	-	(7,955)	-	839	(1,785)	13,826	(10,620)	110,594	(70,785)	(4,495)	41,289
Interfund Payable/Receivable	-	(688,918)	-	204,610	(7,999)	338,271	-	96,600	-	21,884	-
Trust Income Distribution	-	-	-	-	-	-	-	-	-	-	-
Prepayments	(30,841)	38,953	(38,953)	-	24,535	-	-	-	-	-	-
Deferred Tax	-	-	-	-	-	-	-	-	-	-	-
Contribution received in advance	387,000	(241,000)	241,000	-	-	-	-	-	-	-	-
Accounts Receivable	-	-	-	(131,850)	-	-	-	-	-	-	-
Accounts Payable	-	81,709	-	(49,450)	51,485	(13,334)	(55,436)	(2,241)	(61,472)	149,609	(4,775)
	409,583	(907,365)	232,172	55,618	(1,028)	312,886	(65,067)	300,617	164,317	114,927	95,240
Net Cash inflow/(outflow) from operating activities	409,583	(442,121)	232,172	(556,837)	740,007	(4,247,612)	(617,828)	(584,697)	(1,692,456)	(1,914,049)	1,489,849

Fund No. 9 (05–06)		Fund No. 8 (04–05)		Fund No. 7 (03–04)		Fund No. 6 (02–03)		Fund No. 1–5 (97–02)		TOTAL	
2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
2,491,056	(187,110)	2,898,275	(779,210)	287,674	(3,793,589)	(194,043)	(176,257)	(8,965)	1,733	508,764	(511,410)
4,724,803	(3,057,916)	(1,481,207)	(3,033,801)	(1,714,155)	2,684,894	717,766	(2,163,711)	88,518	219,544	(321,041)	(10,047,903)
4,724,803	(3,057,916)	(1,481,207)	(3,033,801)	(1,714,155)	2,684,894	717,766	(2,163,711)	88,518	219,544	(321,041)	(10,047,903)
(128)	-	-	1,013	-	-	-	-	(322)	119,712	(468)	525,820
380,699	(335,017)	310,735	(249,190)	(2,145)	(49,816)	266,610	(297,004)	6,830	6,828	975,202	(1,010,144)
(1,157)	-	79	20,709	(396)	-	(2,028)	-	4,187	13,975	113,494	(7,217)
4,352	7,269	9,122	-	4,871	-	8,252	-	956	730	-	-
-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	8,112	(14,418)
-	-	-	-	-	-	-	-	-	-	-	-
(139,370)	139,370	(142,167)	142,167	(34,994)	34,994	-	-	-	-	(170,531)	557,531
-	-	-	-	89,925	3,410,075	13,625	486,375	-	-	(28,300)	3,896,450
(3,541)	(4,736)	(8,179)	2,047	133,131	(3,137)	45,289	(39,352)	(48)	(38,910)	332,945	(154,286)
240,855	(193,114)	169,590	(83,254)	190,392	3,392,116	331,748	150,019	11,603	102,335	1,230,454	3,793,736
7,456,714	(3,438,140)	1,586,658	(3,896,265)	(1,236,089)	2,283,421	855,471	(2,189,949)	91,156	323,612	1,418,177	(6,765,577)

Note 9. Calls – Funding the Deficit

The Board of the Trustee resolved in June 2009 that based on the claims outturn deficit estimates it was prudent to make a call for Funds 6 and 7. Subsequently, following actuarial advice, the Board determined and advised members of the expected further calls needed to cover the overall deficit of \$27 million in Fund years 7 to 12. The terms of those calls were: \$9 million on 1 July 2010, \$9 million on 1 July 2011 and the balance on 1 July 2012. Five of the larger members (in terms of claims made) were requested to pay their share of the three calls in advance on the condition they will receive a refund if less than \$9 million is required for the call in 2012. Consequently the calls for these five members totalling \$6,679,350 were invoiced during the year ended 30 June 2010 and were recognised as income during that year.



NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Notes to the Financial Statements for the year ended 30 June 2011 *(continued)*

Note 10. Claims

	Fund No. 15 (11–12)			Fund No. 14 (10–11)			Fund No. 13 (09–10)			Fund No. 12 (08–09)			Fund No. 11 (07–08)			Fund No. 10 (06–07)		
	2011			2011			2011			2011			2011			2011		
	\$			\$			\$			\$			\$			\$		
Cumulative Claims Experience																		
Claims paid - Prior year(s)	-	-	-	-	-	-	126,411	-	-	1,611,754	248,048	-	3,673,749	1,087,447	-	5,763,266	4,585,714	-
Claims paid - Current year	-	57,591	-	-	-	-	480,373	126,411	-	4,242,535	1,363,706	-	804,817	2,586,302	-	2,094,230	1,177,552	-
Claims Provision	-	1,828,248	-	-	-	-	2,578,456	1,828,308	-	7,582,333	8,183,965	-	2,556,703	3,448,946	-	8,046,232	6,401,887	-
Gross claims incurred (Paid and estimated)	-	1,885,839	-	-	-	-	3,185,240	1,954,719	-	13,436,622	9,795,719	-	7,035,269	7,122,695	-	15,903,728	12,165,153	-
Less reinsurance received	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(59,683)	-	-
Less reinsurance recoverable	-	(1,464,297)	-	-	-	-	(1,759,693)	(380,957)	-	(2,763,393)	(908,722)	-	(747,611)	-	-	59,683	-	-
Total Net Claims	-	421,542	-	-	-	-	1,425,547	1,573,762	-	10,673,229	8,886,997	-	6,287,658	7,122,695	-	15,903,728	12,165,153	-
Claims Reconciliation																		
Claims Provision 1 July	-	-	-	-	-	-	1,828,308	-	-	8,183,965	7,681,800	-	3,448,946	6,099,820	-	6,401,887	9,959,809	-
Claims paid - Current year	-	(57,591)	-	-	-	-	(480,373)	(126,411)	-	(4,242,535)	(1,363,706)	-	(804,817)	(2,586,302)	-	(2,094,230)	(1,177,552)	-
Reinsurance recoveries received	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	59,683	-	-
Current year's claims received	-	1,885,839	-	-	-	-	-	1,954,719	-	-	-	-	-	-	-	-	-	-
Current year's reinsurance recoverable	-	(1,464,297)	-	-	-	-	-	(380,957)	-	-	-	-	-	-	-	-	-	-
Reassessment of prior years claims	-	-	-	-	-	-	(148,215)	-	-	1,786,232	1,428,238	-	(835,037)	(64,572)	-	3,738,575	(2,380,370)	-
Movement in reinsurance recoveries	-	1,464,297	-	-	-	-	1,378,736	380,957	-	1,854,671	437,633	-	747,611	-	-	(59,683)	-	-
Claims Provision at 30 June	-	1,828,248	-	-	-	-	2,578,456	1,828,308	-	7,582,333	8,183,965	-	2,556,703	3,448,946	-	8,046,232	6,401,887	-

Each Fund has entered into a reinsurance contract with the effect that the Funds have maximum claims paying exposure of: Fund 1 \$2,000,000, Fund 2 \$2,500,000, Funds 3, 4 & 5 \$3,000,000, Fund 6 \$3,250,000, Fund 7 \$3,500,000, Funds 8 & 9 \$4,000,000, Fund 10 \$6,000,000, Fund 11 \$1,500,000, Fund 12 \$1,625,000, Fund 13 \$1,000,000 and Fund 14 \$0. However Funds 7 -9 do not have reinsurance cover for WHRS "leaky homes" claims and Funds 10 and thereafter do not have reinsurance cover for any "leaky homes" claims. All claims for Fund 14 are covered by reinsurance.

The Future Claims Administration Expense reflects the level of claims being handled. The table below shows the respective reserves for future claims administration expenses included in the claims provision.

