



Riskpool

NEW ZEALAND MUTUAL
LIABILITY RISKPOOL

ANNUAL REPORT 2009

CONTENTS

Liability Riskpool Mission Statement	1
Chairman's Report	2
Scheme Manager's Operational Overview	4
Risk Management	5
Claims Management	6
Audit Report	8
Statement of Financial Performance	10
Statement of Movements In Trust Funds	12
Statement of Financial Position	14
Statement of Cash Flows	16
Notes to the Financial Statements	18
Scheme Rules	24
2008–09 Fund Year Membership	30
Directory	31
Amalgamated Trust Deed and Deed of Variation of Trust Deed	33

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.

We are completely different from an insurance company, which naturally puts its own needs first and the member's needs second

CHAIRMAN'S REPORT

Riskpool is a mutual liability fund that operates for the benefit of its members, which exclusively are councils and council controlled organisations. Riskpool has been operating since 1997 and in the twelve years to 30 June 2009 received notification of 9,599 claims. A breakdown of those claims by type is provided in the Scheme Manager's report on page 6.

Councils have received their liability cover through Riskpool at very competitive rates and have had their claims settled on satisfactory terms. Making Riskpool unique however is the third leg to Riskpool's success. Because of its investment in twelve years of risk and claims management, the local government sector is receiving fewer claims than it would otherwise have done and is generally settling its claims on more favourable terms. The benefits to the sector for this are more than financial and Riskpool has much to be proud of.

As readers of this report will generally be aware, Riskpool continues to be dominated by leaky building claims, many of which involve large sums of money. However, it should not be forgotten that Riskpool deals with many other types of claim as well: one of these claims, which related to water entering the gas reticulation in downtown Wellington, was settled in February 2009 for over a million dollars.

The increase in leaky building settlements and provisions has caused a big jump this year in Riskpool's deficit, up from \$1 million to \$21 million. On a random sample of twenty cases taken in June 2009, the average settlement per leaky home unit had almost tripled in just two years, from \$79,000 to \$234,000. There are a number of reasons for this trend: a move away from targeted repair to full repair resulting in increased repair costs; greater awareness of the cost of repairs resulting in harder settlement bargaining, and the increasing frequency with

which the Council is the 'last man standing'.

The relatively sudden escalation in the anticipated size of the leaky building settlements has surprised everyone. By way of demonstration, just seven claims reviewed (out of a total 1410 open claims) in the three weeks to 30 June 2009 resulted in increased claim provisions exceeding \$20 million. Over 60 of Riskpool's members have made leaky building claims.

This explosion in the costs of resolving leaky building claims has been the property insurance equivalent of an earthquake. Thus any insurer associated with leaky buildings claims, the insurers of builders and architects for example, has seen huge jumps in expected claim settlements. Although disappointing, it was therefore necessary in June 2009 for the Board to go to members with a \$4 million call and further calls are expected.

The size and timing of future calls will depend on how and when claims are settled. What can be said is that the amount required has been mitigated by reinsurance recoveries already received of \$7.6 million and further expected reinsurance recoveries of \$70.6 million, which together total \$78.2 million. I can assure you that the Board is very focussed on how calls should best be managed and is closely monitoring the situation.

Riskpool was not fully reinsured for fund years 7 to 12 because full reinsurance for leaky homes was not available. For fund year 13, the current fund year, the fund is fully reinsured (the Board was able to secure reinsurance cover for the 23 low-risk councils that still enjoy limited leaky homes cover) and the Board intends that future fund years will also be fully reinsured. It is very unlikely therefore that members continuing their membership with Riskpool will be subject to additional calls, but they will get the benefit of any fund surpluses.



Bryan Taylor
CHAIRMAN

In an environment where the rate-payer's dollar is being stretched even further, it is pleasing to report that the average member contribution in year 13 has dropped from \$105,000 in year 10 to \$58,300 in year 13. In part this is because Riskpool has stepped away from providing leaky building cover to the majority of members, but notwithstanding the increase in councils' responsibilities over the last ten years, the average Riskpool contribution for fund year 13 is less than it was ten years ago and that is with the cover now increased to \$100 million per member. This has been able to happen because:

1. The good risk management practices promoted by Riskpool and adopted by member councils have resulted in reduced claims exposure.
2. Riskpool, since its inception, has been careful to run litigation where there is an opportunity to improve or clarify the law for local government.

Although gains from the latter can take years to develop, benefits from those gains are clearly showing through, both for dealing with claims and discouraging them in the first place. Earlier this year the Court of Appeal held in *Te Mata v Hastings District Council* that a council does not owe a duty of care for building defects to the owner/operator of a motel. If Riskpool is successful in the Court of Appeal in the *Sunset Terraces* and *Byron Avenue* cases, where the issue is whether a duty of care is owed to an investor in a residential apartment, the ongoing reduction in the costs of leaky building settlements will be considerable.

It cannot be emphasized enough: our role is not just about reducing claims paid by Riskpool wherever possible. Our goal is to help 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 as a whole. In particular, we take a long-term view of our members' liabilities and are very careful in managing claims to avoid unwanted precedents. In this we are completely different from an insurance company, which naturally puts its own needs first and the member's needs second, while the sector's needs are almost certainly not even considered.

With the maturing of fund years one to four, these have been combined with fund year five. During the year the opportunity was also taken to revise the scheme rules, which had been left unchanged since Riskpool's launch in 1997. One key change in the scheme rules is the requirement for members to let Riskpool know at least thirty days before the end of a fund year if they will not be applying for membership for the following fund year. This rule has been introduced so that members who continue with Riskpool are not penalized for costs incurred that Riskpool cannot recover when other members do not renew their membership at short notice. An example of such a cost is reinsurance purchased on behalf of a member that is then not needed.

During the year, Bob Lineham and Michael Ross stepped down from the Board, both having served since 1997. On behalf of the members I thank them both for their significant contributions as directors and to Michael Ross who served as Chairman from 2001. Replacing them on the Board are Andrew McKenzie, General Manager Finance, Auckland City Council and Ross McLeod, CEO of Hastings District Council.

Riskpool is a fund designed for local government and owned exclusively by its members. However it 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 for Riskpool, its members, and the local government sector.



Bryan Taylor
CHAIRMAN

LOCAL GOVERNMENT MUTUAL FUNDS TRUSTEE LTD BOARD



D Sheard, J Palmer, B Taylor, A McKenzie, A Morris, R McLeod

SCHEME MANAGER'S OPERATIONAL OVERVIEW

Claims across all categories, with the exception of defamation claims, have increased this year as parties increasingly look to Councils to take responsibility for incidents and losses. We suspect that the Dispute Tribunal's increased jurisdiction will further add to the number of claims made against Members. Of course a good proportion of these claims are unmeritorious or entirely defensible, and the good risk management practices adopted by Councils assist greatly with this.

Our national litigation management strategies have produced an improvement in the common law for Local Government with the narrowing of the duty issue in building defect claims. Notwithstanding that, the litigation environment for building defect claims against Local Government has deteriorated significantly over the last year. Plaintiffs are more frequently refusing to compromise and settle their claims. Councils are exposed to the effect of "joint and several" liability for damages and increasingly are left as the last judgement worthy defendant because other defendants cannot meet judgements or contribute to negotiated settlements. Local Government is shouldering the burden of the "leaky building crisis" and few territorial authorities have been unaffected with over 60 having weathertightness claims against them.

At the same time the average claim for remedial costs and other heads of damages made by claimants has increased, which has led to a trebling of the average overall settlement to \$234,000.

