



NEW ZEALAND MUTUAL  
LIABILITY RISKPOOL

# 2012 ANNUAL REPORT



## CONTENTS

Liability Riskpool   Mission Statement	1
Chairman's Report	2
Claims Management	4
Independent Auditor's Report	7
Statement of Financial Performance	9
Statement of Movements In Trust Funds	11
Statement of Financial Position	13
Statement of Cash Flows	15
Notes to the Financial Statements	17
Scheme Rules	24
2011–12 Fund Year Membership	29
Directory	30
Amalgamated Deed of Trust and Deed of Variation of Deed of Trust	31

## 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, loss control advice, and claims management services.
- Providing a meaningful and practical risk management and loss control service which is effective, accountable and designed to meet the needs of Local Government.
- Providing a claims management service which is equitable and achieves financial efficiency whilst promoting better public relations between local authorities and their communities.

## CHAIRMAN'S REPORT

Riskpool has endured many changes and developments in the legal environment since its inception in 1997. Created as a result of the commercial market's lack of appetite for the unique risks which are associated with local authorities, Riskpool was developed to fill this market gap and continues to do so more than 15 years later.

These environmental changes and developments have brought significant challenges for the Fund over the last few years. The most well-known of these is the leaky home syndrome, which was neither expected nor foreseen by any commercial entity or government body. As you are aware, faced with this exposure your Board did its utmost to provide the cover the sector required which resulted in the undesirable necessity for calls to be made on members for various fund years. Whilst unfortunate, the calls made on members meant that Riskpool continued to be able to carry on the important business of protecting members' professional indemnity and public liability exposures.

As a result of the lessons learnt from the weather tight exposures, your Board determined that Riskpool would only offer cover for which it is able to obtain full reinsurance. This will ensure for claims that every dollar required in excess of a member's deductible will be borne by reinsurance. To execute this, for the fund years 2012-13, 2013-14 and 2014-15 Riskpool has secured ground up reinsurance for 100% of Riskpool's claims. The possibility of a call for these fund years is therefore minimal. (It would require a reinsurer to fail and for the Board of the day to then

determine that Riskpool would make a call to contribute to any subsequent claims shortfall.)

It should be remembered that there are many other risks other than leaky homes that Riskpool covers including: RMA matters, flooding, LIM's, landslips and subsidence, sewage discharge, falling trees, defamation and other nonspecific exposures. In fact, the majority of new claims on which the Scheme Solicitor has been retained in 2012 are non-leaky matters. Riskpool has been able to meet these claims consistently since 1997.

2012 has seen some restructure of Riskpool's administration culminating in the appointment of a Riskpool General Manager, Juliet Martin, who was appointed in July 2012. Your Board recognised the need to have an individual retained to function as a conduit between members and the Board and to ensure that the relevant management functions are carried out seamlessly and in the best interests of the Fund.

The Board is very pleased to welcome Juliet into this role. Legally qualified, Juliet has worked in the insurance profession for over a decade. From her experience in both private practice and some of the world's largest

multinational insurance companies, Juliet has been exposed to the highly litigious Australian liability insurance environment and more recently management of the material damage and business interruption claims for local authorities arising out of the Canterbury earthquakes.

2011-12 saw a reduction in new claims as well as a reduction in the cost of resolving existing claims. For example, in 2002-03 Riskpool received 629 new Building Control matters alone; this number is down to 72 for the past Fund Year. Streamlined claims management coupled with risk management strategies put in place years ago that are now bearing fruit are what we believe has driven this improvement.

Public liability and professional indemnity claims are known as long-tail claims for the very reason that it takes a number of years for claims to manifest as well as a number of years for proactive risk management strategies to kick in. It is pleasing to now reap these rewards and it also demonstrates the importance of such proactive strategies. Going forward Riskpool will continue to place a significant emphasis on risk management and looks forward to providing all members with this value added service.

Over the course of the last 12 months the Scheme Solicitor has reported that Mediations and adjudications are tracking smoothly, but where there are adjudications there is now a pattern of Appeals. In most every case where the Council achieves some success at Tribunal level the plaintiffs or other disgruntled parties lodge an appeal usually with the High Court. The High Court is not obliged to reconsider the claim unless it is satisfied that it has probably been decided wrongly. So far, the High Court has concluded for every Appeal that there is sufficient evidence to warrant it looking into the case and in almost every such case the High Court has then adjusted the Tribunal's decision.

The concern is that the costs are becoming high if matters are not settled at Mediation because almost everything is then ending up in the Court system.

Members are by now aware of the 11 October 2012 decision handed down by the Supreme Court in *Body Corporate 207624 v North Shore City Local Authority [2012] NZSC 83 (Byron Avenue)*. The case, run by North Shore City Council, has repercussions for the whole sector. Previously the case law in New Zealand was such that local authorities owed a duty of care when issuing building consents and code compliance certificates in respect of residential building works carried out under the Building Act. This judgment has broadened this duty to extend to all buildings regardless of its use. Furthermore, the decision is not limited to buildings which may be found to subsequently leak. It will have the effect that where a commercial building is found not to have

been constructed in accordance with the Building Code, lacking sprinklers or insufficient earthquake mitigation for example, a Council could be pursued for breach of duty if it can be shown to have been negligent.

As you are aware from the communication sent by the General Manager on 23 October 2012 the Board is presently assessing the effect this judgment and change in the state of the law will have on Riskpool.

Riskpool has achieved a great deal this year, we have navigated our way through most of the legacy of leaky homes claims, managed and resolved the many other claims which arise from the various activities of our members, seen a reduction in Riskpool's overall deficit from \$21.1 million to \$10.8 million, continued to work with members proactively so as to avoid claims, and appointed a General Manager to better assist the members and the Board.

The accounts to 30 June 2012 have now been finalised and indicate a more positive outcome than we had previously anticipated. Cash flow forecasts demonstrate that Riskpool should be able to meet its commitments to June 2014.

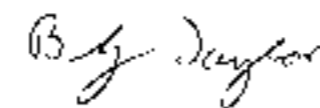
**The Board has therefore decided that there will be no call made during the 2013-2014 financial year.**

There is little doubt that there are many challenges for our members and the Fund going forward. We expect Riskpool to continue to meet these challenges in the best interests of its members.

We recognise the importance of being aware of the concerns and issues being faced by our members.

We are pleased to see the regular communications being received by the General Manager from our members and hope this will continue. The Board both wants and needs to know your concerns and to hear your suggestions and I encourage you to continue to use this resource.

The Board takes this opportunity to formally thank those who have worked so hard for Riskpool during 2011-12: the Fund Manager (Civic Assurance), the Scheme Manager (JLT) and the Scheme Solicitor (Heaney & Co). Their efforts are appreciated.



Bryan Taylor  
Chairman

## CLAIMS MANAGEMENT

Over 10,500 claims or circumstances that might give rise to claims have been received and managed since 1997. Numbers across most categories of claims have reduced further again. The reduction in the number of building control claims is largely due to the progressive changes to coverage in respect of weathertight claims, and ultimately the exclusion introduced for most Councils on 30 June 2009, taking effect.

We think the reduced numbers for other types of Professional Indemnity claims, most notably Resource Management Act matters and Land Information Memoranda, is due to the former Auckland Region Councils harmonising their excesses with the then Auckland City Council from 30 June 2010 in advance of the re-organisation that took place in November that year. The effect of this was a substantial excess increase for predecessor Councils some of which historically notified relatively large numbers of claims.

We have made good progress disposing of outstanding multi-unit weathertight claims. Historically these claims have caused volatility in our overall claims liability due to the many variable aspects of the claims such as other judgment-worthy defendants and plaintiff expectation.

As these claims are resolved fewer remain to cause volatility, and with the various underwriting steps taken from June 2006 onwards the Fund's exposure to these claims has been reducing.