Future Claims Administration Reserve	-	470,248	-	416,456	621,066	548,333	886,604	93,703	190,303	90,232	112,116
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Fund No. 9 (05-06)		Fund No. 8 (04-05)		Fund No. 7 (03-04)		Fund No. 6 (02-03)		Fund No. 1-5 (97-02)		TOTAL	
2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
15,064,775	8,452,496	9,212,077	4,046,962	11,063,056	8,568,325	11,713,520	7,684,731	12,526,603	12,241,671	70,755,211	46,915,394
1,287,054	6,612,279	7,766,648	5,165,115	1,412,005	2,494,731	6,367,984	4,028,789	2,577,672	284,932	27,090,909	23,839,817
10,724,409	12,703,972	4,624,263	12,743,294	10,000,939	7,764,502	6,836,381	12,628,590	749,411	1,796,127	55,527,375	67,499,591
27,076,238	27,768,747	21,602,988	21,955,371	22,476,000	18,827,558	24,917,885	24,342,110	15,853,686	14,322,730	153,373,495	138,254,802
(8,448,808)	(3,033,723)	(6,499,483)	(434,727)	(954,280)	(1,751,980)	(12,885,042)	(5,991,161)	(4,666,683)	(2,083,655)	(33,513,979)	(13,295,246)
(4,644,518)	(11,348,884)	(3,184,582)	(9,822,406)	(6,701,150)	(2,750,558)	(8,374,956)	(14,884,931)	(319,804)	(1,455,038)	(29,900,321)	(41,551,496)
13,982,912	13,386,140	11,918,923	11,698,238	14,820,570	14,325,020	3,657,887	3,466,018	10,867,199	10,784,037	89,959,195	83,408,060
12,703,972	24,954,049	12,743,294	19,523,189	7,764,502	14,404,008	12,628,590	20,390,910	1,796,127	3,566,962	67,499,591	106,580,547
(1,287,054)	(6,612,279)	(7,766,648)	(5,165,115)	(1,412,005)	(2,494,731)	(6,367,984)	(4,028,789)	(2,577,672)	(284,932)	(27,090,909)	(23,839,817)
5,415,085	2,026,048	6,064,756	387,138	(797,700)	1,097,836	6,893,881	1,690,847	2,583,028	464,242	20,218,733	5,666,111
-	-	-	-	-	-	-	-	-	-	1,885,839	1,954,719
-	-	-	-	-	-	-	-	-	-	(1,464,297)	(380,957)
596,772	1,528,315	220,685	1,744,176	495,550	4,081,789	191,869	174,231	83,162	40,234	6,129,593	6,552,041
(6,704,366)	(9,192,161)	(6,637,824)	(3,746,094)	3,950,592	(9,324,400)	(6,509,975)	(5,598,609)	(1,135,234)	(1,990,379)	(11,651,175)	(29,033,053)
10,724,409	12,703,972	4,624,263	12,743,294	10,000,939	7,764,502	6,836,381	12,628,590	749,411	1,796,127	55,527,375	67,499,591

69,409	73,761	57,263	66,385	65,939	70,810	43,381	51,633	10,411	10,327	1,865,375	2,083,005
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NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Notes to the Financial Statements for the year ended 30 June 2011 (*continued*)

Note 10. Claims (*continued*)

Claims

The claims provision is measured as the central estimate of expected future payments relating to claims incurred at the reporting date. The expected future payments include those in relation to claims incurred but not enough reported ("IBNER"). These claims are discounted in the financial statements at the average expected term to settlement.

Claims expense represents claim payments adjusted for movement in the claims provision. The estimation of the claims provision involves a number of key assumptions and is the most critical accounting estimate. The Directors take all reasonable steps to ensure that the Directors have appropriate information regarding claims exposures. External actuarial advice is sought and the use of other experts is used to assess open claims. However, given the uncertainty in establishing the liability, it is likely that the final outcome will be different from the original liability established. Changes in claims estimates impact profit and loss in the year in which the estimates are changed.

Central Estimate of Claims Provision

As at 30 June 2011 the central estimate of the claims provision was evaluated by Neil Christie (Fellow of the NZ Society of Actuaries) of Melville Jessup Weaver in accordance with the requirements of NZ Society of Actuaries: *Professional Standards No. 4 General Insurance Business*. The interest rates used for discounting were gross yields to redemption of NZ government debt of appropriate duration taken from the NZ Debt Management office website.

The estimation of the claims provision is based on an actuarial method that takes into account experience, trends, and other relevant data. The estimation of the claims provision is subject to a level of uncertainty. For 'leaky building' claims, the estimation is subject to a greater degree of uncertainty due to the nature of the claims, which are variable in size and settle over a longer term. The claims provision is considered the Fund Manager's best estimate as at the date of the signed accounts, but should be viewed in respect of the uncertainties.





SCHEME RULES

1. DEFINITIONS

In these Rules:

'Board' means the Board of Directors formed pursuant to clause 5 of the Deed of Trust;

'Coverage' is defined in Rule 8;

'Claim' means any claim made under the Protection Wording;

'Deed of Trust' means the deed dated the 1st day of July 1997 establishing the Scheme (as amended from time to time);

'Fund' means each separate annual fund established pursuant to clause 4 of the Deed of Trust; **'Fund Year'** has a corresponding meaning; the first Fund Year is from 4.00 pm on 30 June 1997 to 4.00 pm on 30 June 1998; subsequent Fund Years are from 4.00 pm on 30 June in a calendar year to 4.00 pm on 30 June in the next calendar year, unless otherwise determined by the Board;

'Fund Manager' means the Fund Manager appointed pursuant to clause 10 of the Deed of Trust;

'Member' means any person or body (whether incorporated or not) admitted as a member of the Scheme pursuant to clause 11.1 of the Deed of Trust and these Rules;

'Membership' has a corresponding meaning;

'Protection Wording' means, in relation to any particular Member and Fund Year, the combined liability protection wording issued to that Member by the Scheme setting out the risks covered by the Scheme and the terms, conditions

and limits in respect of those risks: this term equates to the term **'Guidelines'** in clause 8.1 of the Deed of Trust;

'Scheme' means the scheme more formally known as the New Zealand Mutual Liability Riskpool;

'Scheme Manager' means the Scheme Manager appointed pursuant to clause 9 of the Deed of Trust.

2. PURPOSE AND STATUS OF RULES

2.1 The purpose of these Rules is to set out the administrative mechanisms by which the Scheme is administered so as to put the purpose and intent of the Deed of Trust into effect.

2.2 In the case of conflict between the provisions of the three principal constituent documents of the Scheme, which are the Deed of Trust, these Rules and the Protection Wording, the Deed of Trust shall prevail over the Scheme's Rules which shall prevail over the Protection Wording.

3. OFFER OF MEMBERSHIP AND NOTICES

3.1 An offer of Membership may be made to any organisation or person approved for admission by the Board.

3.2 Membership of the Scheme is by Fund, so one Member may hold one or more Memberships.

3.3 Not later than 50 days prior to the end of a Fund Year, the Board shall provide written notice to each Member of that Fund advising whether that Member will be offered Membership for the next Fund Year

and if so, the initial contribution payable by that Member in respect of that Fund Year.

3.4 An offer to become a Member of a Fund must include:

- a) A copy of the Protection Wording unless this has already been provided;
- b) A copy of the Deed of Trust unless this has already been provided;
- c) An up-to-date copy of these Rules unless this has already been provided; and
- d) Advice as to the initial contribution payable for that Fund as determined by the Board.

3.5 Members offered Membership in the notice referred to in Rule 3.3 who do not accept that Membership shall give the Scheme Manager written notice of this decision prior to the later of:

- a) 20 days after receiving the notice; and
- b) 30 days prior to the start of the new Fund Year.

3.6 If a Member fails to give the notice described in Rule 3.5 within the required time frame, then the Member must reimburse the Scheme within 20 days for its share of reinsurance and other expenses that have or will be incurred by the Scheme because of the Scheme's expectation of that Member's participation. The amount to be reimbursed will be 25% of the initial contribution that the Member would have paid for Membership of the next Fund Year, being a reasonable pre-estimate of the reimbursement required.