The deterioration in the litigation environment over the year has required Riskpool to take up significant claims provisions involving a relatively small number of large multi-unit claims taking a projected deficit of \$1.3 million last year to \$21 million this year. The appeals in "Byron Avenue" and "Sunset Terraces" may cause a review of those provisions giving rise to that projected deficit but without those decisions that review could not be undertaken at balance date.

This led to the decision by the Board to make a Call of \$4 million to address the deficits in Funds 6 and 7 as those years are mature and unlikely to develop materially.

The Board has monitored the development of these claims and has from time to time made underwriting changes based on information and circumstances at those times, those changes have been:

- The application of a minimum excess for Weathertight Homes Resolution Service/Tribunal claims of \$50,000 on all open claims over all years;
- 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 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.

Of course at each renewal Contributions reflect each Council's general risk, claims experience and risk management practices.

During the year under review Riskpool has continued to assist Local Government manage its liability risks and provide risk solutions. We were pleased to be able to assist Regional Councils as they managed their new responsibilities for dams under the Building Act, particularly given the potential risks involved. The co-operative approach between those Councils was made easier with a single indemnifier and we were able to assist with the engagement of third parties such as engineers to protect our Member Councils' interests.

We review many contracts proposed by third party service providers to, or professionals engaged by, our Members. A notable trend recently has been the insistence by those providers and professionals to limit their liability to Councils, thereby increasing Council exposure to third party claims. We have worked closely in these instances to achieve more acceptable terms.



Paul Carpenter
SCHEME MANAGER

RISK MANAGEMENT

Over the last year our liability assessment programme focused predominantly on the practices and procedures surrounding the issue of Land Information Memoranda (LIMs). We also carried out a number of LIM presentations and conducted training sessions for a number of Councils. If, for any reason, such as significant staff changes, you feel your capability has reduced in this area we would be happy to facilitate a training session for you.

A considerable number of LIM claims are as a direct result of the appropriate piece of information not being in the right place and therefore not picked up by those persons processing the LIM. For this reason we strongly advocate that record management policies should include reference to the timeliness in which information is to be placed on the appropriate system or file.

We continue to work closely with our members in the area of building control by way of claims management, advice and assessment. While building control issues continue to dominate our claims history we have seen an increase in claims across the board. You will note in Figure one that, of the 849 claims notified in the 08/09 period, non-weathertight claims have nearly doubled from 250 last year to 444. We think this is probably due to the fact that people become more litigious in hard economic times.

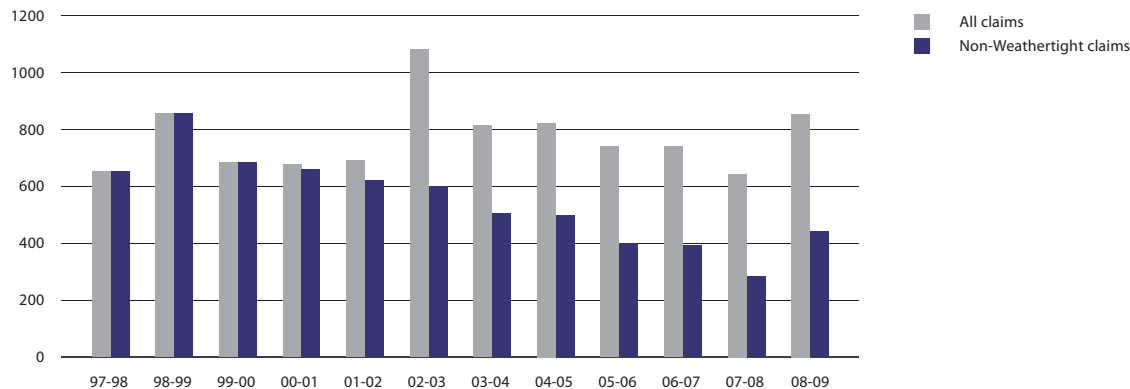
Fortunately the claims have been largely defensible due to good risk management practice and we have been able to dispose of the majority of these claims very quickly. It is encouraging to continue to see ongoing improvements in risk management practices in so many Councils.

The enquiries to our help desk took on a different twist over the last year with us receiving a lot of enquiries about information management in general. Councils are obviously starting to think about the requirements of the Public Records Act 2005 and the responsibilities imposed by this Act. Should you wish to brush up your knowledge in this area there is a wealth of information to be found on Archives New Zealand's website, <http://archives.govt.nz>

Over the next year we will continue to focus on liability assessments and training. If you have risk management concerns in any particular please phone us. We are happy to discuss tailoring a risk management solution to suit.

We would like to thank all of our members for their time and continued support of our liability assessment programme. We look forward to working with you all in the coming year.

FIGURE 1



Raelene James
RISK MANAGEMENT
CONSULTANT

CLAIMS MANAGEMENT

9,599 notifications of claims or circumstances that might give rise to claims have been received and managed since 1997.

The following table summarises claim notifications over the last twelve years.

	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
Number of Members	57	70	74	76	79	80	81	83	82*	82*	78	78
	<i>* Banks Peninsular District Council and Christchurch City Council amalgamated.</i>											
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
Building Control Matters	176	255	212	173	177	629	398	465	379	384	361	479
RMA Matters	81	159	86	98	76	90	78	76	47	31	32	58
Flooding/Blocked Drains	57	90	68	64	58	40	43	57	51	35	23	33
LIM's	51	57	39	46	36	75	62	79	56	61	38	53
Landslip/Subsidence	34	42	28	32	26	27	46	27	16	17	10	40
Sewage Discharge	11	19	12	15	10	14	16	20	15	24	10	7
Falling Trees	10	12	11	9	8	6	17	10	25	16	11	13
Defamation	7	9	6	5	4	1	4	3	3	4	2	0
Other	223	212	219	234	290	196	149	145	146	163	155	164
Total	650	855	681	676	685	1,078	813	882	738	735	642	847
Claims per Member	11.4	12.2	9.2	8.9	8.7	13.5	10.0	10.7	9	8.9	8.2	10.9

2008-09 was characterised by an increase in claims against Member Councils over almost all main categories. It should be noted though that a good proportion of these claims are either unmeritorious or entirely defensible. There was a marked increase in the number of claims pursued in the Disputes Tribunal where our claims administrators have appeared with or on behalf of Councils achieving generally favourable results. Similarly, there was a significant increase in insurance company subrogated recoveries following damage to property allegedly caused by Councils either through Council ownership of land or infrastructure, or as a result of resource consents issued by Councils.

This year saw the largest settlement of a Public Liability claim to date following a burst watermain flooding the gas reticulation system in Wellington's central business district. This caused a gas outage that lasted many weeks in some areas affecting businesses and residential properties and involved a costly purging of the system.

We were disappointed with the High Court decision in *Altimarloch Joint Venture Ltd v Moorehouse & Anor*, delivered during the year involving a Land Information Memoranda issued by Marlborough District Council. This decision is currently under appeal and the principal point on appeal will be that LIMs are requested and issued under section 10 in Part 2 of LGOIMA and therefore subject to the section 41 immunity as to the correctness of information, and that section 44A merely prescribes the information that should be included in a LIM. The success of that argument on appeal will potentially have a significant impact on other LIM claims against Councils.

Building defect claims continue to dominate our claims experience. *We had further success in narrowing the duty issue in Queenstown Lakes District Council v Charterhall Trustees Ltd & Anor*. This was an

appeal from an unsuccessful strike-out application in the High Court. A fire caused considerable damage to a luxury lodge which also allegedly caused a loss in business. It was alleged that Council had been negligent in issuing a building consent and its inspections during construction. The Court of Appeal confirmed that a duty is not owed to commercial property owners who can otherwise take steps to protect their interests. This neatly follows *No 3 Meade Street Ltd v Rotorua District Council* and *Te Mata Properties Ltd v Hastings District Council* and confirms the duty issue beyond weathertightness claims involving commercial properties.