Public Liability claims which involving Council caused damage to third party property remain as expected. **The following table sets out our claims experience.**

	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
<b>Number of Members</b>	57	70	74	76	79	80	81	83	82	82	78	78	72	64	57
<b>Cause of Claim/Notification</b>	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Building Control Matters	176	255	212	173	177	629	398	465	379	384	361	479	174	105	72
RMA Matters	81	159	86	98	76	90	78	76	47	31	32	58	72	33	9
Flooding/Blocked Drains	57	90	68	64	58	40	43	57	51	35	23	33	68	41	27
LIM's	51	57	39	46	36	75	62	79	56	61	38	53	57	36	36
Landslip/Subsidence	34	42	28	32	26	27	46	27	16	17	10	40	15	30	9
Sewage Discharge	11	19	12	15	10	14	16	20	15	24	10	7	15	15	6
Falling Trees	10	12	11	9	8	6	17	10	25	16	11	13	11	14	12
Defamation	7	9	6	5	4	1	4	3	3	4	2	0	2	1	0
Other	223	212	346	234	290	196	149	145	146	163	155	186	148	102	65
<b>Total</b>	<b>650</b>	<b>855</b>	<b>808</b>	<b>676</b>	<b>685</b>	<b>1,078</b>	<b>813</b>	<b>882</b>	<b>738</b>	<b>735</b>	<b>642</b>	<b>869</b>	<b>547</b>	<b>377</b>	<b>236</b>
<b>Claims per Member</b>	<b>11.4</b>	<b>12.2</b>	<b>10.6</b>	<b>8.9</b>	<b>8.7</b>	<b>13.5</b>	<b>10.0</b>	<b>10.7</b>	<b>9.0</b>	<b>8.9</b>	<b>8.2</b>	<b>11.1</b>	<b>7.6</b>	<b>7.0</b>	<b>4.1</b>

**BUILDING CONTROL**

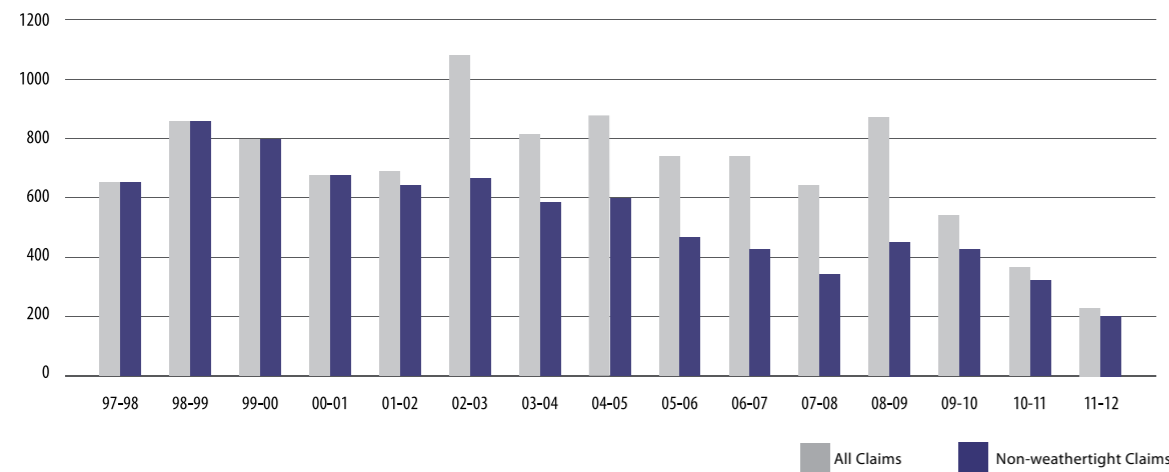
Building defect claims involve the alleged negligent issuing of building consents, allegedly negligent inspections during the course of construction and the issuing of allegedly erroneous Code Compliance Certificates which might be relied upon by third parties. Over the years we have successfully run litigation limiting the duty owed, or the liability of the Council:

- *No. Three Meade Street v Rotorua District Council* – Councils owe no duty of care to commercial property owners.

- *Te Mata Properties v Hastings District Council* – Councils owe no duty of care to non-vulnerable plaintiffs who can otherwise protect their interests for example through the engagement of clerks of works, project managers or otherwise protect their interests through contractual warranties, but chose not to.
- *Dicks v Waitakere City Council* – directors of liquidated or wound up building companies (or others involved in the building process) can be found personally liable.

- *Hartley v Waitakere City Council* – plaintiffs can be found liable for failing to mitigate their losses, 33% in this case.
- *Charterall Trustees v Queenstown Lakes District Council* – affirms that Councils do not owe a duty to commercial property owners. The rationale being that as more sophisticated owners commercial property owners are able to protect their own position unlike many residential property owners.
- *“Byron Avenue” and “Sunset Terraces”* – confirms that Councils do owe a duty to residential property owners and *Hamlin* remains good law. This case also confirms that plaintiffs who are subsequent purchasers can be contributory negligent, typically for failing to make proper inquiries before purchasing.

During the year under review the Supreme Court heard an appeal against the Council’s successful strike-out application in *Body Corporate No 207624 & Anor v North Shore City Council*, a case better known as *Spencer on Byron*. The majority held that Councils do owe a duty to non-residential property owners to be satisfied on reasonable grounds that the building complies with the Building Code. This means that each claim involving non-residential property an assessment of whether the Council acted reasonably in the discharge of the duty, such as the reliance on producer statements and so forth, will need to be made.



**PLANNING MATTERS**

Planning claims tend to more quickly follow an alleged negligent act as the activity the subject of consent will generally become obvious to an affected party. Consent applicants that bring claims tend to do so reasonably quickly. Our strategies for managing these claims include a rigorous application of the test for negligence and the measure of damages for negligence. We have had the opportunity to develop case law in this area:

- *Bella Visa Limited v Western Bay of Plenty District Council* – Councils do not owe a duty of care to protect the economic interests of others when discharging their responsibilities under the Resource Management Act 1991.

**COUNCIL INFRASTRUCTURE FAILURE**

This broad category of claim involves third party property damage arising from the failure of Council infrastructure or assets. Generally claims are in nuisance or negligence, although the latter is rarely pursued. Typically claims arise from sewage discharges, flooding from water mains or stormwater mains, trees falling or flood protection works failing during storm events. Typically the failure is difficult to foresee but this very fact gives rise to defences that we have developed in litigation.

Councils by their nature have in place asset management plans and they also plan financially for upgrading infrastructure. This gives rise to good risk management practices which have been promoted by Riskpool.

Drawing upon these opportunities we have run litigation with a view to achieving certainty for Councils:

- *Atlas properties & Ors v Kapiti Coast District Council* – providing Councils have acted reasonably in the planning for repairs and maintenance or the upgrade of infrastructure they will not be liable in negligence or nuisance. Further, the court had quite some sympathy for Councils because they have competing demands upon their limited resources.
- *Tindall & Ors v Far North District Council* – the harm arising from the nuisance created or adopted by a Council must be reasonably foreseeable. This is a shift from what was probably a strict liability approach in New Zealand historically. The damage caused by the failure of Council infrastructure, by its very nature, is rarely “reasonably foreseeable”.
- *Easton Agriculture & Anor v Manawatu Wanganui Regional Council* – Regional Council owe a duty to properly manage and maintain their flood protection works. In this particular case, the court found that the Council had not reasonably maintained a stopbank that failed causing significant flooding of third party property. However, the court also found that the Council’s negligence was not causative of the loss and that it would have occurred anyway. This claim is currently the subject of an appeal to the Court of Appeal.

**LAND INFORMATION MEMORANDA**

These claims are characterised by being relatively modest in cost. Extensive risk management initiatives have been developed and are currently being implemented with Councils. In addition to that, we have run the first case involving an allegedly negligently issued LIM.

- *Altimarlock Limited v Marlborough District Council* – it was alleged that the Council omitted information (that arguably was not mandatory information) in a LIM. The Court confirmed that Council’s owe a duty of care when releasing information in a LIM and whether a Council is liable will turn upon whether it has acted reasonably in the discharge of the duty upon the facts of each case.

**DEFAMATION**

These claims usually involve allegations being made against Councillors. Our experience is that with early legal assistance the claims can be resolved by way of retraction, apology or modest settlement within the Council’s deductible. We actively remind our members that these claims are probably the most avoidable.

# INDEPENDENT AUDITOR'S REPORT

To the readers of New Zealand Mutual Liability Riskpool's Financial Statements for the year ended 30 June 2012

The Auditor-General is the auditor of the New Zealand Mutual Liability Riskpool (the 'Scheme') comprising of Fund No.1 to Fund No. 15. 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 on her behalf.

We have audited the financial statements of the Scheme on pages 9 to 23, that comprise the statement of financial position as at 30 June 2012, the statement of financial performance, statement of movement in trust funds and statement of cash flows for the year ended on that date and the notes to the financial statements that include accounting policies and other explanatory information.

**OPINION**  
**FINANCIAL STATEMENTS**

In our opinion the financial statements of the Scheme on pages 9 to 23:

- comply with generally accepted accounting practice in New Zealand; and

- fairly reflect the Scheme's:
  - financial position as at 30 June 2012; and
  - financial performance and cash flows for the year ended on that date.

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

Without modifying our opinion, we draw your attention to Notes 2 and 10 to the financial statements. Those notes describe the variables that may affect the outstanding claims provision and related reinsurance receivables. Those notes also describe the inherent uncertainties involved in estimating those amounts using actuarial assumptions. The valuation of the reinsurance receivables is subject to similar uncertainties as the valuation of the outstanding claims liability.