4. ACCEPTANCE OF MEMBERSHIP OFFER

A body becomes a Member of a Fund by:

- a) Notifying the Scheme Manager in writing that it has accepted the offer of Membership; and
- b) Paying the initial contribution for that Fund Year as determined by the Board within 20 days of the start of the Fund Year (or for such longer period as determined by the Board) failing which, unless otherwise determined by the Board, the offer of Membership lapses.

5. MEMBERSHIP OBLIGATIONS

5.1 By its acceptance of an offer of Membership a Member agrees that:

- a) The Deed of Trust and these Rules as amended from time to time constitute a contract between the Scheme and the Member subject to Rule 5.3;
- b) The Member will be bound by the Deed of Trust and these Rules as amended from time to time and perform the obligations of a Member under the same accordingly;
- c) The Member will make available to the Scheme Manager or Fund Manager all information and data which the Scheme Manager or Fund Manager reasonably requires in order to determine the claims and risk management experience of the Member for the purpose of assessing contributions;
- d) The Scheme Manager shall be permitted (but not obligated) to carry out a risk management

audit or otherwise inspect the Member's property and operations at any time; and

- e) The Scheme Manager may examine and audit the Member's books and records at any time (but only so far as they relate to the Membership of the Scheme or risks covered by the Scheme).

5.2 For the avoidance of doubt, the contract the subject of Rule 5.1 (a) is a contract between a Member and the Scheme only and the contract does not create, as between a Member and any other Member or Members, any joint rights or obligations or any mutual rights or obligations.

5.3 To the extent, if any, to which a provision of these Rules or the Deed of Trust provides or implies:

- a) Anything in any way contrary to Rule 5.2; or
 - b) That the Scheme is constituted a joint or mutual agent for its Members or any of them –
- that provision is, to that extent, inoperative and does not form part of the legal relationship between a Member and the Scheme.

6. END OF MEMBERSHIP

6.1 Membership ends when and only when the Fund is closed.

6.2 The Board shall determine when a Fund and its accounts will be closed and final results for the Fund determined and declared.

6.3 Except in the event of the Scheme being wound up, no Member has any entitlement to be paid any amount on account of surplus for a Fund unless:

- a) The accounts for the Fund have been closed and final results determined and declared; and
- b) The Board has determined that a distribution or return should be paid to Members in respect of that Fund.

6.4 In the event that a Member is entitled to a distribution of a Fund's surplus, any amount due will be set-off against:

- a) Any contribution or other monies due but unpaid by the Member to the Scheme; and
- b) Any unrecovered loss or expense incurred by the Scheme by, through or in connection with the Member.

7. MEMBERS' CONTRIBUTIONS

7.1 Members' contributions are determined by the Board.

7.2 In the event that a Member fails to comply with the Deed of Trust, these Rules or a direction from the Board and in so doing, in the opinion of the Board, exposes the Scheme to an increased, additional or readily avoidable risk or financial loss (including loss of interest) or additional expense the Board may:

- a) Require the Member to top up its initial contribution to the relevant Fund to cover that increased, additional or readily avoidable risk; or
- b) Require the Member to pay an additional contribution for the relevant Fund to cover that loss or expense; or
- c) Exclude or limit that increased, additional or readily avoidable risk from the Member's Coverage.

8. COVERAGE (PAYMENT OF CLAIMS)

Subject always to the Deed of Trust and these Rules, the Scheme will indemnify each Member for damages or compensation in accordance with the Protection Wording. This is the definition of 'Coverage'. Coverage is only available once any other insurance has been fully utilised.

9. RECOURSE TO SCHEME ASSETS ONLY

For the payment of any Claim or the performance of any obligation of the Scheme, recourse may be had solely to the relevant Fund and no claim may be made or endorsed by a Member against:

- a) Any Trustee of the Scheme;
- b) Except in the case of negligence or other breach of duty, any employee or agent of the Scheme;
- c) Any other Fund; or
- d) Any person described in clauses 13.1.1 to 13.1.4 of the Deed of Trust.

10. REIMBURSABLE DEDUCTIBLE OR EXCESS

If the Scheme pays a deductible or excess amount referred to in a Protection Wording the Member shall reimburse the Scheme within 14 days of written notice from the Scheme.

11. NOTICE OF CLAIMS

Notice in writing must be given as soon as possible to the Scheme Manager by the Member:

- a) Of any occurrence, circumstance, claim, statement of claim, summons or proceedings

or of any impending prosecution, inquest or inquiry, or knowledge of any occurrence or circumstances which may subsequently give rise to a Claim, irrespective of its quantum; and

- b) Of any change materially affecting or varying any of the facts or circumstances existing at the commencement of Membership that shall come to the knowledge of the Member. A Member's knowledge shall be deemed to include the knowledge of any person whose knowledge would at law be that of the Member.

12. ADMISSIONS NOT TO BE MADE

The Member shall not make any admission, offer, promise or give any indemnity in respect of a Claim or potential Claim or Claim circumstance or potential Claim circumstance without the written consent of the Board.

13. INFORMATION TO BE PROVIDED

The Member must provide to the Scheme Manager and any loss adjuster, solicitor or other agent appointed by the Scheme Manager with respect to a Claim or potential Claim all information requested by such party in the manner and format requested.

14. GRANT OR REFUSAL OF INDEMNITY

14.1 Subject to clause 8.2 of the Deed of Trust, the Board shall advise the Member as soon as practicable after receipt of a Claim as to whether the Scheme grants or refuses indemnity.

14.2 Without limiting the discretions of the Board under the Deed of Trust, the Scheme may choose not to

indemnify the Member against any Claim or Claim circumstance and may withdraw any indemnity previously granted where the Member has:

- a) Breached or failed to comply with a condition or obligation in the Protection Wording or under the Deed of Trust or these Rules or committed any other act or made any other omission which entitles the Board to reduce or cancel a Member's Coverage under Rule 21; and
- b) The Scheme is prejudiced by that breach, failure, act or omission.

15. SUBROGATION

The Member agrees that in the event of payment of any Claim by the Scheme, the Scheme will be subrogated to all the rights of the Member against any person or other legal entity deemed responsible for the Claim, and in such event, the Member shall render to the Scheme Manager, loss adjuster, solicitor or other agent appointed by the Scheme Manager all assistance other than pecuniary, as is reasonably necessary to effect recovery.

16. SETTLEMENT OF CLAIMS

16.1 If the Scheme Manager so desires, it may take over the conduct in the name of the Member the defence or settlement of any claim against the Member.

16.2 On notifying a Claim or Claim circumstance, the Member shall promptly take at its own expense all reasonable steps to prevent other loss, personal injury or property damage arising out of the same or similar conditions, but such expense shall not be recoverable from the Scheme.

16.3 The Member shall use its best endeavours to preserve any damaged or defective property which might prove necessary or useful by way of evidence in connection with any Claim and except where some other course is required by Rule 16.2, but only so far as may reasonably be practical, the Member must not make any alteration or repair to any premises, machinery, fittings, appliances or plant without the consent of the Scheme until the Scheme has had an opportunity of inspection.

16.4 The Scheme has full discretion to conduct any proceedings in connection with any Claim.

16.5 The Scheme is entitled to prosecute in the name of the Member, at its own expense and for its own benefit, any claim for indemnity or damages or otherwise.

16.6 Notwithstanding Rules 16.1, 16.4 and 16.5, a Member shall not be required to contest any legal proceedings unless a solicitor (to be mutually agreed upon by the Member and the Scheme) advises that such proceeding should be contested, with the reasonable probability of success or partial success.