Building defect claims involving weathertightness issues continue to present the biggest liability challenge to Local Government and Riskpool. In our last Annual report we observed that it had become more common for Councils to be left as "the last man standing" in this type of litigation, principally due to other defendants having been wound up or being unable to meaningfully contribute to settlements or meet judgements against them. That trend, possibly due to economic conditions, has continued to worsen for Local Government. In addition to that, claimants or plaintiffs are less willing to compromise in order to achieve early settlement, adding to the cost of these claims.

Two significant appeals were heard together during the year. "*Byron Avenue*" and "*Sunset Terraces*", both weathertightness claims involving North Shore City Council, involved points on appeal as to whether territorial authorities owe a duty of care to carry out their Building Act functions in such a way as to protect the economic interests of any person at all, or in the alternative, whether such a duty is generally owed to investor-owners as a class of persons. The decisions are not expected until the end of this year or the beginning of 2010, but they have potential to significantly reduce claims against our Member Councils.

Aubrey Hann
CLAIMS MANAGER



Greg Morton
CLAIMS ADMINISTRATOR



Paul Murray
CLAIMS ADMINISTRATOR



To the readers of
New Zealand Mutual
Liability Riskpool's
Financial Statements
for the year ended
30 June 2009

AUDIT REPORT

The Auditor-General is the auditor of the New Zealand Mutual Liability Riskpool (the "Scheme"), comprising of Fund 1 to Funds 13 (the "Funds"). The Auditor-General has appointed me, Michael Wilkes, using the staff and resources of Deloitte, to carry out the audit of the financial statements of the Scheme, for the year ended 30 June 2009.

UNQUALIFIED OPINION

In our opinion:

The financial statements of the Fund's on pages 10 to 23:

- comply with generally accepted accounting practice in New Zealand;
- fairly reflect:
 - the Fund's financial position as at 30 June 2009; and
 - the results of its operations and cash flows for the year ended on that date
- Based on our examination, the Scheme kept proper accounting records.

The audit was completed on 5 October 2009, and 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 the Auditor, and explain our independence.

BASIS OF OPINION

We carried out the audit in accordance with the Auditor-General's Auditing Standards, which incorporate the New Zealand Auditing Standards.

We planned and performed the audit to obtain all the information and explanations we considered necessary in order to obtain reasonable assurance that the financial statements did not have material misstatements, whether caused by fraud or error.

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.

The audit involved performing procedures to test the information presented in the financial statements. We assessed the results of those procedures in forming our opinion.

Audit procedures generally include:

- determining whether significant financial and management controls are working and can be relied on to produce complete and accurate data;
- verifying samples of transactions and account balances;
- performing analyses to identify anomalies in the reported data;
- reviewing significant estimates and judgements made by the Trustee;
- confirming year-end balances;
- determining whether accounting policies are appropriate and consistently applied; and
- determining whether all financial statement disclosures are adequate.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements.

We evaluated the overall adequacy of the presentation of information in the financial statements. We obtained all the information and explanations we required to support our opinion above.

EMPHASIS OF MATTER

Going Concern

In forming our unqualified opinion, we note that the financial statements of the Funds have been appropriately prepared on a going concern basis. Note 2 outlines that the 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 Trust Deed.

RESPONSIBILITIES OF THE TRUSTEE AND THE AUDITOR

The Trustee is responsible for preparing financial statements in accordance with generally accepted accounting practice in New Zealand. The financial statements must fairly reflect the financial position of the Scheme as at 30 June 2009 and the results of its operations and cash flows for the year ended on that date. The Trustee's responsibilities arise from the Public Finance Act 1989.

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

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.

Our firm has provided tax support to the Scheme during the year. Apart from this, and other than in our capacity as auditor acting on behalf of the Auditor-General, we have no relationship with or interests in the Scheme.



Michael Wilkes

DELOITTE

ON BEHALF OF THE AUDITOR-GENERAL
WELLINGTON, NEW ZEALAND

NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Statement of Financial Performance for the year ended 30 June 2009

	Note	Fund No.13 (09–10)		Fund No.12 (08–09)		Fund No.11 (07–08)		Fund No.10 (06–07)		Fund No.9 (05–06)		Fund No.8 (04–05)			
		2009		2009		2008		2009		2008		2009		2008	
		\$		\$		\$		\$		\$		\$		\$	
Revenue															
Members' Contributions		-	6,215,923	-	-	7,107,900	-	-	-	-	-	-	-		
Contribution to expenses from prior fund years		-	1,462,570	-	-	689,895	-	-	-	-	-	-	-		
Direct Claims Expense	7	-	6,904,689	-	4,232,583	2,772,914	10,217,187	1,987,017	2,746,454	1,329,698	3,593,667	(793,121)			
Future Claims Administration Expense	7	-	554,070	-	-	708,205	-	-	-	-	-	-			
Reinsurance Expense		-	1,311,756	-	-	1,279,925	-	-	-	-	-	-			
Net Result for the Period		-	(1,092,022)	-	(4,232,583)	3,036,751	(10,217,187)	(1,987,017)	(2,746,454)	(1,329,698)	(3,593,667)	793,121			
Investment Revenue		-	208,362	-	236,170	370,001	208,804	346,477	798	142,356	118,342	231,161			
Total Revenue		-	(883,660)	-	(3,996,413)	3,406,752	(10,008,383)	(1,640,540)	(2,745,656)	(1,187,342)	(3,475,325)	1,024,282			
Expenditure															
Risk Management Programme		-	-	-	-	-	-	-	-	-	-	-			
Scheme Manager's Fee		-	1,294,720	-	(4,179)	1,294,720	-	-	-	-	-	-			
Fund Manager's Fee		-	255,626	-	-	224,125	-	-	-	-	-	-			
Audit Fees		-	7,407	-	9,417	5,630	2,961	5,224	2,961	2,037	2,961	2,037			
Other Fees Paid to Auditors		-	7,400	-	11,000	-	1,150	-	-	-	-	-			
Consultancy		-	69,949	-	15,327	112,963	-	6,938	-	-	-	-			
Directors' Fees		-	41,348	-	-	24,500	-	-	-	-	-	-			
Meeting / Travel Expenses		-	14,972	-	-	15,784	-	-	-	-	-	-			
Directors & Officers Liability Insurance		-	12,600	-	-	12,600	-	-	-	-	-	-			
Legal Fees		-	26,295	-	-	15,210	-	-	-	-	-	-			
Printing and Stationery		-	9,458	-	(287)	10,495	-	385	-	-	-	-			
Sundry Expenses		-	473	-	-	365	-	-	-	-	-	-			
Rebate Expense/Trust Income Distribution		-	-	-	-	-	-	-	-	-	-	-			
Bad Debts		-	-	-	-	-	-	-	-	-	-	-			
Total Expenditure		-	1,740,248	-	31,278	1,716,392	4,111	12,547	2,961	2,037	2,961	2,037			
Net Surplus/(Deficit) before Tax		-	(2,623,908)	-	(4,027,691)	1,690,360	(10,012,494)	(1,653,087)	(2,748,617)	(1,189,379)	(3,478,286)	1,022,245			
Tax Expense		-	(14,016)	-	(47,583)	617,347	(153,184)	(107,703)	(9,225)	(262,723)	40,300	(71,687)			
Net Surplus/(Deficit) after Tax		-	(2,609,892)	-	(3,980,108)	1,073,013	(9,859,310)	(1,545,384)	(2,739,392)	(926,656)	(3,518,586)	1,093,932			