Also, without modifying our opinion, we draw your attention to Note 2 to the financial statements about the going concern assumption, which notes that for Fund No. 7, and

Funds No. 10 to No. 14 while the total liabilities exceed total assets, their ability to continue on a going concern basis is appropriate because the Trustee is able to levy the members of the Funds to cover any shortfall in equity in any Fund under the terms of the Deed of Trust.

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

Our audit was completed on 14 December 2012. This is the date at which our opinion is expressed.

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

**BASIS OF OPINION**

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

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

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

An audit also involves evaluating:

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

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

**RESPONSIBILITIES OF THE TRUSTEE**

The Trustee is responsible for preparing financial statements that:

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

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

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

**RESPONSIBILITIES OF THE AUDITOR**

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

**INDEPENDENCE**

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

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



**Michael Wilkes**  
**DELOITTE**  
On behalf of the Auditor-General  
Christchurch, New Zealand



# NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Statement of Financial Performance for the year ended 30 June 2012

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

	Note	Fund No. 16 (12-13)		Fund No. 15 (11-12)		Fund No. 14 (10-11)		Fund No. 13 (09-10)		Fund No. 12 (08-09)	
		2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
		\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Revenue</b>											
Members' Contributions		-	3,866,000	-	-	3,752,667	-	-	-	-	
Calls Received	9	-	-	-	-	-	-	-	-	-	
Contribution to expenses from prior fund years		-	950,409	-	-	688,918	-	-	-	-	
Reinsurance Recoveries	10	-	-	-	313,287	1,464,297	(632,634)	1,378,736	(1,829,882)	1,854,671	
Direct Claims Expense	10	-	(1,798,447)	-	(280,381)	(1,885,839)	845,131	(1,230,521)	3,667,678	(3,640,903)	
Claims Administration Expense		-	-	-	(126,424)	-	(356,287)	(204,610)	(385,016)	(338,271)	
Reinsurance Expense		-	(1,408,427)	-	-	(2,140,050)	-	-	-	-	
<b>Net Result for the Period</b>		-	<b>1,609,535</b>	-	<b>(93,518)</b>	<b>1,879,993</b>	<b>(143,790)</b>	<b>(56,395)</b>	<b>1,452,780</b>	<b>(2,124,503)</b>	
<b>Investment Revenue</b>		-	34,006	-	161	20,842	62	8,426	278	22,167	
<b>Total Revenue</b>		-	<b>1,643,541</b>	-	<b>(93,357)</b>	<b>1,900,835</b>	<b>(143,728)</b>	<b>(47,969)</b>	<b>1,453,058</b>	<b>(2,102,336)</b>	
<b>Expenditure</b>											
Scheme Manager's Fee		-	1,363,948	-	11,191	1,252,771	-	(131,850)	-	-	
Fund Manager's Fee		-	285,600	-	-	280,000	-	13,337	-	-	
Audit Fees		-	10,892	-	12,017	9,157	1,943	1,294	1,943	1,850	
Other Fees Paid to Auditors		-	5,000	-	5,500	10,000	-	2,200	-	-	
Consultancy		-	56,239	-	(7,500)	152,005	-	34,793	-	-	
Directors' Fees		-	46,500	-	-	45,917	-	1,500	-	-	
Meeting/Travel Expenses		-	41,386	-	-	22,099	-	563	-	-	
Directors & Officers Liability Insurance		-	-	-	-	11,400	-	-	-	-	
Legal Fees		-	854	-	-	7,460	-	-	-	-	
Printing and Stationery		-	4,500	-	5,231	4,500	-	14,061	-	-	
Sundry Expenses		-	7,016	-	-	4,233	-	-	-	9	
<b>Total Expenditure</b>		-	<b>1,821,935</b>	-	<b>26,439</b>	<b>1,799,542</b>	<b>1,943</b>	<b>(64,102)</b>	<b>1,943</b>	<b>1,859</b>	
<b>Net Surplus/(Deficit) before Tax</b>		-	(178,394)	-	(119,796)	101,293	(145,671)	16,133	1,451,115	(2,104,195)	
Tax Expense		-	-	-	-	-	-	-	-	-	
<b>Net Surplus/(Deficit) after Tax</b>		-	<b>(178,394)</b>	-	<b>(119,796)</b>	<b>101,293</b>	<b>(145,671)</b>	<b>16,133</b>	<b>1,451,115</b>	<b>(2,104,195)</b>	

Fund No. 11 (07-08)		Fund No. 10 (06-07)		Fund No. 9 (05-06)		Fund No. 8 (04-05)		Fund No. 7 (03-04)		Fund No. 6 (02-03)		Fund No. 1-5 (97-02)		TOTAL	
2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
-	-	-	-	-	-	-	-	-	-	-	-	-	-	3,866,000	3,752,667
-	-	-	-	3,089,657	3,089,653	3,129,946	3,129,945	788,659	788,657	-	-	-	-	7,008,262	7,008,255
-	-	-	-	-	-	-	-	-	-	-	-	-	-	950,409	688,918
(458,601)	747,611	-	-	139,440	(1,289,281)	459,633	(573,068)	(2,231,694)	3,152,892	27,090	383,906	26,032	1,447,794	(4,187,329)	8,567,558
(57,540)	87,426	93,835	(3,738,575)	918,488	692,509	(41,847)	352,383	2,782,585	(3,648,442)	488,381	(575,775)	(22,487)	(1,530,956)	6,595,396	(15,118,693)
(42,129)	(96,600)	(21,467)	(21,884)	(9,239)	(4,352)	-	(9,122)	(5,770)	(4,871)	-	(8,252)	(4,076)	(956)	(950,408)	(688,918)
-	-	-	-	-	-	-	-	-	-	-	-	-	-	(1,408,427)	(2,140,050)
<b>(558,270)</b>	<b>738,437</b>	<b>72,368</b>	<b>(3,760,459)</b>	<b>4,138,346</b>	<b>2,488,529</b>	<b>3,547,732</b>	<b>2,900,138</b>	<b>1,333,780</b>	<b>288,236</b>	<b>515,471</b>	<b>(200,121)</b>	<b>(531)</b>	<b>(84,118)</b>	<b>11,873,903</b>	<b>2,069,737</b>
6,837	17,953	2,234	29,305	94,784	4,377	42,435	2	3,977	1,288	64,977	7,928	98,795	77,003	348,546	189,291
<b>(551,433)</b>	<b>756,390</b>	<b>74,602</b>	<b>(3,731,154)</b>	<b>4,233,130</b>	<b>2,492,906</b>	<b>3,590,167</b>	<b>2,900,140</b>	<b>1,337,757</b>	<b>289,524</b>	<b>580,448</b>	<b>(192,193)</b>	<b>98,264</b>	<b>(7,115)</b>	<b>12,222,449</b>	<b>2,259,028</b>
-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,375,139	1,120,921
-	-	-	-	-	-	-	-	-	-	-	-	-	-	285,600	293,337
1,943	1,850	1,943	1,850	1,943	1,850	1,943	1,850	1,943	1,850	1,943	1,850	1,943	1,850	40,396	25,251
-	-	-	-	-	-	-	-	-	-	-	-	-	-	10,500	12,200
-	-	-	-	-	-	-	-	-	-	-	-	-	-	48,739	186,798
-	-	-	-	-	-	-	-	-	-	-	-	-	-	46,500	47,417
-	-	-	-	-	-	-	-	-	-	-	-	-	-	41,386	22,662
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	11,400
-	-	6,927	-	-	-	-	-	-	-	-	-	-	-	7,781	7,460
-	-	-	-	-	-	-	-	-	-	-	-	-	-	9,731	18,561
-	-	-	-	-	-	-	-	-	15	-	-	-	-	7,016	4,257
<b>1,943</b>	<b>1,850</b>	<b>8,870</b>	<b>1,850</b>	<b>1,943</b>	<b>1,850</b>	<b>1,943</b>	<b>1,865</b>	<b>1,943</b>	<b>1,850</b>	<b>1,943</b>	<b>1,850</b>	<b>1,943</b>	<b>1,850</b>	<b>1,872,788</b>	<b>1,750,264</b>
(553,376)	754,540	65,732	(3,733,004)	4,231,187	2,491,056	3,588,224	2,898,275	1,335,814	287,674	578,505	(194,043)	96,321	(8,965)	10,349,661	508,764
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>(553,376)</b>	<b>754,540</b>	<b>65,732</b>	<b>(3,733,004)</b>	<b>4,231,187</b>	<b>2,491,056</b>	<b>3,588,224</b>	<b>2,898,275</b>	<b>1,335,814</b>	<b>287,674</b>	<b>578,505</b>	<b>(194,043)</b>	<b>96,321</b>	<b>(8,965)</b>	<b>10,349,661</b>	<b>508,764</b>



# NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Statement of Movements in Trust Funds for the year ended 30 June 2012