17. MEMBERS' LITIGATION RESPONSIBILITIES

In connection with any litigation or claim settlement negotiations conducted by the Scheme in the name of a Member, or any action taken by the Scheme in exercise of its rights of subrogation:

- a) if a personal appearance by an elected member, officer or agent of the Member is necessary at any conference, in any Court or elsewhere, the

expense of such an appearance shall be borne or paid by the Member;

- b) The Member shall fully co-operate by supplying any information and assistance requested by the Scheme Manager and any loss adjuster, solicitor or other agent appointed by the Scheme Manager or the Scheme with respect to the litigation claim;
- c) The Member may, upon notice in writing, prevent a settlement proposed by the Scheme of litigation or a claim brought or made against the Member, but if it does so and the claim is ultimately settled (or judgement is ultimately given) for a higher amount, then notwithstanding Rule 8, the Member must pay as estimated by the Board all amounts (including interest and legal costs) which exceed the amounts that the Scheme would have had to pay if the claim had been settled as proposed by the Scheme.

18. AUTOMATIC REINSTATEMENT

Upon notification to the Scheme of a Claim, cover under the Protection Wording shall be reinstated for such amount as may be ultimately paid by the Scheme in respect of such Claim up to the limit, if any, imposed by the Protection Wording.

19. CONTRIBUTION FROM OTHER INSURERS

When a loss paid is recoverable under an insurance policy, then the Scheme reserves its rights to seek full recovery from the insurer.

20. NOTICE TO SHOW CAUSE WHY ALL OR SOME COVERAGE SHOULD NOT BE CANCELLED

In the event that a Member (in this Rule referred to as the 'Defaulting Member'):

- a) Fails to comply with the reasonable directions of the Scheme as to the conduct of its operations so as to minimise risks;
- b) Fails to make available to the Scheme Manager or Fund Manager all information and data which either of them reasonably require in order to determine the claim and risk management experience of the Member for the purpose of assessing contributions;
- c) Fails to permit the Scheme Manager to carry out a risk management audit or otherwise inspect the Member's property and operations;
- d) Fails to permit the Scheme Manager to examine and audit the Member's books and records (but only so far as they relate to its Membership(s) of the Scheme or risks covered by the Scheme);
- e) Fails to pay contributions due to the Scheme within the time prescribed by these Rules or by the Board;
- f) Commits any other breach of these Rules which is not remedied within the time specified in a notice to the Defaulting Member - then in that regard the Board may by notice in writing to the Defaulting Member require that it show to the Scheme good cause within 14 days why all or some of its Coverage should not be cancelled.

21. REDUCTION OR CANCELLATION OF COVERAGE

21.1 The Board may, by special resolution, cancel or reduce Coverage for a Member by giving that Member notice in writing to that effect where the Member:

- a) Fails to comply with the duty of utmost good faith;
- b) Fails to comply with the duty of disclosure;
- c) Has made any fraudulent claim to the Scheme or under any contract of insurance; or
- d) Fails to show sufficient cause to the contrary in response to a notice issued pursuant to Rule 20.

21.2 A notice of reduction or cancellation of Coverage takes effect at whichever occurs first between

- a) The time when a policy of insurance between the Member and an insurer, being a policy of insurance that is intended by the Member to replace all or a good proportion of the cancelled Coverage is entered into; and
- b) At 4.00 pm on the 30th day after the day on which notice was given to the Member (or such later time as specified in the notice).

21.3 Cancellation or reduction of Coverage does not vary or waive the obligations of a Member to comply with the Deed of Trust and the provisions of these Rules.

22. REASONABLE CARE BY MEMBERS

Members shall:

- a) Exercise reasonable care that only competent employees are employed;
- b) Take reasonable measures to maintain all premises, fittings and plant in a safe and sound condition;
- c) Take all reasonable precautions to prevent loss or damage to property and personal injury;
- d) Take all reasonable precautions to prevent the manufacture, sale or supply of defective products;
- e) Take all reasonable precautions to prevent the release, issue, tender or supply of defective or erroneous advice or information;
- f) Comply and ensure that its employees, servants and agents comply with all statutory obligations, by-laws or regulations imposed on or by any local authority and
- g) At their own expense take all reasonable action to trace, recall or modify any item, document, information, advice or product manufactured, constructed, erected, installed, altered, repaired, serviced, treated, sold, supplied, distributed, prepared, provided, issued or tendered by the Member (including any container thereof other than a vehicle) containing any defect, error or deficiency of which the Member has knowledge or has reason to suspect.

23. SCHEME DOES NOT WARRANT RISK LEVELS

Each Member acknowledges that neither the Scheme's rights to make inspections nor the making thereof nor any report thereon constitutes an agreement or the assumption of an obligation, on behalf of or for the benefit of the Member or others, to determine or warrant that such property or operations are safe or represent any particular level of risk to liability.



2010–11 FUND YEAR MEMBERSHIP

Ashburton District Council
Auckland Council
Carterton District Council
Central Hawkes' Bay District Council
Central Otago District Council
Chatham Islands Council
Christchurch City Council
Clutha District Council
Environment Canterbury
Environment Southland
Environment Waikato
Far North District Council
Gore District Council
Hamilton City Council
Hastings District Council
Hauraki District Council
Hawke's Bay Regional Council
Hurunui District Council
Hutt City Council
Invercargill City Council
Kaikoura District Council
Kaipara District Council
Kapiti Coast District Council
Kawerau District Council

Mackenzie District Council
Marlborough District Council
Masterton District Council
Matamata-Piako District Council
Napier City Council
New Plymouth District Council
Northland Regional Council
Opotiki District Council
Otago Regional Council
Otorohanga District Council
Palmerston North City Council
Porirua City Council
Queenstown Lakes District Council
Selwyn District Council
South Taranaki District Council
South Waikato District Council
South Wairarapa District Council
Southland District Council
Stratford District Council
Taranaki Regional Council
Tasman District Council
Taupo District Council
Timaru District Council
Waikato District Council

Waimakariri District Council
Waimate District Council
Wairoa District Council
Waipa District Council
Waitaki District Council
Waitomo District Council
West Coast Regional Council
Whakatane District Council
Whangarei District Council

Membership enquiries are welcome and should be referred to:

The Scheme Manager
New Zealand Mutual Liability Riskpool
P O Box 11–145
Wellington 6142
Attention: Paul Carpenter
Telephone: 04 495 8228
Facsimile: 04 495 8177
E-mail: paul.carpenter@riskpool.co.nz



LOCAL GOVERNMENT MUTUAL FUNDS TRUSTEE LIMITED

DIRECTORY

Registered Office	9th Floor Civic Assurance House 114 Lambton Quay PO Box 5521 Wellington 6145	
Directors	Bryan Taylor (Chairman) Tony Marryatt Andrew McKenzie Ross McLeod Allan Morris Jim Palmer Denis Sheard (Advisory Director) Michael Hannan (Advisory Director)	Auckland Christchurch Auckland Hastings Auckland Christchurch Auckland Auckland
Scheme Manager	Jardine Lloyd Thompson Limited	
Fund Manager	Civic Assurance	
Scheme Solicitors	Heaney & Co	
Scheme Auditors	Michael Wilkes, Deloitte On behalf of the Auditor-General	

NEW ZEALAND LOCAL GOVERNMENT INSURANCE CORPORATION LIMITED

("LGIC")

AND

LOCAL GOVERNMENT MUTUAL FUNDS TRUSTEE COMPANY LIMITED

("Trustee Company")

This document is an amalgamation of the DEED OF TRUST dated 1 July 1997 and the provisions of
the DEED OF VARIATION OF DEED OF TRUST dated 22 June 2007

THIS DEED OF TRUST made the 1st day of July 1997

PARTIES

NEW ZEALAND LOCAL GOVERNMENT INSURANCE CORPORATION LIMITED at Wellington ("LGIC")

LOCAL GOVERNMENT MUTUAL FUNDS TRUSTEE LIMITED ("Trustee Company")