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

Fund No.7 (03-04)		Fund No.6 (02-03)		Fund No.5 (01-02)		Fund No.4 (00-01)		Fund No.3 (99-00)		Fund No.2 (98-99)		Fund No.1 (97-98)		TOTAL	
2009	2008	2009	2008	2008	2007	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
3,500,000	-	500,000	-	-	-	-	-	-	-	-	-	-	-	10,215,923	7,107,900
-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,462,570	689,895
1,777,771	8,228	(606,912)	95,758	(169,859)	80,354	(126,285)	8,224	266,636	27,209	4,138	(32,978)	-	40,000	28,840,069	5,523,303
-	-	-	-	-	-	-	-	800	-	35	35	-	-	554,905	708,240
-	-	-	50,000	-	-	-	-	-	-	-	-	-	-	1,311,756	1,329,925
1,722,229	(8,228)	1,106,912	(145,758)	169,859	(80,354)	126,285	(8,224)	(267,436)	(27,209)	(4,173)	32,943	-	(40,000)	(19,028,237)	236,327
138	-	-	-	-	-	139,330	191,422	85,276	117,729	14,178	14,036	11,400	26,484	1,022,798	1,439,666
1,722,367	(8,228)	1,106,912	(145,758)	169,859	(80,354)	265,615	183,198	(182,160)	90,520	10,005	46,979	11,400	(13,516)	(18,005,439)	1,675,993
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,290,541	1,294,720
-	-	-	-	-	-	-	-	-	-	-	-	-	-	255,626	224,125
2,961	2,037	2,961	2,037	2,961	2,037	2,961	2,037	2,961	2,037	2,961	2,037	2,961	2,037	46,434	29,187
-	-	-	-	-	-	-	-	-	-	-	-	-	-	19,550	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	85,276	119,901
-	-	-	-	-	-	-	-	-	-	-	-	-	-	41,348	24,500
-	-	-	-	-	-	-	-	-	-	-	-	-	-	14,972	15,784
-	-	-	-	-	-	-	-	-	-	-	-	-	-	12,600	12,600
-	-	-	5,845	-	-	-	-	-	-	-	-	-	-	26,295	21,055
-	-	-	-	-	-	-	-	-	-	-	-	-	-	9,171	10,880
-	-	-	25	-	-	-	-	-	-	-	-	-	-	473	390
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	(1,000,000)	-	-	-	-	-	-	-	-	-	-	-	(1,000,000)
2,961	2,037	2,961	(992,093)	2,961	2,037	2,961	2,037	2,961	2,037	2,961	2,037	2,961	2,037	1,802,286	753,142
1,719,406	(10,265)	1,103,951	846,335	166,898	(82,391)	262,654	181,161	(185,121)	88,483	7,044	44,942	8,439	(15,553)	(19,807,725)	922,851
47,318	(190,269)	114,218	(23,832)	(19,378)	(6,961)	101,744	51,553	(67,272)	(2,388)	4,909	(1,889)	2,169	(1,448)	-	-
1,672,088	180,004	989,733	870,167	186,276	(75,430)	160,910	129,608	(117,849)	90,871	2,135	46,831	6,270	(14,105)	(19,807,725)	922,851

NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Statement of Movements in Trust Funds for the year ended 30 June 2009

	Note	Fund No.13 (09–10)	Fund No.12 (08–09)		Fund No.11 (07–08)		Fund No.10 (06–07)		Fund No.9 (05–06)		Fund No.8 (04–05)	
		2009	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008
		\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Total Trust Funds at 1 July 2008		-	-	-	1,073,013	-	497,964	2,043,348	(3,194,623)	(2,267,967)	(911,753)	(2,005,685)
Net Surplus/(Deficit)		-	(2,609,892)	-	(3,980,108)	1,073,013	(9,859,310)	(1,545,384)	(2,739,392)	(926,656)	(3,518,586)	1,093,932
Capital Contribution		-	-	-	-	-	-	-	-	-	-	-
Merger of Funds	5	-	-	-	-	-	-	-	-	-	-	-
Total Trust Funds at 30 June 2009		-	(2,609,892)	-	(2,907,095)	1,073,013	(9,361,346)	497,964	(5,934,015)	(3,194,623)	(4,430,339)	(911,753)

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

Fund No.7 (03-04)		Fund No.6 (02-03)		Fund No.5 (01-02)		Fund No.4 (00-01)		Fund No.3 (99-00)		Fund No.2 (98-99)		Fund No.1 (97-98)		TOTAL	
2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
(3,045,347)	(3,225,351)	(424,652)	(1,294,819)	260,661	336,091	2,290,255	2,160,647	1,779,824	1,688,953	351,965	305,134	11,855	25,960	(1,310,838)	(2,233,689)
1,672,088	180,004	989,733	870,167	186,276	(75,430)	160,910	129,608	(117,849)	90,871	2,135	46,831	6,270	(14,105)	(19,807,725)	922,851
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	4,485,365	-	(2,451,165)	-	(1,661,975)	-	(354,100)	-	(18,125)	-	-	-
(1,373,259)	(3,045,347)	565,081	(424,652)	4,932,302	260,661	-	2,290,255	-	1,779,824	-	351,965	-	11,855	(21,118,563)	(1,310,838)

NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Statement of Financial Position as at 30 June 2009

	Note	Fund No.13 (09-10)		Fund No.12 (08-09)		Fund No.11 (07-08)		Fund No.10 (06-07)		Fund No.9 (05-06)		Fund No.8 (04-05)		
		2009	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008
		\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Trust Funds														
Trust Accounts		-	(2,609,892)	-	(2,907,095)	1,073,013	(9,361,346)	497,964	(5,934,015)	(3,194,623)	(4,430,339)	(911,753)		
Trust Capital Account		-	-	-	-	-	-	-	-	-	-	-		
Merger of Funds	5	-	-	-	-	-	-	-	-	-	-	-		
Total		-	(2,609,892)	-	(2,907,095)	1,073,013	(9,361,346)	497,964	(5,934,015)	(3,194,623)	(4,430,339)	(911,753)		
Represented by:														
Current Assets														
Bank – ANZ Banking Group		(27,602)	1,082,815	-	413,565	330,418	630,158	1,283,398	(2,338,079)	(183,968)	1,097,207	1,119,493		
Short Term Bank Deposits		-	1,860,000	-	2,770,000	3,670,000	745,000	2,930,000	-	-	735,000	1,745,000		
Accrued Interest		-	32,533	-	313,553	252,341	59,115	112,526	-	-	1,013	43,688		
Accounts Receivable		-	-	-	-	2,000	-	-	-	-	-	-		
Prepayments		24,535	-	-	-	-	-	-	-	-	-	-		
Reinsurance Recoverable	7	-	471,089	-	-	-	-	-	20,541,045	3,321,807	13,568,500	2,289,395		
Provision for Doubtful Debts	2	-	-	-	-	-	-	-	-	-	-	-		
Taxation Receivable/(Payable)		-	7,793	-	42,620	15,705	44,211	40,008	-	55,383	20,788	75,808		
GST Receivable/(Payable)		3,067	211,897	-	125,260	165,543	2,759	68,262	271,193	303,497	63,226	33,852		
Total Current Assets		-	3,666,127	-	3,664,998	4,436,007	1,481,243	4,434,194	18,474,159	3,496,719	15,485,734	5,307,236		
Total Assets		-	3,666,127	-	3,664,998	4,436,007	1,481,243	4,434,194	18,474,159	3,496,719	15,485,734	5,307,236		
Current Liabilities														
Accounts Payable		-	70,805	-	65,969	70,957	57,201	82,632	14,718	13,208	8,167	12,307		
Interfund Payable/(Receivable)		-	(1,476,586)	-	406,304	(72,548)	825,579	717,578	(560,593)	(777,528)	384,717	157,407		
Provision for Rebate		-	-	-	-	-	-	-	-	-	-	-		
Contributions Received in Advance		-	-	-	-	-	-	-	-	-	-	-		
Total Current Liabilities		-	(1,405,781)	-	472,273	(1,591)	882,780	800,210	(545,875)	(764,320)	392,884	169,714		
Claims Provision	7	-	7,681,800	-	6,099,820	3,364,585	9,959,809	3,136,020	24,954,049	7,455,662	19,523,189	6,049,275		
Total Liabilities		-	6,276,019	-	6,572,093	3,362,994	10,842,589	3,936,230	24,408,174	6,691,342	19,916,073	6,218,989		
EXCESS/(DEFICIT) ASSETS OVER LIABILITIES		-	(2,609,892)	-	(2,907,095)	1,073,013	(9,361,346)	497,964	(5,934,015)	(3,194,623)	(4,430,339)	(911,753)		