	Note	Fund No. 16 (12-13)		Fund No. 15 (11-12)		Fund No. 14 (10-11)		Fund No. 13 (09-10)		Fund No. 12 (08-09)		Fund No. 11 (07-08)	
		2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
		\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Total Trust Funds at 1 July</b>		-	-	-	101,293	-	(690,183)	(706,316)	(5,331,380)	(3,227,185)	(1,358,454)	(2,112,994)	
Net Surplus/(Deficit)		-	(178,394)	-	(119,796)	101,293	(145,671)	16,133	1,451,115	(2,104,195)	(553,376)	754,540	
Capital Contribution		-	-	-	-	-	-	-	-	-	-	-	
<b>Total Trust Funds at 30 June</b>	<b>9</b>	-	<b>(178,394)</b>	-	<b>(18,503)</b>	<b>101,293</b>	<b>(835,854)</b>	<b>(690,183)</b>	<b>(3,880,265)</b>	<b>(5,331,380)</b>	<b>(1,911,830)</b>	<b>(1,358,454)</b>	

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

Fund No. 10 (06-07)		Fund No. 9 (05-06)		Fund No. 8 (04-05)		Fund No. 7 (03-04)		Fund No. 6 (02-03)		Fund No. 1 - 5 (97-02)		TOTAL	
2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
(8,141,819)	(4,408,815)	(3,630,071)	(6,121,125)	(2,311,273)	(5,209,549)	(4,879,173)	(5,166,848)	194,779	388,824	4,925,075	4,934,035	(21,121,206)	(21,629,973)
65,732	(3,733,004)	4,231,187	2,491,056	3,588,224	2,898,275	1,335,814	287,674	578,505	(194,043)	96,321	(8,965)	10,349,661	508,764
-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>(8,076,087)</b>	<b>(8,141,819)</b>	<b>601,116</b>	<b>(3,630,069)</b>	<b>1,276,951</b>	<b>(2,311,274)</b>	<b>(3,543,359)</b>	<b>(4,879,174)</b>	<b>773,284</b>	<b>194,781</b>	<b>5,021,396</b>	<b>4,925,070</b>	<b>(10,771,545)</b>	<b>(21,121,209)</b>



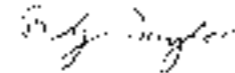
# NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Statement of Financial Position as at 30 June 2012

	Note	Fund No. 16 (12-13)		Fund No. 15 (11-12)		Fund No. 14 (10-11)		Fund No. 13 (09-10)		Fund No. 12 (08-09)	
		2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
		\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Trust Funds</b>											
Trust Accounts		-	(178,394)	-	(18,503)	101,293	(835,854)	(690,183)	(3,880,265)	(5,331,380)	
Trust Capital Account		-	-	-	-	-	-	-	-	-	
<b>Total</b>	9	-	(178,394)	-	(18,503)	101,293	(835,854)	(690,183)	(3,880,265)	(5,331,380)	
Represented by:											
<b>Assets</b>											
Bank – ANZ Banking Group		-	1,096,776	409,583	(367,169)	(209,949)	(434,065)	155,568	(2,538,516)	(1,922,625)	
Short Term Bank Deposits		-	390,000	-	-	-	-	-	-	-	
Accrued Interest		-	-	-	-	-	-	-	-	-	
Accounts Receivable		-	-	-	11,500	-	2,300	131,850	339,012	-	
Prepayments		-	-	30,841	-	-	-	-	-	-	
Taxation Receivable/(Payable)		-	5,496	-	1,375	7,955	10	946	36	4,587	
GST Receivable/(Payable)		-	50,237	(53,424)	49,999	60,029	29,247	38,862	238,301	269,318	
Reinsurance Receivable	10	-	-	-	1,777,584	1,464,297	1,127,059	1,759,693	933,511	2,763,393	
<b>Total Assets</b>		-	1,542,509	387,000	1,473,289	1,322,332	724,551	2,086,919	(1,027,656)	1,114,673	
<b>Current Liabilities</b>											
Accounts Payable		-	17,557	-	1,921	81,709	1,921	2,035	1,921	2,035	
Interfund Payable/(Receivable)		-	-	-	-	(688,918)	-	196,611	-	(1,138,315)	
Contributions Received in Advance		-	-	387,000	-	-	-	-	-	-	
<b>Total Current Liabilities</b>		-	17,557	387,000	1,921	(607,209)	1,921	198,646	1,921	(1,136,280)	
<b>Claims Provision</b>	10	-	1,703,346	-	1,489,871	1,828,248	1,558,484	2,578,456	2,850,688	7,582,333	
<b>Total Liabilities</b>		-	1,720,903	387,000	1,491,792	1,221,039	1,560,405	2,777,102	2,852,609	6,446,053	
<b>EXCESS/(DEFICIT) ASSETS OVER LIABILITIES</b>		-	(178,394)	-	(18,503)	101,293	(835,854)	(690,183)	(3,880,265)	(5,331,380)	

Signed on behalf of the Trustee, Local Government  
Mutual Funds Trustee Limited on 23 November 2012

**B Taylor**  
CHAIRMAN



**J Palmer**  
DIRECTOR



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

Fund No. 11 (07-08)		Fund No. 10 (06-07)		Fund No. 9 (05-06)		Fund No. 8 (04-05)		Fund No. 7 (03-04)		Fund No. 6 (02-03)		Fund No. 1-5 (97-02)		TOTAL	
2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
(1,911,830)	(1,358,454)	(8,076,087)	(8,141,819)	601,116	(3,630,069)	1,276,951	(2,311,274)	(3,689,550)	(5,025,365)	642,119	63,616	4,644,982	4,548,656	(11,425,315)	(21,774,979)
-	-	-	-	-	-	-	-	146,191	146,191	131,165	131,165	376,414	376,414	653,770	653,770
(1,911,830)	(1,358,454)	(8,076,087)	(8,141,819)	601,116	(3,630,069)	1,276,951	(2,311,274)	(3,543,359)	(4,879,174)	773,284	194,781	5,021,396	4,925,070	(10,771,545)	(21,121,209)
(487,534)	481,412	(4,179,802)	550,958	3,762,391	830,495	997,800	(477,400)	(3,111,615)	(1,522,972)	4,075,109	(951,658)	3,433,431	3,457,614	2,226,055	801,026
-	425,000	-	400,000	1,110,000	850,000	-	-	-	-	1,000,000	-	2,210,000	2,445,000	4,710,000	4,120,000
-	64	-	60	-	128	-	-	-	-	-	-	-	367	-	619
57,500	-	12,876	-	-	-	119,499	-	842	-	57,500	-	5,751	-	606,780	131,850
-	-	-	-	-	-	-	-	-	-	-	-	-	-	18,044	30,841
959	2,811	480	7,417	16,859	1,157	8,202	-	669	396	13,477	2,028	17,136	13,563	64,699	40,860
75,011	46,511	237,726	55,159	270,497	225,511	(5,688)	1,681	(288,904)	(224,888)	(115,174)	(85,605)	(71,459)	(71,442)	472,500	261,712
289,010	747,611	(259,683)	(59,683)	(2,753,924)	4,644,518	3,016,139	3,184,582	3,675,167	6,701,150	186,061	8,374,956	145,837	319,804	8,136,761	29,900,321
(65,054)	1,703,409	(4,188,403)	953,911	2,405,823	6,551,809	4,135,952	2,708,863	276,159	4,953,686	5,216,973	7,339,721	5,740,696	6,164,906	16,234,839	35,287,229
1,921	2,256	1,921	202,035	1,921	6,441	1,921	2,035	1,921	141,447	1,921	52,035	1,921	2,035	36,767	494,063
-	502,904	-	847,463	-	(548,972)	-	393,839	-	(309,526)	-	256,524	-	488,390	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	387,000
1,921	505,160	1,921	1,049,498	1,921	(542,531)	1,921	395,874	1,921	(168,079)	1,921	308,559	1,921	490,425	36,767	881,063
1,844,855	2,556,703	3,885,763	8,046,232	1,802,786	10,724,409	2,857,080	4,624,263	3,817,597	10,000,939	4,441,768	6,836,381	717,379	749,411	26,969,617	55,527,375
1,846,776	3,061,863	3,887,684	9,095,730	1,804,707	10,181,878	2,859,001	5,020,137	3,819,518	9,832,860	4,443,689	7,144,940	719,300	1,239,836	27,006,384	56,408,438
(1,911,830)	(1,358,454)	(8,076,087)	(8,141,819)	601,116	(3,630,069)	1,276,951	(2,311,274)	(3,543,359)	(4,879,174)	773,284	194,781	5,021,396	4,925,070	(10,771,545)	(21,121,209)



# NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Statement of Cash Flows for the year ended 30 June 2012

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

	Note	Fund No. 16 (12-13)		Fund No. 15 (11-12)		Fund No. 14 (10-11)		Fund No. 13 (09-10)		Fund No. 12 (08-09)	
		2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
		\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Cash flows from operating activities</b>											
<b>Cash was provided from:</b>											
Members' Contributions		-	3,479,000	387,000	-	3,511,667	-	-	-	-	
Calls Received	9	-	-	-	-	-	-	-	-	-	
Interest Received – Bank		-	34,006	-	161	20,842	62	8,444	279	22,195	
Reinsurance recoveries received		-	-	-	-	-	-	-	-	-	
		-	<b>3,513,006</b>	<b>387,000</b>	<b>161</b>	<b>3,532,509</b>	<b>62</b>	<b>8,444</b>	<b>279</b>	<b>22,195</b>	
<b>Cash was applied to:</b>											
Reinsurance		-	(1,408,427)	-	-	(2,140,050)	-	-	-	-	
Scheme Manager's Fee		-	(1,363,948)	-	(11,191)	(1,252,771)	-	-	-	-	
Fund Manager's Fee		-	(285,600)	-	-	(280,000)	-	(13,337)	-	-	
Contribution to expenses from prior fund years		-	950,409	-	688,918	-	(196,611)	-	1,138,315	-	
Legal Fees		-	(854)	-	-	(7,460)	-	-	-	-	
Claims		-	(95,101)	-	(756,682)	(57,591)	(533,428)	(495,119)	(1,787,996)	(4,254,344)	
Consultants	(18,044)		(25,398)	(30,841)	(46,351)	(69,416)	131,850	(55,568)	-	-	
Audit Fees		-	(1,285)	-	(19,252)	-	(2,057)	(6,666)	(2,057)	(1,667)	
Other Expenses		-	(96,677)	-	(26,968)	(70,975)	-	(23,124)	-	(9)	
Taxation Refunded / (Paid)		-	(5,496)	-	4,115	(7,955)	936	839	4,551	13,826	
GST Refunded / (Paid)		(2,707)	(103,436)	53,424	10,030	(88,412)	9,615	27,694	31,017	(27,613)	
		<b>(20,751)</b>	<b>(2,435,813)</b>	<b>22,583</b>	<b>(157,381)</b>	<b>(3,974,630)</b>	<b>(589,695)</b>	<b>(565,281)</b>	<b>(616,170)</b>	<b>(4,269,807)</b>	
<b>Net Cash inflow/(outflow) from operating activities</b>	<b>8</b>	<b>(20,751)</b>	<b>1,077,193</b>	<b>409,583</b>	<b>(157,220)</b>	<b>(442,121)</b>	<b>(589,633)</b>	<b>(556,837)</b>	<b>(615,891)</b>	<b>(4,247,612)</b>	
<b>Net increase/(decrease) in cash held</b>		(20,751)	1,077,193	409,583	(157,220)	(442,121)	(589,633)	(556,837)	(615,891)	(4,247,612)	
Opening cash at 1 July		-	409,583	-	(209,949)	232,172	155,568	712,405	(1,922,625)	2,324,987	
<b>Closing cash at 30 June</b>		(20,751)	1,486,776	409,583	(367,169)	(209,949)	(434,065)	155,568	(2,538,516)	(1,922,625)	
<b>Comprising of:</b>											
Bank – ANZ Banking Group		(20,751)	1,096,776	409,583	(367,169)	(209,949)	(434,065)	155,568	(2,538,516)	(1,922,625)	
Short Term Bank Deposits		-	390,000	-	-	-	-	-	-	-	
<b>Total</b>		<b>(20,751)</b>	<b>1,486,776</b>	<b>409,583</b>	<b>(367,169)</b>	<b>(209,949)</b>	<b>(434,065)</b>	<b>155,568</b>	<b>(2,538,516)</b>	<b>(1,922,625)</b>	

Fund No. 11 (07-08)		Fund No. 10 (06-07)		Fund No. 9 (05-06)		Fund No. 8 (04-05)		Fund No. 7 (03-04)		Fund No. 6 (02-03)		Fund No. 1-5 (97-02)		TOTAL	
2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
-	-	-	-	-	-	-	-	-	-	-	-	-	-	3,479,000	3,898,667
-	-	-	-	3,089,657	2,950,283	3,129,946	2,987,778	788,659	843,588	-	13,625	-	-	7,008,262	6,795,274
6,901	17,908	2,294	29,286	94,911	4,249	42,435	2	3,977	1,288	64,976	7,928	99,165	76,681	349,167	188,823
-	-	200,000	59,683	7,537,881	5,415,085	628,077	6,064,756	794,289	(797,700)	8,215,984	6,893,881	200,000	2,583,028	17,576,231	20,218,733
<b>6,901</b>	<b>17,908</b>	<b>202,294</b>	<b>88,969</b>	<b>10,722,449</b>	<b>8,369,617</b>	<b>3,800,458</b>	<b>9,052,536</b>	<b>1,586,925</b>	<b>47,176</b>	<b>8,280,960</b>	<b>6,915,434</b>	<b>299,165</b>	<b>2,659,709</b>	<b>28,412,660</b>	<b>31,101,497</b>
-	-	-	-	-	-	-	-	-	-	-	-	-	-	(1,408,427)	(2,140,050)
-	-	-	-	-	-	-	-	-	-	-	-	-	-	(1,375,139)	(1,252,771)
-	-	-	-	-	-	-	-	-	-	-	-	-	-	(285,600)	(293,337)
(502,904)	-	(847,463)	-	548,972	-	(393,839)	-	309,526	-	(256,524)	-	(488,390)	-	950,409	-
-	-	(6,927)	-	-	-	-	-	-	-	-	-	-	-	(7,781)	(7,460)
(869,238)	(806,770)	(4,300,977)	(1,965,066)	(8,016,780)	(1,290,243)	(1,928,529)	(7,773,875)	(3,546,780)	(1,296,317)	(2,013,732)	(6,328,651)	(64,345)	(2,577,672)	(23,913,588)	(26,845,648)
-	-	-	-	-	-	-	-	-	-	-	-	-	-	42,057	(155,825)
(2,057)	(1,667)	(2,057)	(1,667)	(2,057)	(1,667)	(2,057)	(1,667)	(2,057)	(1,667)	(2,057)	(1,667)	(2,057)	(1,667)	(39,050)	(20,002)
-	-	-	-	-	-	-	(15)	-	-	-	-	-	-	(123,645)	(94,123)
1,852	110,594	6,937	(4,495)	(15,702)	(1,157)	(8,202)	79	(273)	(396)	(11,449)	(2,028)	(3,573)	4,187	(26,304)	113,494
(28,500)	95,238	(182,567)	(31,790)	(44,986)	380,164	7,369	309,600	64,016	15,115	29,569	272,383	17	6,599	(210,563)	1,012,402
<b>(1,400,847)</b>	<b>(602,605)</b>	<b>(5,333,054)</b>	<b>(2,003,018)</b>	<b>(7,530,553)</b>	<b>(912,903)</b>	<b>(2,325,258)</b>	<b>(7,465,878)</b>	<b>(3,175,568)</b>	<b>(1,283,265)</b>	<b>(2,254,193)</b>	<b>(6,059,963)</b>	<b>(558,348)</b>	<b>(2,568,553)</b>	<b>(26,397,631)</b>	<b>(29,683,320)</b>
<b>(1,393,946)</b>	<b>(584,697)</b>	<b>(5,130,760)</b>	<b>(1,914,049)</b>	<b>3,191,896</b>	<b>7,456,714</b>	<b>1,475,200</b>	<b>1,586,658</b>	<b>(1,588,643)</b>	<b>(1,236,089)</b>	<b>6,026,767</b>	<b>855,471</b>	<b>(259,183)</b>	<b>91,156</b>	<b>2,015,029</b>	<b>1,418,177</b>
(1,393,946)	(584,697)	(5,130,760)	(1,914,049)	3,191,896	7,456,714	1,475,200	1,586,658	(1,588,643)	(1,236,089)	6,026,767	855,471	(259,183)	91,156	2,015,029	1,418,177
906,412	1,491,109	950,958	2,865,007	1,680,495	(5,776,219)	(477,400)	(2,064,058)	(1,522,972)	(286,883)	(951,658)	(1,807,129)	5,902,614	5,811,458	4,921,026	3,502,849
(487,534)	906,412	(4,179,802)	950,958	4,872,391	1,680,495	997,800	(477,400)	(3,111,615)	(1,522,972)	5,075,109	(951,658)	5,643,431	5,902,614	6,936,055	4,921,026
(487,534)	481,412	(4,179,802)	550,958	3,762,391	830,495	997,800	(477,400)	(3,111,615)	(1,522,972)	4,075,109	(951,658)	3,433,431	3,457,614	2,226,055	801,026
-	425,000	-	400,000	1,110,000	850,000	-	-	-	-	1,000,000	-	2,210,000	2,445,000	4,710,000	4,120,000
<b>(487,534)</b>	<b>906,412</b>	<b>(4,179,802)</b>	<b>950,958</b>	<b>4,872,391</b>	<b>1,680,495</b>	<b>997,800</b>	<b>(477,400)</b>	<b>(3,111,615)</b>	<b>(1,522,972)</b>	<b>5,075,109</b>	<b>(951,658)</b>	<b>5,643,431</b>	<b>5,902,614</b>	<b>6,936,055</b>	<b>4,921,026</b>



# NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Notes to the Financial Statements for the year ended 30 June 2012

## Note 1. Statement of Accounting Policies

### REPORTING ENTITY

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

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

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

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

### GENERAL ACCOUNTING POLICIES

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

### MEASUREMENT BASE

The measurement base adopted is that of historical cost.