BACKGROUND

- A. LGIC is a Local Authority Trading Enterprise as that term is defined in the Local Government Act 1974.
- B. Trustee Company is a company incorporated under the Companies Act 1993 and is a wholly owned subsidiary of LGIC.
- C. LGIC, in consultation with Jardine, has agreed to establish a Trust pursuant to this deed to provide the Fund and the Scheme (to be known as the New Zealand Mutual Liability Riskpool) for the benefit of the Members of the Scheme and to manage all Claims for Civil Liabilities against the Members of the Scheme which may arise in connection with the exercise by the Members of any of their powers, duties or functions.
- D. The purpose for establishing this Trust in consultation with Members is to benefit residents and ratepayers of New Zealand and in particular that purpose is to be achieved by enabling Members to be recompensed from the Fund in respect of liabilities thus reducing the need for insurance cover and reducing Members' annual expenses. In addition the Scheme Manager will work with Members to ensure that proper systems are developed to promote the efficient and safe fulfilment of each Member's functions thus providing a benefit to the community as a whole.
- E. LGIC has agreed to hold all the shares in Trustee Company on trust for the Members of the Scheme pursuant to this deed.
- F. Trustee Company has agreed to act as Trustee of the Scheme and to hold and apply the Fund in accordance with this deed and the other Scheme Documents so as to provide the benefits intended to be obtained by Members of the Scheme as envisaged by this deed and the other Scheme Documents.

This is an amalgamation of the Deed of Trust dated 1 July 1997 and the Deed of Variation of Deed of Trust dated 22 June 2007. If necessary reference should be made to the provisions of the original documents which take precedence.

THIS DEED WITNESSES:

1. INTERPRETATION:

1.1 In this deed unless the context clearly requires otherwise:

“Act” means the Companies Act 1993.

“Additional Contribution” means any additional or further contribution to an Annual Fund by a Member, after the initial Contribution to that Annual Fund, called for or demanded by the Board pursuant to this deed and the Scheme Rules.

“Annual Fund” means the separate fund established, pursuant to the Scheme Documents, for each Fund Year of the Scheme.

“Board” means the directors of Trustee Company who number not less than the quorum required pursuant to the Constitution acting together as a board of directors.

“Call” means each call or demand for an Additional Contribution.

“Civil Liability” means any civil liability resulting from an obligation, function, power or duty of a Member arising under law and includes any public liability and any liability for negligence of the Member.

“Claim” means any claim by a Member in respect of that Member’s Civil Liability during the term of the Scheme in respect of the Risks.

“Constitution” means the constitution of Trustee Company as may be varied, or substituted from time to time.

“Contribution” includes each Member’s initial contribution to each Annual Fund as determined by the Board, pursuant to clause 11 and each Additional Contribution.

“Deed of Participation” means the deed of participation required to be entered into by each Member pursuant to clause 16.

“Fund” means all assets and property of the Scheme and includes each separate Annual Fund.

“Fund Manager” means the manager of the Fund pursuant to clause 10.

“Fund Year” means the year commencing 4.00pm on 30th June in each year and terminating 4.00pm on 30th June in the next following year, or as otherwise determined by the Board.

“Guidelines for Exercise of Discretion” or **“Guidelines”** means the guidelines from time to time set out by the Board as detailed in clause 8.1.

“Indemnity Cover” means insurance cover purchased by the Board on behalf of Members to meet the Claims of the Members in the amount and in respect of the Risks determined from time to time by the Board being amounts payable in excess of the pooled cover.

“Jardine” means Jardine Risk Consultants Limited.

“Local Authority” means a local authority pursuant to the Local Government Act 1974.

“Member” means any person or body (whether incorporated or not) admitted as a Member to the Scheme pursuant to the Scheme Documents.

“Pooled Cover” means cover provided from the Fund to manage and, if the Claims are accepted by the Board, settle or pay the Claims against the Members in respect of the Risks.

“Risks” means those risks of Civil Liability of each Member and which fall within the Guidelines for Exercise of Discretion for the relevant Fund Year.

“Scheme” means the scheme, to be known as the New Zealand Mutual Liability Riskpool, constituted by this deed and the other Scheme Documents.

“Scheme Documents” means this deed, the Scheme Rules, and the Constitution of Trustee Company and for each Member, its Deed of Participation and the Guidelines.

“Scheme Manager” means the manager of the Scheme appointed from time to time pursuant to clause 9.

“Scheme Manager’s Quantum” shall mean \$30,000 inclusive of self retained limit or such other amount as shall from time to time be fixed by the Board.

“Scheme Rules” means the rules of the Scheme as promulgated by the Board from time to time.

“Scheme Solicitor” means the solicitor appointed from time to time by the Board.

“Self Retained Limit” means the deductible or excess to be borne by each Member in respect of its Risks and Claims against it as provided in the Guidelines.

“Shares” means the shares in Trustee Company.

“Underlying Claim” means any claim for civil liability (covered for the time being under the Guidelines) made against a Member which may give rise to a Liability; but also includes a claim which may give rise to a Liability to a Member under any other category of risk to that Member which the Guidelines of the Scheme may properly have been extended to cover pursuant to the terms of this deed.

This is an amalgamation of the Deed of Trust dated 1 July 1997 and the Deed of Variation of Deed of Trust dated 22 June 2007. If necessary reference should be made to the provisions of the original documents which take precedence.

- 1.2 In this deed, unless the context clearly otherwise requires:
- 1.2.1 Words importing the singular shall include the plural and vice versa;
- 1.2.2 References to any legislation shall include references to all amendments to that legislation and to any legislation passed in substitution for it (in whole or in part);
- 1.2.3 References to “director” or “directors” shall be to a director, or directors, of Trustee Company, acting in their capacity as such; and;
- 1.2.4 References to persons shall be deemed to include references to individuals, companies, corporations, firms, partnerships, joint ventures, associations, organisations, trusts, states or agencies of state, government departments and local and municipal authorities in each case whether or not having separate legal personality.

2. CONSTITUTION OF THE SCHEME

- 2.1 A scheme is hereby established by LGIC and Jardines for the benefit of Members of the Scheme with the objects set out in clause 3. The name of the Scheme shall be the New Zealand Mutual Liability Riskpool.
- 2.2 The parties agree that Trustee Company shall act as the Trustee of the Scheme established under this deed and shall be responsible to ensure that the purposes of the Scheme as provided by this deed and the other Scheme Documents are carried into effect.

- 2.3 The Fund of the Scheme shall include all assets and property for the time being held by or on behalf of Trustee Company, derived from:
- 2.3.1 Contributions;
- 2.3.2 Additional Contributions;
- 2.3.3 Any gifts, donations or grants
- 2.3.4 Revenue from investments;
- 2.3.5 Proceeds of realisation of investments;
- 2.3.6 Any policies or contracts of re-insurance or indemnity;
- 2.3.7 Any recoveries;
- 2.3.8 Any other source.
- 2.4 The Fund shall be held in trust for the benefit of the Members of the Scheme by Trustee Company upon the trusts and for the objects contained in this deed and shall be managed, administered and applied by Trustee Company in accordance with the powers contained in this deed, in order to attain those objects.
- 2.5 LGIC hereby declares that it holds the Shares on trust for the benefit of the Members in accordance with the terms of this deed and the other Scheme Documents for the objects and purposes of the Scheme.
- 2.6 Trustee Company is and shall remain responsible for the safe custody of all money, policies, certificates and other documents of title and value in connection with the Fund and for the safe custody, realisation and distribution of all assets and property from the Fund, from time to time vested in Trustee Company.