Signed on behalf of the Trustee,
Local Government Mutual Funds Trustee Limited on 5 October 2009.

B Taylor
Director



D Sheard
Director



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

Fund No.7 (03-04)		Fund No.6 (02-03)		Fund No.5 (01-02)		Fund No.4 (00-01)		Fund No.3 (99-00)		Fund No.2 (98-99)		Fund No.1 (97-98)		TOTAL	
2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
(1,519,450)	(3,191,538)	433,916	(555,817)	70,523	(115,753)	1,152,940	992,030	196,704	314,553	81,456	79,321	18,125	11,855	(24,808,473)	(5,000,748)
146,191	146,191	131,165	131,165	376,414	376,414	1,298,225	1,298,225	1,465,271	1,465,271	272,644	272,644	-	-	3,689,910	3,689,910
-	-	-	-	4,485,365	-	(2,451,165)	-	(1,661,975)	-	(354,100)	-	(18,125)	-	-	-
(1,373,259)	(3,045,347)	565,081	(424,652)	4,932,302	260,661	-	2,290,255	-	1,779,824	-	351,965	-	11,855	(21,118,563)	(1,310,838)
(2,570,304)	(1,598,331)	382,820	(273,658)	2,807,846	(60,739)	-	1,013,775	-	273,063	-	94,553	-	54,951	1,478,426	2,052,955
-	-	-	-	2,680,000	-	-	1,680,000	-	1,465,000	-	200,000	-	350,000	8,790,000	12,040,000
-	-	-	-	119,757	-	-	70,809	-	51,975	-	10,127	-	26,484	525,971	567,950
3,500,000	-	500,000	-	-	-	-	-	-	-	-	-	-	-	4,000,000	2,000
-	-	-	-	-	-	-	-	-	-	-	-	-	-	24,535	-
12,074,958	1,847,481	20,483,540	4,209,264	3,445,417	1,401,577	-	-	-	-	-	-	-	36,025	70,584,549	13,105,549
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	9,580	-	-	31,725	-	-	42,480	-	35,602	-	2,684	-	-	147,137	277,250
(276,849)	(67,454)	(115,999)	(51,463)	(57,784)	(8,037)	-	5,369	-	9,015	-	21,933	-	(51,851)	226,770	428,666
12,727,805	191,276	21,250,361	3,884,143	9,026,961	1,332,801	-	2,812,433	-	1,834,655	-	329,297	-	415,609	85,777,388	28,474,370
12,727,805	191,276	21,250,361	3,884,143	9,026,961	1,332,801	-	2,812,433	-	1,834,655	-	329,297	-	415,609	85,777,388	28,474,370
11,453	16,386	46,098	31,392	40,993	1,267	-	1,267	-	1,267	-	1,267	-	1,267	315,404	233,217
(314,397)	(532,080)	248,272	47,364	486,704	(365,472)	-	402,749	-	44,673	-	(24,630)	-	402,487	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
(302,944)	(515,694)	294,370	78,756	527,697	(364,205)	-	404,016	-	45,940	-	(23,363)	-	403,754	315,404	233,217
14,404,008	3,752,317	20,390,910	4,230,039	3,566,962	1,436,345	-	118,162	-	8,891	-	695	-	-	106,580,547	29,551,991
14,101,064	3,236,623	20,685,280	4,308,795	4,094,659	1,072,140	-	522,178	-	54,831	-	(22,668)	-	403,754	106,895,951	29,785,208
(1,373,259)	(3,045,347)	565,081	(424,652)	4,932,302	260,661	-	2,290,255	-	1,779,824	-	351,965	-	11,855	(21,118,563)	(1,310,838)

NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Statement of Cash Flows for the year ended 30 June 2009

	Note	Fund No.13 (09–10)		Fund No.12 (08–09)		Fund No.11 (07–08)		Fund No.10 (06–07)		Fund No.9 (05–06)		Fund No.8 (04–05)			
		2009		2009		2008		2009		2008		2009		2008	
		\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	
Cash flows from operating activities															
Cash was provided from:															
Members' Contributions		-	6,215,923	-	-	7,107,900	-	-	-	-	-	-	-		
Interest Received – Bank		-	175,829	-	174,958	117,660	262,215	298,744	798	205,691	161,017	267,859			
Reinsurance recoveries received		-	-	-	-	-	-	-	1,007,675	-	47,589	-			
		-	6,391,752	-	174,958	7,225,560	262,215	298,744	1,008,473	205,691	208,606	267,859			
Cash was applied to:															
Reinsurance		-	(1,311,756)	-	-	(1,279,925)	-	-	-	-	-	-			
Scheme Manager's Fee		-	(1,294,720)	-	(7,288)	(1,283,253)	-	19,771	-	(28,540)	-	-			
Fund Manager's Fee		-	(255,626)	-	-	(224,125)	-	-	-	-	-	-			
Legal Fees		-	(18,795)	-	(7,500)	(7,710)	-	(7,500)	-	-	-	-			
Claims		-	(240,226)	-	(918,342)	(111,813)	(3,155,039)	(1,056,241)	(3,247,699)	(4,349,928)	(1,263,338)	(602,759)			
Consultants		(24,535)	(59,674)	-	(42,583)	(48,942)	(1,150)	(19,013)	-	-	-	-			
Audit Fees		-	-	-	(13,700)	-	(2,740)	(10,320)	(2,740)	(2,294)	(2,740)	(2,294)			
Other Expenses		-	(56,175)	-	(13,368)	(50,089)	-	(8,885)	-	-	-	-			
Taxation paid		-	(5,723)	-	(29,780)	(12,840)	(4,203)	(17,745)	55,383	-	55,020	(42,855)			
Net GST		(3,067)	(206,242)	-	40,750	(152,709)	62,677	(82)	32,472	(292,759)	(29,834)	31,584			
Net Cash inflow/(outflow) from operating activities	6	(27,602)	(3,448,937)	-	(991,811)	(3,171,406)	(3,100,455)	(1,100,015)	(3,162,584)	(4,673,521)	(1,240,892)	(616,324)			
Cash flows from investing activities:															
Net (increase)/decrease in investments		-	-	-	-	-	-	-	-	-	-	-			
Net cash inflow/(outflow) from investing activities		-	-	-	-	-	-	-	-	-	-	-			
Cash flows from financing activities:															
Advances (to) / from other Funds		-	-	-	-	-	-	-	-	-	-	-			
Net cash inflow/(outflow) from investing activities		-	-	-	-	-	-	-	-	-	-	-			
Net increase/(decrease) in cash held		(27,602)	2,942,815	-	(816,853)	4,054,154	(2,838,240)	(801,271)	(2,154,111)	(4,467,830)	(1,032,286)	(348,465)			
Opening cash		-	-	-	4,000,418	(53,736)	4,213,398	5,014,669	(183,968)	4,283,862	2,864,493	3,212,958			
Merger of Funds	5	-	-	-	-	-	-	-	-	-	-	-			
Ending cash		(27,602)	2,942,815	-	3,183,565	4,000,418	1,375,158	4,213,398	(2,338,079)	(183,968)	1,832,207	2,864,493			