### PARTICULAR ACCOUNTING POLICIES

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

#### Goods and Services Tax

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

#### Revenue

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

#### Claims

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

#### Reinsurance Recoverable

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

#### Short Term Deposits

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

#### Taxation

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

### DIFFERENTIAL REPORTING

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

### CHANGES IN ACCOUNTING POLICIES

In 2012, a risk margin has been included in the claims provision. More detail is provided in Note 10. There have been no other changes in accounting estimates during the year. The claims provision as at 30 June 2011 has not been recalculated to include a risk margin.

## Note 2. Going concern and areas of estimation uncertainties

Many assumptions were made in arriving at the estimated figure of the claims provision. The final outcome will depend on many variables including the percentage of 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.

For Funds 7 and 10 to 14, while the total liabilities exceed total assets, indicating a shortfall in equity, their ability to continue in existence on a going concern basis is appropriate because the Scheme provides mutual protection from risk on a discretionary basis and because the Trustee is able to levy the members of the Funds to cover any shortfall in equity in any Fund under the terms of the Deed of Trust.

## Note 3. Taxation

The Scheme has not recognised a deferred tax asset in respect of either tax losses of \$11.4M (2011: \$24.5M) or timing differences of \$3.5M (2011: \$0.8M) as at 30 June 2012.

## Note 4. Statement of cash flows

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

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

## Note 5. Merger of funds

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

## Note 6. Related parties

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

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

## Note 7. Contingent liabilities and commitments

Other than possible future liabilities in respect of claims which have not yet been notified, the Scheme had no contingent liabilities at 30 June 2012 (2011: Nil).

The Scheme had no capital or operating lease commitments at 30 June 2012 (2011: Nil).

# NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Notes to the Financial Statements for the year ended 30 June 2012 (continued)

## Note 8. Reconciliation of Net Surplus/(Deficit) to Net Cash Flows from Operating Activities

	Fund No. 16 (12-13)		Fund No. 15 (11-12)		Fund No. 14 (10-11)		Fund No. 13 (09-10)		Fund No. 12 (08-09)		Fund No. 11 (07-08)		Fund No. 10 (06-07)	
	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Net Surplus/(Deficit)</b>	-	(178,394)	-	(119,796)	101,293	(145,671)	16,133	1,451,115	(2,104,195)	(553,376)	754,540	65,732	(3,733,004)	
<b>Add/(less) non cash items</b>														
Claims Provision	-	1,703,346	-	(651,664)	363,951	(387,338)	(628,588)	(2,901,763)	(2,456,303)	(253,247)	(1,639,854)	(3,960,469)	1,704,028	
<b>Add/(less) movements in other working capital items</b>	-	<b>1,703,346</b>	-	<b>(651,664)</b>	<b>363,951</b>	<b>(387,338)</b>	<b>(628,588)</b>	<b>(2,901,763)</b>	<b>(2,456,303)</b>	<b>(253,247)</b>	<b>(1,639,854)</b>	<b>(3,960,469)</b>	<b>1,704,028</b>	
Accrued Interest	-	-	-	-	-	-	18	-	28	64	(45)	60	(19)	
GST Receivable	(2,707)	(103,661)	53,424	10,030	(90,154)	9,615	31,451	31,017	(25,905)	(28,500)	95,709	(182,567)	(52,052)	
Taxation Receivable	-	(5,496)	-	6,580	(7,955)	936	839	4,551	13,826	1,852	110,594	6,937	(4,495)	
Interfund Payable/Receivable	-	-	-	688,918	(688,918)	(196,611)	204,610	1,138,315	338,271	(502,904)	96,600	(847,463)	21,884	
Trust Income Distribution	-	-	-	-	-	-	-	-	-	-	-	-	-	
Prepayments	(18,044)	30,841	(30,841)	-	38,953	-	-	-	-	-	-	-	-	
Deferred Tax	-	-	-	-	-	-	-	-	-	-	-	-	-	
Contribution received in advance	-	(387,000)	387,000	-	(241,000)	-	-	-	-	-	-	-	-	
Accounts Receivable	-	-	-	(11,500)	-	129,550	(131,850)	(339,012)	-	(57,500)	-	(12,876)	-	
Accounts Payable	-	17,557	-	(79,788)	81,709	(114)	(49,450)	(114)	(13,334)	(335)	(2,241)	(200,114)	149,609	
	<b>(20,751)</b>	<b>(447,759)</b>	<b>409,583</b>	<b>614,240</b>	<b>(907,365)</b>	<b>(56,624)</b>	<b>55,618</b>	<b>834,757</b>	<b>312,886</b>	<b>(587,323)</b>	<b>300,617</b>	<b>(1,236,023)</b>	<b>114,927</b>	
<b>Net Cash inflow/(outflow) from operating activities</b>	<b>(20,751)</b>	<b>1,077,193</b>	<b>409,583</b>	<b>(157,220)</b>	<b>(442,121)</b>	<b>(589,633)</b>	<b>(556,837)</b>	<b>(615,891)</b>	<b>(4,247,612)</b>	<b>(1,393,946)</b>	<b>(584,697)</b>	<b>(5,130,760)</b>	<b>(1,914,049)</b>	

Fund No. 9 (05-06)		Fund No. 8 (04-05)		Fund No. 7 (03-04)		Fund No. 6 (02-03)		Fund No. 1-5 (97-02)		TOTAL	
2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
4,231,187	2,491,056	3,588,224	2,898,275	1,335,814	287,674	578,505	(194,043)	96,321	(8,965)	10,349,661	508,764
(1,523,182)	4,724,803	(1,598,739)	(1,481,207)	(3,157,358)	(1,714,155)	5,794,281	717,766	141,936	88,518	(6,794,197)	(321,041)
<b>(1,523,182)</b>	<b>4,724,803</b>	<b>(1,598,739)</b>	<b>(1,481,207)</b>	<b>(3,157,358)</b>	<b>(1,714,155)</b>	<b>5,794,281</b>	<b>717,766</b>	<b>141,936</b>	<b>88,518</b>	<b>(6,794,197)</b>	<b>(321,041)</b>
127	(128)	-	-	-	-	-	-	368	(322)	619	(468)
(44,986)	380,699	7,369	310,735	64,016	(2,145)	29,568	266,610	18	6,830	(210,788)	975,202
(15,702)	(1,157)	(8,202)	79	(273)	(396)	(11,449)	(2,028)	(3,572)	4,187	(23,838)	113,494
548,972	4,352	(393,839)	9,122	309,526	4,871	(256,524)	8,252	(488,390)	956	-	-
-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	12,797	8,112
-	-	-	-	-	-	-	-	-	-	-	-
-	(139,370)	-	(142,167)	-	(34,994)	-	-	-	-	(387,000)	(170,531)
-	-	(119,499)	-	(842)	89,925	(57,500)	13,625	(5,751)	-	(474,930)	(28,300)
(4,520)	(3,541)	(114)	(8,179)	(139,526)	133,131	(50,114)	45,289	(114)	(48)	(457,296)	332,945
<b>483,891</b>	<b>240,855</b>	<b>(514,285)</b>	<b>169,590</b>	<b>232,901</b>	<b>190,392</b>	<b>(346,019)</b>	<b>331,748</b>	<b>(497,441)</b>	<b>11,603</b>	<b>(1,540,436)</b>	<b>1,230,454</b>
<b>3,191,896</b>	<b>7,456,714</b>	<b>1,475,200</b>	<b>1,586,658</b>	<b>(1,588,643)</b>	<b>(1,236,089)</b>	<b>6,026,767</b>	<b>855,471</b>	<b>(259,184)</b>	<b>91,156</b>	<b>2,015,028</b>	<b>1,418,177</b>

## Note 9. Calls – Funding the Deficit

The Board of the Trustee resolved in June 2009 that based on the claims outturn deficit estimates it was prudent to make a call for Funds 6 and 7. Subsequently, following actuarial advice, the Board determined and advised members of the expected further calls needed to cover the expected overall deficit of \$27M in Fund years 7 to 12. The terms of those calls were: \$9M on 1 July 2010, \$9M on 1 July 2011 and the balance (if \$9M or less) on 1 July 2012. Five of the larger members (in terms of claims made) were requested to pay their share of the three calls in advance on the condition they will receive a refund if less than \$9M was required for the call in 2012. Consequently the calls for these five members totalling \$6.679M were invoiced during the year ended 30 June 2010 and were recognised as income during that year. As at balance date, the Board of the Trustee determined that there would be no adjustment to the 1 July 2012 call amount.

# NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Notes to the Financial Statements for the year ended 30 June 2012 (continued)

## Note 10. Claims

	Fund No. 15 (11-12)		Fund No. 14 (10-11)		Fund No. 13 (09-10)		Fund No. 12 (08-09)		Fund No. 11 (07-08)		Fund No. 10 (06-07)	
	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Cumulative Claims Experience</b>												
Claims paid - Prior year(s)	-	-	57,591	-	606,784	126,411	5,854,289	1,611,754	4,478,566	3,673,749	7,857,496	5,763,266
Claims paid - Current year	95,101	-	618,758	57,591	174,841	480,373	1,063,967	4,242,535	769,388	804,817	4,066,634	2,094,230
Claims Provision	1,703,346	-	1,489,871	1,828,248	1,558,484	2,578,456	2,850,688	7,582,333	1,844,855	2,556,703	3,885,763	8,046,232
Gross claims incurred (Paid and estimated)	1,798,447	-	2,166,220	1,885,839	2,340,109	3,185,240	9,768,944	13,436,622	7,092,809	7,035,269	15,809,893	15,903,728
Less reinsurance received	-	-	-	-	-	-	-	-	-	-	(259,683)	(59,683)
Less reinsurance recoverable	-	-	(1,777,584)	(1,464,297)	(1,127,059)	(1,759,693)	(933,511)	(2,763,393)	(289,010)	(747,611)	259,683	59,683
<b>Total Net Claims</b>	<b>1,798,447</b>	<b>-</b>	<b>388,636</b>	<b>421,542</b>	<b>1,213,050</b>	<b>1,425,547</b>	<b>8,835,433</b>	<b>10,673,229</b>	<b>6,803,799</b>	<b>6,287,658</b>	<b>15,809,893</b>	<b>15,903,728</b>
<b>Claims Reconciliation</b>												
Claims Provision 1 July	-	-	1,828,248	-	2,578,456	1,828,308	7,582,333	8,183,965	2,556,703	3,448,946	8,046,232	6,401,887
Claims paid - Current year	(95,101)	-	(618,758)	(57,591)	(174,841)	(480,373)	(1,063,967)	(4,242,535)	(769,388)	(804,817)	(4,066,634)	(2,094,230)
Reinsurance recoveries received	-	-	-	-	-	-	-	-	-	-	200,000	59,683
Current year's claims received	1,798,447	-	-	1,885,839	-	-	-	-	-	-	-	-
Current year's reinsurance recoverable	-	-	-	(1,464,297)	-	-	-	-	-	-	-	-
Reassessment of prior years claims	-	-	(32,906)	-	(212,497)	(148,215)	(1,837,796)	1,786,232	516,141	(835,037)	(93,835)	3,738,575
Movement in reinsurance recoveries	-	-	313,287	1,464,297	(632,634)	1,378,736	(1,829,882)	1,854,671	(458,601)	747,611	(200,000)	(59,683)
<b>Claims Provision at 30 June</b>	<b>1,703,346</b>	<b>-</b>	<b>1,489,871</b>	<b>1,828,248</b>	<b>1,558,484</b>	<b>2,578,456</b>	<b>2,850,688</b>	<b>7,582,333</b>	<b>1,844,855</b>	<b>2,556,703</b>	<b>3,885,763</b>	<b>8,046,232</b>

Included in the reinsurance recoveries is an amount following a commutation of the first layer of reinsurance and a portion of the upper layers with Swiss Re for fund years 3 to 10. There is reinsurance for the remainder of the higher layers. Each Fund entered into a reinsurance contract with the effect that the Funds had maximum claims paying exposure of: Fund 1 \$2M, Fund 2 \$2.5M, Funds 3, 4 & 5 \$3M, Fund 6 \$3.25M, Fund 7 \$3.5M, Funds 8 & 9 \$4M, Fund 10 \$6M, Fund 11 \$1.5M, Fund 12 \$1.625M, Fund 13 \$1M, Fund 14 \$0 and Fund 15 \$1.35M. Refer to the commutation comment above. However Funds 7 -9 do not have reinsurance cover for WHRS "leaky homes" claims and Funds 10 and thereafter do not have reinsurance cover for any "leaky homes" claims. All claims for Fund 14 are covered by reinsurance.

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

	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
Future Claims Administration Reserve	492,815	-	343,824	470,248	60,169	416,456	163,317	548,333	51,574	93,703	68,765	90,232

Fund No. 9 (05-06)		Fund No. 8 (04-05)		Fund No. 7 (03-04)		Fund No. 6 (02-03)		Fund No. 1-5 (97-02)		TOTAL	
2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16,351,828	15,064,775	16,978,724	9,212,077	12,475,061	11,063,056	18,081,505	11,713,520	15,104,275	12,526,603	97,846,119	70,755,211
8,003,136	1,287,054	1,809,030	7,766,648	3,400,757	1,412,005	1,906,232	6,367,984	54,519	2,577,672	21,962,363	27,090,909
1,802,786	10,724,409	2,857,080	4,624,263	3,817,597	10,000,939	4,441,768	6,836,381	717,379	749,411	26,969,617	55,527,375
26,157,750	27,076,238	21,644,834	21,602,988	19,693,415	22,476,000	24,429,505	24,917,885	15,876,173	15,853,686	146,778,099	153,373,495
(15,986,689)	(8,448,808)	(7,127,559)	(6,499,483)	(1,748,568)	(954,280)	(21,101,027)	(12,885,042)	(4,866,683)	(4,666,683)	(51,090,209)	(33,513,979)
2,753,924	(4,644,518)	(3,016,139)	(3,184,582)	(3,675,167)	(6,701,150)	(186,061)	(8,374,956)	(145,837)	(319,804)	(8,136,761)	(29,900,321)
<b>12,924,985</b>	<b>13,982,912</b>	<b>11,501,136</b>	<b>11,918,923</b>	<b>14,269,680</b>	<b>14,820,570</b>	<b>3,142,417</b>	<b>3,657,887</b>	<b>10,863,653</b>	<b>10,867,199</b>	<b>87,551,129</b>	<b>89,959,195</b>
10,724,409	12,703,972	4,624,263	12,743,294	10,000,939	7,764,502	6,836,381	12,628,590	749,411	1,796,127	55,527,375	67,499,591
(8,003,136)	(1,287,054)	(1,809,030)	(7,766,648)	(3,400,757)	(1,412,005)	(1,906,232)	(6,367,984)	(54,519)	(2,577,672)	(21,962,363)	(27,090,909)
7,537,882	5,415,085	628,077	6,064,756	794,288	(797,700)	8,215,984	6,893,881	200,000	2,583,028	17,576,231	20,218,733
-	-	-	-	-	-	-	-	-	-	1,798,447	1,885,839
-	-	-	-	-	-	-	-	-	-	-	(1,464,297)
(1,057,927)	596,772	(417,787)	220,685	(550,890)	495,550	(515,470)	191,869	(3,546)	83,162	(4,206,513)	6,129,593
(7,398,442)	(6,704,366)	(168,443)	(6,637,824)	(3,025,983)	3,950,592	(8,188,895)	(6,509,975)	(173,967)	(1,135,234)	(21,763,560)	(11,651,175)
<b>1,802,786</b>	<b>10,724,409</b>	<b>2,857,080</b>	<b>4,624,263</b>	<b>3,817,597</b>	<b>10,000,939</b>	<b>4,441,768</b>	<b>6,836,381</b>	<b>717,379</b>	<b>749,411</b>	<b>26,969,617</b>	<b>55,527,375</b>

	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
Future Claims Administration Reserve	60,169	69,409	60,169	57,263	60,169	65,939	48,708	43,381	8,596	10,411	1,418,275	1,865,375

# NEW ZEALAND MUTUAL LIABILITY RISKPOOL

Notes to the Financial Statements for the year ended 30 June 2012 (continued)

## Note 10. Claims (continued)

### Claims

The claims provision is measured as the central estimate of expected future payments relating to claims incurred at the reporting date. The expected future payments include those in relation to claims incurred but not enough reported ("IBNER"). These claims are discounted in the financial statements at the average expected term to settlement. Claims expense represents claim payments adjusted for movement in the claims provision. The estimation of the claims provision involves a number of key assumptions and is the most critical accounting estimate. Risk margins are held to allow for uncertainty surrounding the outstanding claims liability estimation process. Potential uncertainties include those relating to the actuarial models and assumptions, the quality of the underlying data used in the models, general statistical uncertainty and the general environment. The risk margin is applied to the net central estimates in order to arrive at an overall net provision that is intended to provide a probability of sufficiency of 75%.