3. PURPOSES AND OBJECTS

- 3.1 LGIC and Trustee Company declare that their purposes in entering into this deed and the objects of the Scheme are:
- 3.1.1 To establish and maintain an Annual Fund for each Fund Year during the term of the Scheme for the benefit of the Members to meet the costs of establishing and running the Scheme and, subject to the terms of this deed and the other Scheme Documents and the Guidelines, to pay the Civil Liabilities of the Members arising from the Risks covered by the Scheme and specified in the Scheme Documents with the intention that Members’ needs for insurance cover and insurance expenses are reduced for the benefit of residents and ratepayers;
- 3.1.2 To provide Pooled Cover in respect of Risks as may be determined from time to time by the Board;
- 3.1.3 To manage and settle or pay Claims made against Members;
- 3.1.4 To develop programmes for the management of the risk of loss arising out of Civil Liability of the Members;
- 3.1.5 To reduce the amount and frequency of losses to the Members arising out of Civil Liability;
- 3.1.6 To purchase such Indemnity Cover or re-insurance in respect of such Risks as may be determined from time to time by the Board;

3.1.7	To undertake such other functions in relation to the management of Civil Liability as the Board may from time to time require having regard to the interests of the Members, including making grants from the Fund to a Member or any other person or body approved by the Board;	4.	THE FUND	4.2.2	to the extent that the Underlying Claim exceeds the amount of the Pooled Cover but does not exceed the amount of the Indemnity Cover for that Fund Year;
3.1.8	To investigate and if deemed appropriate by the Board, establish other Funds to cater for the insurance needs of Local Authorities and other local government organisations;	4.1	Trustee Company shall establish and maintain a Fund in the amount recommended by the Board and shall at the commencement of each Fund Year during the term of the Scheme on the advice of the Board invite the Members of the Scheme to contribute to the Fund at such levels as are determined pursuant to clause 6.6 to meet:		(i) to the amount of the Pooled Cover, from the relevant Annual Fund for that Fund Year;
3.1.9	To work with Members to ensure that proper systems are developed to promote the efficient and safe fulfilment of each Member's functions to provide to the Community as a whole;	4.1.1	such Underlying Claims as may be made against any one or more of the Members during that Fund Year in respect of Risks to the extent of the Pooled Cover.		(ii) thereafter from Indemnity Cover for that Fund Year to the extent of that Cover;
3.1.10	To do all other things as may be necessary or desirable to further the above objects in the interests of the Members of the Scheme.	4.1.2	the premium payable to an appropriate indemnity insurer or insurers to provide Indemnity Cover for the Members during that Fund Year.	4.2.3	To the extent that the Underlying Claim exceeds the amount of the Pooled Cover and the Indemnity Cover for that Fund Year;
3.2	The parties agree that they will co-operate to the fullest extent with each other in the implementation of the purposes stated in clause 3.1 and act in accordance with the provisions and spirit and intent of this deed.	4.1.3	the operating expenses of the Scheme for that year.		(i) to the amount of the Pooled Cover, from the relevant Annual Fund for that Fund Year;
		4.1.4	the grants or allocations to be made pursuant to clauses 3.1.7 or 3.1.8 (if any).		(ii) to the amount of the Indemnity Cover for that Fund Year, to the extent of that cover;
		4.1.5	any other amount determined by the Board to be required for the continuation of the Scheme.		(iii) the balance by the Fund from surpluses from previous Fund Years and from Additional Contributions from Members;
3.3	LGIC shall be entitled to be paid an administration fee to be determined from time to time by the Board for the performance of its functions and duties under this deed as Fund Manager and for the provision of any other services to Trustee Company.	4.2	Each Underlying Claim made upon any of the Members during a Fund Year in respect of Risks may at the discretion of the Board be met:	4.3	The Members shall be invited to Contribute to the Fund in the proportions to be determined annually by the Board. The Contributions by Members for each Fund Year shall be held and accounted for as a separate Annual Fund for that Fund Year.
		4.2.1	to the extent that the Underlying Claim does not exceed the amount of the Pooled Cover of the Annual Fund for that Fund Year from that Annual Fund;		(iv) to the limit of any guarantee provided by LGIC, by LGIC.

This is an amalgamation of the Deed of Trust dated 1 July 1997 and the Deed of Variation of Deed of Trust dated 22 June 2007. If necessary reference should be made to the provisions of the original documents which take precedence.

- 4.4 Trustee Company shall administer the Fund with the intent that upon the settlement of all Claims made in respect of occurrences or events arising during the relevant Fund Year;
- 4.4.1 any surplus or anticipated surplus remaining in the Fund attributable to that Fund Year shall be allocated at the absolute direction of the Board towards liabilities of the Fund for any later Fund Year; and
- 4.4.2 any deficiency in the Fund shall be met by Additional Contributions by each Member in the proportion in which Contributions were made to the Annual Fund for that Fund Year.
- 5. BOARD OF TRUSTEE COMPANY**
- 5.1 LGIC shall, following consultation with the Board, appoint persons (not exceeding a maximum of six at any one time) as directors for a term not exceeding three years and one month, and may following consultation with the Board at any time remove, with or without a replacement, any director.
- 5.2 Unless otherwise expressly provided in this deed or the Constitution, questions arising at any meeting of the Board shall be decided by a simple majority of the votes of those directors present and voting.
- 5.3 The quorum necessary for the transaction of business at meetings of the Board shall be the majority of the Directors. A director is to be counted for quorum purposes whether entitled to vote or not.
- 5.4 Subject to the provisions of this deed and any applicable law, LGIC shall determine, from time to time, what (if any) directors fees, other valuable consideration or other benefit shall be paid or given by Trustee Company out of the Fund to any director in respect of that person's performance of duties as a member of the Board.
- 5.5 No director may hold office for more than twelve years, whether continuously or in aggregate over several periods.
- 6. DUTIES OF THE BOARD**
- 6.1 The Board shall be responsible to LGIC as shareholder (as trustee for the Members). Notwithstanding anything to the contrary in the Constitution, the duties of the Board shall include:
- 6.1.1 Implementing and achieving the purposes and objects of the Scheme;
- 6.1.2 Considering all Claims made against the Fund and determining whether or not the Board's discretion should be exercised to meet the Claim for the Member from the Pooled Cover;
- 6.1.3 Ensuring the Scheme is and remains financially viable and solvent within the "solvency tests" laid down by the Act and generally at law;
- 6.1.4 Conduct its business in accordance with this deed and other Scheme Documents, and otherwise in such manner as is resolved by the Board from time to time;
- 6.1.5 Promulgating and amending the Scheme Rules and the Guidelines from time to time.
- 6.2 The Board shall regard the purposes and objects of this deed and the Scheme as being of paramount importance in decisions made and policies adopted by it in relation to the Scheme and shall adopt and use such management and other techniques as will ensure that those main objectives are achieved.
- 6.3 The Trustee Company being a wholly-owned subsidiary of LGIC (as trustee for the Members), any director may act in a manner which he or she believes is in the best interests of LGIC (as trustee for the Members) and the Members, notwithstanding that it may not be in the best interests of the Trustee Company.
- 6.4 A director who is an officer, employee, nominee or representative of a Member shall only be disqualified from voting on any matter that affects that Member if it affects the Member directly and in a materially different way from which it affects other Members or there are personal reasons why that director has a conflict of interest.
- 6.5 The Board shall from time to time appoint the Scheme Solicitor for such tenure and upon such terms as it shall in its sole discretion decide, but such appointment shall be formally reviewed by the Board at least every three years.
- 6.6 The Board shall be responsible for the financial management of the Scheme to the extent that it shall:
- 6.6.1 annually prepare the financial statements and, where considered necessary, report to the Members on any items arising from those statements;