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

Fund No.7 (03-04)		Fund No.6 (02-03)		Fund No.5 (01-02)		Fund No.4 (00-01)		Fund No.3 (99-00)		Fund No.2 (98-99)		Fund No.1 (97-98)		TOTAL	
2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
-	250,000	-	-	-	-	-	-	-	-	-	-	-	370,000	6,215,923	7,727,900
138	-	-	-	-	-	143,141	146,077	99,991	109,951	8,806	8,013	37,884	-	1,064,777	1,153,995
654,144	-	1,577,654	2,722,660	606,870	947,043	-	-	-	-	-	-	36,025	29,475	3,929,957	3,699,178
654,282	250,000	1,577,654	2,722,660	606,870	947,043	143,141	146,077	99,991	109,951	8,806	8,013	73,909	399,475	11,210,657	12,581,073
-	-	-	(50,000)	-	-	-	-	-	-	-	-	-	-	(1,311,756)	(1,329,925)
-	-	-	-	-	-	-	-	-	-	-	-	-	-	(1,302,008)	(1,292,022)
-	-	-	-	-	-	-	-	-	-	-	-	-	-	(255,626)	(224,125)
-	-	-	(5,845)	-	-	-	-	-	-	-	-	-	-	(26,295)	(21,055)
(1,841,943)	(2,086,148)	(984,607)	(907,669)	(462,812)	(514,764)	27,939	(29,313)	(153,442)	(59,328)	(561)	14,263	-	-	(12,240,070)	(9,703,700)
-	-	-	-	-	-	-	-	-	-	-	-	-	-	(127,942)	(67,955)
(2,740)	(2,294)	(2,740)	(2,294)	(2,740)	(2,294)	(2,740)	(2,294)	(2,740)	(2,294)	(2,740)	(2,294)	(2,740)	(2,294)	(41,100)	(30,966)
-	-	-	(25)	-	-	-	-	-	-	-	-	-	-	(69,543)	(58,999)
9,580	-	-	-	-	-	31,836	(10,324)	22,265	(15,900)	2,343	-	(7,403)	-	129,318	(99,664)
208,848	189,090	66,171	10,038	32,032	1,623	(191)	(143)	2,403	(2,605)	(343)	1,250	4,160	49,935	209,836	(164,778)
(1,626,255)	(1,899,352)	(921,176)	(955,795)	(433,520)	(515,435)	56,844	(42,074)	(131,514)	(80,127)	(1,301)	13,219	(5,983)	47,641	(15,035,186)	(12,993,189)
(971,973)	(1,649,352)	656,478	1,766,865	173,350	431,608	199,985	104,003	(31,523)	29,824	7,505	21,232	67,926	447,116	(3,824,529)	(412,116)
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
(971,973)	(1,649,352)	656,478	1,766,865	173,350	431,608	199,985	104,003	(31,523)	29,824	7,505	21,232	67,926	447,116	(3,824,529)	(412,116)
(1,598,331)	51,021	(273,658)	(2,040,523)	(60,739)	(492,347)	2,693,775	2,589,772	1,738,063	1,708,239	294,553	273,321	404,951	(42,165)	14,092,955	14,505,071
-	-	-	-	5,375,235	-	(2,893,760)	-	(1,706,540)	-	(302,058)	-	(472,877)	-	-	-
(2,570,304)	(1,598,331)	382,820	(273,658)	5,487,846	(60,739)	-	2,693,775	-	1,738,063	-	294,553	-	404,951	10,268,426	14,092,955

NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Notes to the Financial Statements for the year ended 30 June 2009

Note 1. Statement of Accounting policies

REPORTING ENTITY

The purpose of New Zealand Mutual Liability Riskpool (the Scheme) is to provide cover to Member local governments for, and manage, all claims for civil liabilities made against Members during the period 4pm 30 June to 4pm 30 June. A separate fund is established for each year.

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.

Accrual accounting is used to match expenses and revenue. The measurement base adopted is that of historical cost with the exception of short term deposits which are at maturity value.

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.

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.

The direct claims expense is presented net of excess recoveries and reinsurance recoveries.

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 with maturities at balance date of less than 90 days are valued at maturity value.

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.

The Scheme has utilised income tax losses available from previous years.

DIFFERENTIAL REPORTING

The Funds qualify for differential reporting as they are not publicly accountable and not large.

The Funds have taken advantage of exemptions relating to:

- FRS-31: Disclosure of Information about Financial Instruments,
- SSAP12: Accounting for Income Tax and
- SSAP22: Related Party Disclosures.

CHANGES IN ACCOUNTING POLICIES

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

Note 2. Basis of preparation of accounts

Many assumptions were made in arriving at the estimated figure of the outstanding claims reserve. The final outcome will depend on many variables including the percentage of WHRS (The Weathertightness Home Resolution Service) 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.

Although some of the funds indicate a shortfall in equity, their ability to continue in existence on a going concern basis is appropriate because the Trustee is able to levy the members to cover the shortfall in equity in any Fund under the terms of the Trust Deed.

Note 3. Taxation

Application was made to the Inland Revenue Department in 2001 for a Private Binding Ruling on the income tax treatment of Riskpool's financial affairs. The tax related aspects of these Financial Statements reflect the result of the Binding Ruling which was received in December 2003.

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.
- 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 balance date 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.

NEW ZEALAND MUTUAL LIABILITY RISKPOOL (CONTINUED)

Notes to the Financial Statements for the year ended 30 June 2009

Note 6. Reconciliation of net surplus/(deficit) to net cash inflow/(outflow) from operating activities

	Fund No.13 (09–10)		Fund No.12 (08–09)		Fund No.11 (07–08)		Fund No.10 (06–07)		Fund No.9 (05–06)		Fund No.8 (04–05)	
	2009		2008		2009		2008		2009		2008	
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Net Surplus/(Deficit)	-	(2,609,892)	-	(3,980,108)	1,073,013	(9,859,310)	(1,545,384)	(2,739,392)	(926,656)	(3,518,586)	1,093,932	
Add/(less) non cash items												
Claims Provision	-	7,210,711	-	2,735,235	3,364,585	6,823,789	641,826	279,149	(3,211,801)	2,194,809	(1,514,421)	
	-	7,210,711	-	2,735,235	3,364,585	6,823,789	641,826	279,149	(3,211,801)	2,194,809	(1,514,421)	
Add/(less) movements in other working capital items												
Accrued Interest	-	(32,533)	-	(61,212)	(252,341)	53,411	(47,733)	-	63,335	42,675	36,698	
GST Receivable	(3,067)	(211,897)	-	40,283	(159,572)	65,503	(8,718)	32,304	(288,227)	(29,374)	38,867	
Taxation Receivable	-	(7,793)	-	(26,915)	(15,705)	(4,203)	(17,745)	55,383	-	55,020	(42,855)	
Interfund Payable/Receivable	-	(1,476,586)	-	478,852	(72,548)	108,001	108,922	216,935	(63,693)	227,310	104,863	
Trust Income Distribution	-	-	-	-	-	-	-	-	-	-	-	
Prepayments	(24,535)	-	-	-	47,765	-	-	-	-	-	-	
Deferred Tax	-	-	-	-	-	-	-	-	-	-	-	
Contribution received in advance	-	-	-	-	-	-	-	-	-	-	-	
Accounts Receivable	-	-	-	2,000	(2,000)	-	22,242	-	-	-	112,500	
Accounts Payable	-	70,805	-	(4,988)	70,957	(25,431)	45,319	1,510	(40,788)	(4,140)	(178,049)	
	(27,602)	(1,658,004)	-	428,020	(383,444)	197,281	102,287	306,132	(329,373)	291,491	72,024	
Net Cash inflow/(outflow) from operating activities	(27,602)	2,942,815	-	(816,853)	4,054,154	(2,838,240)	(801,271)	(2,154,111)	(4,467,830)	(1,032,286)	(348,465)	