The Directors take all reasonable steps to ensure that they have appropriate information regarding claims exposures. External actuarial advice is sought and the use of other experts is used to assess open claims. However, given the uncertainty in establishing the liability, it is likely that the final outcome will be different from the original liability established. Changes in claims estimates impact profit and loss in the year in which the estimates are changed.

### Central Estimate of Claims Provision

As at 30 June 2012 the central estimate of the claims provision was evaluated by Jeremy Holmes (Fellow of the NZ Society of Actuaries) of Melville Jessup Weaver in accordance with the requirements of NZ Society of Actuaries: *Professional Standards No. 4 General Insurance Business*. The interest rates used for discounting were gross yields to redemption of NZ government debt of appropriate duration taken from the NZ Debt Management office website.

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

## Note 11. Subsequent Events

On 11 October 2012 the Supreme Court gave a decision in the Spencer on Byron case which affirmed that a council owes the same duty of care for building inspections to non-residential property owners as it does to residential owners. The effect of this decision on members and Riskpool has not been, and cannot be, determined as at the date of signing these accounts.

# 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 copy of the Protection Wording unless this has already been provided;
- A copy of the Deed of Trust unless this has already been provided;
- An up-to-date copy of these Rules unless this has already been provided; and
- 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:

- 20 days after receiving the notice; and
- 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.



## 2011–12 FUND YEAR MEMBERSHIP

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

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

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

**Membership enquiries are welcome and should be referred to:**  
 The General Manager  
 New Zealand Mutual Liability Riskpool  
 P O Box 5521, Wellington 6145  
 Attention: Juliet Martin  
 Telephone: 04 978 1257  
 Facsimile: 04 978 1260  
 E-mail: [juliet.martin@riskpool.org.nz](mailto:juliet.martin@riskpool.org.nz)

## LOCAL GOVERNMENT MUTUAL FUNDS TRUSTEE LIMITED

### DIRECTORY

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

**NEW ZEALAND LOCAL GOVERNMENT INSURANCE CORPORATION LIMITED**  
("LGIC")

**AND**

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

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

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

**PARTIES**

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

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

**BACKGROUND**

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

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

## THIS DEED WITNESSES:

### 1. INTERPRETATION:

1.1 In this deed unless the context clearly requires otherwise:

“Act” means the Companies Act 1993.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Jardine” means Jardine Risk Consultants Limited.

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

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

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

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

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

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

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

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

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

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

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

“Shares” means the shares in Trustee Company.

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

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;
- 6.6.3 annually determine the amount of Pooled Cover to be provided for the Members from the Fund for any Fund Year;
- 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;
- 6.6.5 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.
- 6.7 The Board may from time to time establish, or disestablish, a Claims Committee. Any such Claims Committee shall have such membership, duties, functions and powers, and be subject to such procedures, as the Board may from time to time stipulate. Where a Claims Committee is disestablished, its duties, functions and powers shall revert to the Board (but without prejudice to the validity or effectiveness of any act or omission of the Claims Committee prior to its disestablishment), and any reference in this deed to the Claims Committee shall be read accordingly.
- 6.8 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.
- 6.9 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.
- 6.10 The Board shall consider regularly the reports of the Scheme Manager and the Claims Committee in relation to Claims and:
- 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
- 6.10.3 shall, on written request from a Member, reconsider any Claim that has been rejected.
- 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 that Annual Fund in order to ensure that all Claims upon that Annual Fund are able to be met.
- 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.
- 6.14 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.
- 6.15 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.
- 6.16 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:
- 6.16.1 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.

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

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;

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

10.2.4	the preparation of regular reports to the Board in such form as the Board shall from time to time direct in respect of each Annual Fund as to:	10.4	The Fund Manager shall negotiate Indemnity Cover as requested by the Board and satisfying any specific requirements of LGIC while LGIC's Deed of Guarantee is operative or while there are outstanding amounts due to LGIC under any Deed of Guarantee.	11.2.7	any other matters the Board considers relevant, having regard to the purposes and objects of the Scheme.
	(i) Claims outstanding;			11.3	If during a Fund Year it becomes apparent to the Board that as a result of unexpected or exceptional circumstances the Fund for that Fund Year will be insufficient to meet Claims payable from the Fund, the Board may determine an Additional Contribution payable by each Member for the Fund Year (which will be in the same proportion to the Additional Contributions of all other Members as the initial Contribution paid by the Member for that Fund Year bears to the initial Contributions of all Members for that Fund Year).
	(ii) The Scheme Manager's assessment of liability in respect of each outstanding Claim;	<b>11. CONTRIBUTIONS TO SCHEME</b>			
	(iii) The ability of the Fund to meet the assessment of liability;	11.1	Each Member, as a condition of membership of the Scheme for that Fund Year, shall pay the initial Contribution determined by the Board for that Member for that Fund Year.		
	(iv) The assessment of further Additional Contributions required, if any;			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).
	(v) The investment of the moneys of the Fund not immediately required;	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:		
	(vi) The allocation of surplus moneys in the Fund, if any;			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:
10.2.5	the preparation of the annual operating budget;	11.2.1	the Member's revenue base;	11.5.1	interest may, if the Board so determines, accrue calculated daily, on daily balances (and compounding semi-annually) at the Bank of New Zealand Indicator Rate from the due date to the date of actual payment;
10.2.6	the calculation of Contributions in conjunction with actuarial advice and advice from the Scheme Manager;	11.2.2	the geographical location of the Member's territory;	11.5.2	an unpaid Contribution (and interest) constitutes a debt payable by the relevant Member to the Scheme and Trustee Company may bring proceedings for the recovery of that debt in its name on behalf of the Scheme.
10.2.7	the recommendation of the level of Pooled Cover to be provided in any Fund Year;	11.2.3	the population of the Member's territory;		
10.2.8	the recommendation of the level of Indemnity Cover to be provided in any Fund Year.	11.2.4	the Member's Civil Liability claims history (both during and prior to its membership of the Scheme);		
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.	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;		

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

<b>12. BANK ACCOUNT, INVESTMENT AND BORROWING POWERS</b>		12.6.2	in payment of all administrative and operating costs associated with the Scheme;	<b>14. ORDER OF PRIORITY OF SCHEME DOCUMENTS</b>	
12.1	Trustee Company shall open a bank account for the Fund with a registered Bank determined by the Board.	12.6.3	in payment of fees due to the Scheme Manager and the Fund Manager;	14.1	The Scheme Documents shall be construed in the following order of priority:
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.	12.6.4	in payment of all Claims accepted by the Board;	14.1.1	this deed, which shall be paramount; then
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;	12.6.5	by way of any grant or allocation approved under this deed; and	14.1.2	the Scheme Rules; then
12.3.1	with any registered Bank;	12.6.6	generally in furtherance of the Scheme's objectives including a transfer, payment or loan in accordance with the Scheme Documents.	14.1.3	the Constitution; and then
12.3.2	in any security or investment authorised by the Trustee Act; or	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.	14.1.4	the Deed of Participation and the Guidelines for each Member.
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	<b>13. RECOURSE TO SCHEME ASSETS ONLY</b>			
12.3.4	with the Trustee of any other Trust Fund established for the benefit of Local Authorities or other local government organisations.	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:	<b>15. SURPLUS ON LIQUIDATION OF SCHEME</b>	
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.	13.1.1	any Member of the Board;	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.
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:	13.1.2	the Scheme Manager or the Fund Manager in any capacity other than as Scheme Manager or Fund Manager of the Scheme;		
12.6.1	in payment of any establishment costs for the Scheme;	13.1.3	except to the extent of LGIC's indemnity to Trustee Company, LGIC; or		
		13.1.4	any other Member.		

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

16. DEED OF PARTICIPATION

EXECUTED AS A DEED

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

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

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

Director (Signature)

Director (Signature)

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

Name (Please Print)

Name (Please Print)

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

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

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

Director (Signature)

Director (Signature)

17. VARIATIONS

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

Name (Please Print)

Name (Please Print)

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

SCHEDULE 1

DEED OF PARTICIPATION

(Name of Member)

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

SIGNED BY )

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

(Signature of duly authorised Agent)

(Signature of Witness)

(Name of Witness)

(Address of Witness)

(Date)

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



NEW ZEALAND MUTUAL  
LIABILITY RISKPOOL





NEW ZEALAND MUTUAL  
LIABILITY RISKPOOL