6.6.2	annually determine the Guidelines for the Risks to be provided for from the Fund for any Fund Year;	6.8	The Board at its discretion may establish such other committees, to be constituted by such persons, as the Board may determine. The Board may delegate such of its powers, duties and functions as it may determine to any committee or person.	6.13	In addition to the provisions of this clause the Board may at any time resolve to apply by way of transfer or loan any actual or anticipated surplus then remaining in any Annual Fund to any later Annual Fund or to such purposes as may be considered appropriate having regard to the purposes of the Scheme and this deed.
6.6.3	annually determine the amount of Pooled Cover to be provided for the Members from the Fund for any Fund Year;	6.9	The Board at all times remains responsible for powers and duties delegated to any committee or person and must monitor, by means of reasonable methods properly used, the exercise of those powers and duties by the delegate.	6.14	The Board, in accordance with the provisions of this deed, may make payments and grants from the Fund for the benefit of the Members and to further the objectives of the Scheme as the Board deems fit.
6.6.4	annually determine the amount and nature of Indemnity Cover to be purchased for the Members from the Fund for any Fund Year and to determine the indemnity insurer or insurers for this purpose;	6.10	The Board shall consider regularly the reports of the Scheme Manager and the Claims Committee in relation to Claims and:	6.15	The Board shall within 12 months from the commencement of the Scheme hold an annual meeting of Members to be convened no earlier than 30 days after the mailing to Members of notice of such meeting. In each subsequent year in which the Scheme continues the Board shall in the same manner hold an annual meeting.
6.6.5	be responsible for the assessment of the Members to determine the proportion in which they are to contribute to the Fund in each year. Each Member shall be required to and shall provide to the Board and to the Scheme Manager such information as the Board or the Scheme Manager may require in relation to the history of Civil Liability Claims made against the Member, the Member's operating procedures or such other matters as may be directed in order to permit the Board to carry out its obligations under this clause.	6.10.1	shall, on the recommendation of the Claims Committee and Scheme Manager, determine whether to accept or reject any Claim;	6.16	Any meeting of the Members shall be called and conducted as closely as is practicable in accordance with the Constitution and the Act as if it were a meeting of the shareholders of Trustee Company and as if the Members were shareholders of Trustee Company, and each meeting shall otherwise regulate its own proceedings, however at any such meeting:
		6.10.2	from time to time shall issue instructions to the Claims Committee and Scheme Manager regarding the processing of Claims; and	6.16.1	a Member shall have one vote;
		6.10.3	shall, on written request from a Member, reconsider any Claim that has been rejected.	6.16.2	a Member may vote only in respect of matters arising in, from or relating to a Fund Year during which the Member was or is a Member of the Scheme; and
6.7	The Board may from time to time establish, or disestablish, a Claims Committee. Any such Claims Committee shall have such membership, duties, functions and powers, and be subject to such procedures, as the Board may from time to time stipulate. Where a Claims Committee is disestablished, its duties, functions and powers shall revert to the Board (but without prejudice to the validity or effectiveness of any act or omission of the Claims Committee prior to its disestablishment), and any reference in this deed to the Claims Committee shall be read accordingly.	6.11	[Intentionally Omitted]	6.16.3	matters arising in, from or relating to different Fund Years shall be considered and voted on separately.
		6.12	Where it becomes apparent to the Board that the Annual Fund for any Fund Year will be insufficient to meet Claims payable from that Annual Fund, the Board may at any time require the payment by the Members of an Additional Contribution in the same proportions as the Contributions paid by each of the Members to that Annual Fund in order to ensure that all Claims upon that Annual Fund are able to be met.		

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7. [INTENTIONALLY OMITTED]

8. GUIDELINES AND CLAIMS

- 8.1 The Board upon the recommendation of the Scheme Manager shall set at the commencement of each Fund Year Guidelines for the exercise of its discretion as to whether or not Claims by Members should be met out of the Pooled Cover.
- 8.2 The Board shall have absolute and unfettered discretion as to whether or not any Claim should be met out of the Pooled Cover and shall be influenced by but not bound by the Guidelines.
- 8.3 The Claims Committee may authorise the Scheme Manager to meet Claims out of the Pooled Cover where:
- 8.3.1 Those Claims do not exceed the Scheme Manager's Quantum and;
- 8.3.2 The Claim falls within the Guidelines and;
- 8.3.3 The Underlying Claim against the Member is one for which the Member is reasonably liable and would in all probability be held liable at law for the amount of the Claim.
- 8.4 Where the quantum of any Underlying Claim exceeds the Scheme Manager's Quantum the Claims Committee shall authorise the Scheme Manager in conjunction with the Scheme Solicitor to administer and deal with that Underlying Claim but any settlement of a claim shall be authorised by the Claims Committee.

9. ENGAGEMENT OF SCHEME MANAGER

- 9.1 The Board shall appoint a person to be the Scheme Manager upon such conditions as to tenure and remuneration or otherwise as shall be determined by the Board in its sole discretion and agreed upon by the Scheme Manager and the first Scheme Manager shall be Jardine for a period of 5 years from commencement of the Scheme.
- 9.2 The Scheme Manager's duties shall be determined by the Board from time to time and may include:
- 9.2.1 from time to time undertake an assessment of the Members or any of them and their activities to assist the Fund Manager in the determination of the proportion in which the Members are to contribute to the Fund in any year and upon the conclusion of any such investigation direct the Members or any of them as to the procedures to be adopted by them to prevent losses or to minimise Civil Liability.
- 9.2.2 under the supervision and direction of the Claims Committee and the Board the management of Claims made against each Member including:
- (a) the investigation and assessment of those Claims;
- (b) the preparation of regular reports to the Board on the progress of Claims and the preparation of recommendations as to the acceptance, rejection, settlement, litigation or other handling of the Claims;

- (c) the issue of instructions to the Scheme Solicitor for advice in respect of Claims and for assistance in the defence of Claims.

- 9.2.3 the provision of loss prevention and risk minimisation guidelines to members.

- 9.3 The Scheme Manager shall be available at all times to any member of the Board or any member of the Claim Committee or any other committee of the Board or any of the Members of the Scheme to answer any questions on the conduct of the Scheme's activities.

10. FUND MANAGER

- 10.1 LGIC shall be the Fund Manager upon such conditions as to remuneration or otherwise as shall be agreed by the Board and LGIC. In the event that LGIC becomes insolvent or ceases to trade then the Board shall appoint a new Fund Manager.
- 10.2 The Fund Manager's duties shall be determined by the Board from time to time and shall include:
- 10.2.1 the keeping of the accounts of the Annual Fund for each Fund Year;
- 10.2.2 the provision of administrative and secretarial services to Trustee Company and the Board including setting agendas and submitting reports;
- 10.2.3 the preparation of advice and recommendations on the investment of any moneys of the Fund not immediately required and implementation of decisions of the Board;