Fund No.7 (03-04)		Fund No.6 (02-03)		Fund No.5 (01-02)		Fund No.4 (00-01)		Fund No.3 (99-00)		Fund No.2 (98-99)		Fund No.1 (97-98)		TOTAL	
2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
1,672,088	180,004	989,733	870,167	186,276	(75,430)	160,910	129,608	(117,849)	90,871	2,135	46,831	6,270	(14,105)	(19,807,725)	922,851
424,214	(2,166,485)	(113,405)	866,890	(27,781)	509,543	(101,091)	(21,574)	84,289	(33,369)	3,612	(18,680)	36,025	68,815	19,549,556	(1,514,671)
424,214	(2,166,485)	(113,405)	866,890	(27,781)	509,543	(101,091)	(21,574)	84,289	(33,369)	3,612	(18,680)	36,025	68,815	19,549,556	(1,514,671)
-	-	-	-	-	-	3,810	(45,346)	14,715	(7,778)	(5,372)	(6,023)	26,484	(26,484)	41,978	(285,672)
209,395	187,443	64,536	6,724	32,005	1,655	(217)	(110)	(1,337)	(2,573)	(370)	1,282	4,133	49,967	201,897	(173,262)
9,580	-	-	-	-	-	31,836	(10,324)	22,265	(15,900)	2,343	-	(7,403)	-	130,113	(102,529)
217,683	(115,144)	200,908	(6,752)	(17,398)	(3,871)	104,489	52,038	(67,272)	(1,138)	4,909	(1,889)	2,169	(788)	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	(24,535)	47,765
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
(3,500,000)	250,000	(500,000)	-	-	-	-	-	-	-	-	-	-	370,000	(3,998,000)	752,742
(4,933)	14,830	14,706	29,836	248	(289)	248	(289)	33,666	(289)	248	(289)	248	(289)	82,187	(59,340)
(3,068,275)	337,129	(219,850)	29,808	14,855	(2,505)	140,166	(4,031)	2,037	(27,678)	1,758	(6,919)	25,631	392,406	(3,566,360)	179,704
(971,973)	(1,649,352)	656,478	1,766,865	173,350	431,608	199,985	104,003	(31,523)	29,824	7,505	21,232	67,926	447,116	(3,824,529)	(412,116)

NEW ZEALAND MUTUAL LIABILITY RISKPOOL (CONTINUED)

Notes to the Financial Statements for the year ended 30 June 2009

Note 7. Claims

	Fund No.13 (09–10)		Fund No.12 (08–09)		Fund No.11 (07–08)		Fund No.10 (06–07)		Fund No.9 (05–06)		Fund No.8 (04–05)	
	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Cumulative Claims Experience												
Claims Provision	-	7,681,800	-	6,099,820	3,364,585	9,959,809	3,136,020	24,954,049	7,455,662	19,523,189	6,049,275	
Claims paid – Current year	-	248,048	-	970,913	116,534	3,132,213	1,128,566	3,248,820	4,342,469	1,259,437	544,750	
Claims paid – Prior year(s)	-	-	-	116,534	-	1,453,501	324,935	5,203,676	861,207	2,787,525	2,242,775	
Claims paid – Prior year(s) adjustments	-	-	-	-	-	-	-	-	-	-	-	
Gross claims incurred (Paid and estimated)	-	7,929,848	-	7,187,267	3,481,119	14,545,523	4,589,521	33,406,545	12,659,338	23,570,151	8,836,800	
Less reinsurance received	-	-	-	-	-	-	-	(1,007,675)	-	(47,589)	-	
Less reinsurance recoverable	-	(471,089)	-	-	-	-	-	(20,541,045)	(3,321,807)	(13,568,500)	(2,289,395)	
Total Net Claims	-	7,458,759	-	7,187,267	3,481,119	14,545,523	4,589,521	11,857,825	9,337,531	9,954,062	6,547,405	
Claims Reconciliation												
Claims Provision 30 June 2008	-	-	-	3,364,585	-	3,136,020	2,494,194	7,455,662	7,345,656	6,049,275	6,541,945	
Claims Paid	-	(248,048)	-	(970,913)	(116,534)	(3,132,213)	(1,128,566)	(3,248,820)	(4,342,469)	(1,259,437)	(544,750)	
Reassessment of prior years claims	-	-	-	3,706,148	-	9,956,002	1,770,392	2,520,294	1,130,668	3,406,657	(969,671)	
Reinsurance recoveries received	-	-	-	-	-	-	-	1,007,675	-	47,589	-	
Current year's claims received	-	7,929,848	-	-	3,481,119	-	-	-	-	-	-	
Merger of Funds	-	-	-	-	-	-	-	-	-	-	-	
Movement in reinsurance recoveries	-	-	-	-	-	-	-	17,219,238	3,321,807	11,279,105	1,021,751	
Claims Provision at 30 June 2009	-	7,681,800	-	6,099,820	3,364,585	9,959,809	3,136,020	24,954,049	7,455,662	19,523,189	6,049,275	

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 and Fund 12 \$1,625,000. 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.

The Future Claims Administration Expense reflects the level of claims being handled.

Claims

The outstanding claims liability 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 3.5% over 2 years, which is the average expected term to settlement.

Claims expense represents claim payments adjusted for movement

Fund No.7 (03-04)		Fund No.6 (02-03)		Fund No.5 (01-02)		Fund No.4 (00-01)		Fund No.3 (99-00)		Fund No.2 (98-99)		Fund No.1 (97-98)		TOTAL	
2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
14,404,008	3,752,317	20,390,910	4,230,039	3,566,962	1,436,345	-	118,162	-	8,891	-	695	-	-	106,580,547	29,551,991
1,837,336	2,099,588	997,457	934,448	462,812	514,764	(27,939)	29,313	183,147	59,328	561	(14,263)	-	-	12,312,805	9,755,497
6,730,989	4,631,401	6,687,274	5,752,826	4,085,962	3,571,198	1,291,989	1,262,676	2,030,156	1,970,828	2,089,968	2,104,231	2,125,015	2,125,015	34,602,589	24,847,092
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
22,972,333	10,483,306	28,075,641	10,917,313	8,115,736	5,522,307	1,264,050	1,410,151	2,213,303	2,039,047	2,090,529	2,090,663	2,125,015	2,125,015	153,495,941	64,154,580
(654,144)	-	(4,300,314)	(2,722,660)	(1,553,913)	(947,043)	-	-	-	-	-	-	(65,500)	(29,475)	(7,629,135)	(3,699,178)
(12,074,958)	(1,847,481)	(20,483,540)	(4,209,264)	(3,445,417)	(1,401,577)	-	-	-	-	-	-	-	(36,025)	(70,584,549)	(13,105,549)
10,243,231	8,635,825	3,291,787	3,985,389	3,116,406	3,173,687	1,264,050	1,410,151	2,213,303	2,039,047	2,090,529	2,090,663	2,059,515	2,059,515	75,282,257	47,349,853
3,752,317	7,583,717	4,230,039	4,724,088	1,436,345	1,360,932	118,162	139,736	8,891	42,260	695	19,375	-	660	29,551,991	30,252,563
(1,837,336)	(2,099,588)	(997,457)	(934,448)	(462,812)	(514,764)	27,939	(29,313)	(183,147)	(59,328)	(561)	14,263	-	-	(12,312,805)	(9,755,497)
1,607,406	(66,897)	(693,602)	78,678	(171,839)	77,264	(129,030)	7,739	267,436	25,959	4,173	(32,943)	-	39,340	20,473,645	2,060,529
654,144	-	1,577,654	2,722,660	606,870	947,043	-	-	-	-	-	-	36,025	29,475	3,929,957	3,699,178
-	-	-	-	-	-	-	-	-	-	-	-	-	-	7,929,848	3,481,119
-	-	-	-	114,558	-	(17,071)	-	(93,180)	-	(4,307)	-	-	-	-	-
10,227,477	(1,664,915)	16,274,276	(2,360,939)	2,043,840	(434,130)	-	-	-	-	-	-	(36,025)	(69,475)	57,007,911	(185,901)
14,404,008	3,752,317	20,390,910	4,230,039	3,566,962	1,436,345	-	118,162	-	8,891	-	695	-	-	106,580,547	29,551,991

in the outstanding claims liability. The estimation of the outstanding claims liability 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 Outstanding Claims Liability

As at 30 June 2009 the central estimate of the outstanding claims liability was evaluated by Neil Christie (Fellow of the NZ Society of Actuaries) of Melville Jessup Weaver. The actuaries are independent of the entity and of the external auditor. The actuaries are satisfied as to the nature and accuracy of data in the outstanding claims liability.

The estimation of the outstanding claims liability is based on an actuarial method that takes into account experience, trends, and other relevant

industry data. The estimation of the outstanding claims liability 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 outstanding claims liability is considered management'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.

2008–09 FUND YEAR MEMBERSHIP

Ashburton District Council
Auckland City Council
Auckland Regional Council
Banks Peninsula District Council
Carterton District Council
Central Hawke's Bay District Council
Central Otago District Council
Chatham Islands Council
Christchurch City Council
Clutha District Council
Environment BOP
Environment Canterbury
Environment Southland
Environment Waikato
Far North District Council
Franklin District Council
Gisborne District Council
Gore District Council
Hamilton City Council
Hastings District Council
Hauraki District Council
Hawke's Bay Regional Council
horizons.mw
Horowhenua District 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
Manawatu District Council
Manukau City Council
Marlborough District Council
Masterton District Council
Matamata-Piako District Council
Napier City Council
Nelson City Council
New Plymouth District Council
North Shore City Council
Northland Regional Council
Opotiki District Council
Otago Regional Council
Otorohanga District Council
Palmerston North City Council
Papakura District Council
Porirua City Council
Queenstown Lakes District Council
Rangitikei District Council
Rodney District Council
Rotorua District Council
Ruapehu 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
Taranaki District Council
Tasman District Council

Taupo District Council
Tauranga District Council
Timaru District Council
Upper Hutt City Council
Waikato District Council
Waimakariri District Council
Waimate District Council
Wairoa District Council
Waipa District Council
Waitakere City Council
Waitaki District Council
Waitomo District Council
Wanganui District Council
West Coast Regional Council
Western Bay of Plenty District 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@jlt.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	Auckland
	Andrew McKenzie (from 21 November 2008)	Auckland
	Ross McLeod (from 21 July 2009)	Hastings
	Alan Morris	Auckland
	Jim Palmer	Christchurch
	Denis Sheard	Auckland
	Bob Lineham (until 21 November 2008)	Christchurch
	Michael Ross (Chairman and Director until 30 June 2009)	Oamaru

Scheme Manager Jardine Lloyd Thompson Limited

Fund Manager Civic Assurance

Scheme Solicitors Heaney & Co

Scheme Auditors Auditor General who has appointed M Wilkes of Deloitte



Riskpool

NEW ZEALAND MUTUAL
LIABILITY RISKPOOL

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 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.

- 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;
- 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;
- 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;
- 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.
- 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.
- 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. THE FUND
- 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:
- 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.
- 4.1.2 the premium payable to an appropriate indemnity insurer or insurers to provide Indemnity Cover for the Members during that Fund Year.
- 4.1.3 the operating expenses of the Scheme for that year.
- 4.1.4 the grants or allocations to be made pursuant to clauses 3.1.7 or 3.1.8 (if any).
- 4.1.5 any other amount determined by the Board to be required for the continuation of the Scheme.
- 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:
- 4.2.1 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;
- 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;
- (i) to the amount of the Pooled Cover, from the relevant Annual Fund for that Fund Year;
- (ii) thereafter from Indemnity Cover for that Fund Year to the extent of that Cover;
- 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;
- (i) to the amount of the Pooled Cover, from the relevant Annual Fund for that Fund Year;
- (ii) to the amount of the Indemnity Cover for that Fund Year, to the extent of that cover;
- (iii) the balance by the Fund from surpluses from previous Fund Years and from Additional Contributions from Members;
- (iv) to the limit of any guarantee provided by LGIC, by LGIC.
- 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.

- 4.4 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;		disestablishment), and any reference in this deed to the Claims Committee shall be read accordingly.		that Annual Fund in order to ensure that all Claims upon that Annual Fund are able to be met.
6.6.3	annually determine the amount of Pooled Cover to be provided for the Members 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.
6.6.4	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;	6.9	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.
6.6.5	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	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.
		6.10.1	shall, on the recommendation of the Claims Committee and Scheme Manager, determine whether to accept or reject any Claim;		
		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	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:
		6.10.3	shall, on written request from a Member, reconsider any Claim that has been rejected.		
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	6.11	[Intentionally Omitted]		
		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	6.16.1	a Member shall have one vote;
				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

6.16.3 matters arising in, from or relating to different Fund Years shall be considered and voted on separately.

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:
- (i) Claims outstanding;
 - (ii) The Scheme Manager's assessment of liability in respect of each outstanding Claim;
 - (iii) The ability of the Fund to meet the assessment of liability;
 - (iv) The assessment of further Additional Contributions required, if any;
 - (v) The investment of the moneys of the Fund not immediately required;
 - (vi) The allocation of surplus moneys in the Fund, if any;
- 10.2.5 the preparation of the annual operating budget;
- 10.2.6 the calculation of Contributions in conjunction with actuarial advice and advice from the Scheme Manager;
- 10.2.7 the recommendation of the level of Pooled Cover to be provided in any Fund Year;
- 10.2.8 the recommendation of the level of Indemnity Cover to be provided in any Fund Year.
- 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.
- 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. **CONTRIBUTIONS TO SCHEME**
- 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.
- 11.2 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:
- 11.2.1 the Member's revenue base;
 - 11.2.2 the geographical location of the Member's territory;
 - 11.2.3 the population of the Member's territory;
 - 11.2.4 the Member's Civil Liability claims history (both during and prior to its membership of the Scheme);
 - 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;
 - 11.2.6 any matters relevant to the Scheme Member's risk management practices that are known to the Board;
- 11.2.7 any other matters the Board considers relevant, having regard to the purposes and objects of the Scheme.
- 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).
- 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).
- 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:
- 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;
 - 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.

- 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**
- 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.

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

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;

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.

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.

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.

EXECUTED AS A DEED

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

Director (Signature)

Director (Signature)

Name (Please Print)

Name (Please Print)

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

Director (Signature)

Director (Signature)

Name (Please Print)

Name (Please Print)

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)