10.2.4	the preparation of regular reports to the Board in such form as the Board shall from time to time direct in respect of each Annual Fund as to:	10.4	The Fund Manager shall negotiate Indemnity Cover as requested by the Board and satisfying any specific requirements of LGIC while LGIC's Deed of Guarantee is operative or while there are outstanding amounts due to LGIC under any Deed of Guarantee.	11.2.7	any other matters the Board considers relevant, having regard to the purposes and objects of the Scheme.
	(i) Claims outstanding;			11.3	If during a Fund Year it becomes apparent to the Board that as a result of unexpected or exceptional circumstances the Fund for that Fund Year will be insufficient to meet Claims payable from the Fund, the Board may determine an Additional Contribution payable by each Member for the Fund Year (which will be in the same proportion to the Additional Contributions of all other Members as the initial Contribution paid by the Member for that Fund Year bears to the initial Contributions of all Members for that Fund Year).
	(ii) The Scheme Manager's assessment of liability in respect of each outstanding Claim;	11.	CONTRIBUTIONS TO SCHEME		
	(iii) The ability of the Fund to meet the assessment of liability;	11.1	Each Member, as a condition of membership of the Scheme for that Fund Year, shall pay the initial Contribution determined by the Board for that Member for that Fund Year.	11.4	All Contributions (including any Additional Contribution under sub-clause 11.3) must be paid within twenty days of the date of the contribution notice given to the Member by the Board, the Scheme Manager or the Fund Manager (or such longer period as stated in the notice or determined by the Board).
	(iv) The assessment of further Additional Contributions required, if any;	11.2	The Contributions determined for any Member in respect of any Fund Year, shall be determined having regard to the advice from the Claims Committee, the Fund Manager and the Scheme Manager and such matters as the Board considers relevant to the Scheme Member's level of risk and may include, without limitation:	11.5	Without affecting any other Rule, if the amount of any Contribution (including any Additional Contribution under sub-clause 11.3) is not paid by the due date:
	(v) The investment of the moneys of the Fund not immediately required;		11.2.1 the Member's revenue base;	11.5.1	interest may, if the Board so determines, accrue calculated daily, on daily balances (and compounding semi-annually) at the Bank of New Zealand Indicator Rate from the due date to the date of actual payment;
	(vi) The allocation of surplus moneys in the Fund, if any;		11.2.2 the geographical location of the Member's territory;	11.5.2	an unpaid Contribution (and interest) constitutes a debt payable by the relevant Member to the Scheme and Trustee Company may bring proceedings for the recovery of that debt in its name on behalf of the Scheme.
10.2.5	the preparation of the annual operating budget;		11.2.3 the population of the Member's territory;		
10.2.6	the calculation of Contributions in conjunction with actuarial advice and advice from the Scheme Manager;		11.2.4 the Member's Civil Liability claims history (both during and prior to its membership of the Scheme);		
10.2.7	the recommendation of the level of Pooled Cover to be provided in any Fund Year;		11.2.5 any matter relating to the nature of the Member's territory or its operations which create increased or reduced risks of Civil Liability;		
10.2.8	the recommendation of the level of Indemnity Cover to be provided in any Fund Year.		11.2.6 any matters relevant to the Scheme Member's risk management practices that are known to the Board;		
10.3	The Fund Manager shall be available at all times to any member of the Board or any member of the Claims Committee or any other committee of the Board or any Member of the Scheme to answer questions on the management of the Fund.				

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12. BANK ACCOUNT, INVESTMENT AND BORROWING POWERS

- 12.1 Trustee Company shall open a bank account for the Fund with a registered Bank determined by the Board.
- 12.2 The name of the bank account and the persons authorised as signatories to operate the bank account shall be determined by the Board.
- 12.3 The parties agree that the Trustee Company may invest moneys received in respect of the Fund and not immediately required to meet the liabilities of the Fund;
- 12.3.1 with any registered Bank;
- 12.3.2 in any security or investment authorised by the Trustee Act; or
- 12.3.3 in any security or investment authorised by the Local Government Act 1974 or prescribed pursuant to and for the purposes of that Act; or
- 12.3.4 with the Trustee of any other Trust Fund established for the benefit of Local Authorities or other local government organisations.
- 12.5 The parties agree that for any of the purposes of this deed Trustee Company may borrow moneys and for that purpose secure the repayment of its borrowings by granting security over the assets of the Scheme and the Fund.
- 12.6 All Contributions and other moneys received by Trustee Company shall be deposited to the credit of the Fund and shall be applied at its discretion as follows:
- 12.6.1 in payment of any establishment costs for the Scheme;

- 12.6.2 in payment of all administrative and operating costs associated with the Scheme;
- 12.6.3 in payment of fees due to the Scheme Manager and the Fund Manager;
- 12.6.4 in payment of all Claims accepted by the Board;
- 12.6.5 by way of any grant or allocation approved under this deed; and
- 12.6.6 generally in furtherance of the Scheme's objectives including a transfer, payment or loan in accordance with the Scheme Documents.

- 12.7 The parties agree that Trustee Company and the Board shall keep or cause to be kept all such accounting records for the Scheme and the Fund as fully and correctly explain the transactions and financial position of the Scheme and the Fund.

13. RECOURSE TO SCHEME ASSETS ONLY

- 13.1 For the payment of any Claim against the Scheme or the performance of any obligation of the Scheme under this deed, resort may be had solely to the Fund and other assets and property of the Scheme and no claim may be made or endorsed by a Member against:
- 13.1.1 any Member of the Board;
- 13.1.2 the Scheme Manager or the Fund Manager in any capacity other than as Scheme Manager or Fund Manager of the Scheme;
- 13.1.3 except to the extent of LGIC's indemnity to Trustee Company, LGIC; or
- 13.1.4 any other Member.

14. ORDER OF PRIORITY OF SCHEME DOCUMENTS

- 14.1 The Scheme Documents shall be construed in the following order of priority:
- 14.1.1 this deed, which shall be paramount; then
- 14.1.2 the Scheme Rules; then
- 14.1.3 the Constitution; and then
- 14.1.4 the Deed of Participation and the Guidelines for each Member.

15. SURPLUS ON LIQUIDATION OF SCHEME

- 15.1 Upon the winding up of the Scheme (including the liquidation of Trustee Company) the assets, if any, remaining after payment of the debts and liabilities of the Scheme and the costs of winding up ("the surplus assets") shall be distributed among the then Members of the Scheme in proportion to their Contributions to the Scheme over the Fund Year in which the winding up commenced and the previous four Fund Years, provided however that Members whose Contributions are not fully paid up at the commencement of the winding up shall receive only a proportionate share of their entitlement being the amount which is in proportion to the amount of their Contributions paid up. In calculating a Member's Contributions for the purposes of this clause the amount of the Contribution shall be reduced by the amount of any Claim or Claims paid or payable pursuant to the Scheme.

16. DEED OF PARTICIPATION

EXECUTED AS A DEED

16.1 Each Member, as a condition of membership of the Scheme, shall be required to execute under seal and deliver to Trustee Company a Deed of Participation in the form annexed as Schedule 1, as may be varied or substituted by the Board from time to time, whereby the Member covenants and agrees, for the benefit of Trustee Company and LGIC, to be bound and to observe and perform all the terms of this deed and the other Scheme Documents as if the Member was a party to this Deed and the other Scheme Documents.

EXECUTED by **NEW ZEALAND**)
LOCAL GOVERNMENT)
INSURANCE CORPORATION)
LIMITED by two of its directors:)

16.2 Members shall provide the Scheme Manager with all information as is necessary to give effect to the Scheme and in particular will:

Director (Signature)

Director (Signature)

16.2.1 Disclose all material facts to the Scheme Manager as if the Member was an insured and the Scheme Manager was an agent for an insurer and;

Name (Please Print)

Name (Please Print)

16.2.2 Conduct itself in its dealings with the Scheme in the same manner as if it was an insured under a policy of insurance with the Scheme and in particular act in good faith towards the Scheme.

EXECUTED by **LOCAL**)
GOVERNMENT MUTUAL)
FUNDS TRUSTEE COMPANY)
LIMITED by two of its directors:)

16.2.3 Immediately advise the Scheme Manager of any Underlying Claim and co-operate with the Scheme Manager and Scheme Solicitor in dealing with Underlying Claims.

Director (Signature)

Director (Signature)

17. VARIATIONS

17.1 LGIC and Trustee Company may make any variation or addition to this deed if it is consented to in writing by not less than 90% in number of Members, and any such variation or addition shall be binding on all Members.

Name (Please Print)

Name (Please Print)

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SCHEDULE 1

DEED OF PARTICIPATION

(Name of Member)

HEREBY DECLARES covenants and agrees for the benefit of Local Government Mutual Funds Trustee Company Limited and New Zealand Local Government Insurance Corporation Limited to be bound by and observe and perform all of the terms of the Deed of Trust establishing the New Zealand Mutual Liability Riskpool and the Scheme Documents referred to in that Deed of Trust as if it was a party to those documents (as amended from time to time).

SIGNED BY _____)

_____)

as the duly authorised agent of)
the Member in the presence of:)

(Signature of duly authorised Agent)

(Signature of Witness)

(Name of Witness)

(Address of Witness)

(Date)

This is an amalgamation of the Deed of Trust dated 1 July 1997 and the Deed of Variation of Deed of Trust dated 22 June 2007. If necessary reference should be made to the provisions of the original documents which take precedence.



NEW ZEALAND MUTUAL
LIABILITY RISKPOOL

