

# 2011

## ANNUAL REPORT



NEW ZEALAND  
LOCAL AUTHORITY PROTECTION  
PROGRAMME DISASTER FUND



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## CHAIRMAN'S REPORT

### I have pleasure in presenting the Chairman's Report for the 2010/2011 financial year.

To say that this year has been tumultuous would be an understatement; it was the year of the earthquakes. No sooner had we sent out the contribution invoices and paid the first tranche of the catastrophe reinsurance programme premium when, completely out of the blue, the first of the devastating earthquakes hit Canterbury. The LAPP Fund was well prepared for this despite its clearly unexpected nature. LAPP had previously secured exclusively the most senior loss adjusters at Cunningham Lindsey, an international firm and New Zealand's most eminent. Not only that, LAPP had purchased its catastrophe reinsurance programme with a most conservative approach using the very best of the science internationally on loss predictions for New Zealand. An automatic reinstatement of that programme was also purchased.

There was significant damage sustained to the infrastructure of two LAPP members, Christchurch City Council and Waimakariri District Council. Waimakariri was hit particularly hard in this September event around the Kaiapoi River and the coast. The LAPP fund quickly set about its claim management programme commissioning its adjusters and appointing Geoff Mercer, former Civic Assurance Insurance Manager, as a special liaison assistant to the Fund and its affected members. Geoff based himself in Christchurch on a regular number of days each month. The Fund also made available special advance payments to financially assist the two affected councils knowing the immediate strain they were under with the cost associated with emergency response. In the following months a considerable amount of investigation and assessment work was undertaken surveying infrastructure damage and assisting with initial plans for temporary and subsequent permanent repair. Providing detailed advice through the Fund were two contracted specialist Local Government infrastructure engineers seconded from

their respective council employers. To have their services has been very much appreciated by the Fund and our thanks go to them and to Manawatu District Council and Palmerston North City Council for allowing their release to assist in adjustment of the claims.

As it happens most of this work went straight to the back-burner when on February 22, 2011 a much more devastating earthquake hit Canterbury with an epicentre in Christchurch and which so sadly claimed many lives. Our loss adjusting team was almost literally thrown out of its central city premises and eventually had to set up office in a rented residential property to the west of the city. Nevertheless it immediately re-focused on the task of getting back into the investigation and to this day has been working assiduously with dedication above and beyond the call of duty to ensure LAPP's affected members are fully served by the Fund and its reinsurance programme. The Fund's main members of the loss adjusting team actually come respectively from Tauranga and Napier but end up spending more time in Christchurch than in their own family homes such are the demands of the work they are currently involved in.

The LAPP Fund certainly did not expect to be faced with another earthquake of such magnitude and nor was there any expectation of the potential for such an event based on all the science available nationally and internationally upon which the Fund must base its risk management and catastrophe reinsurance purchases. However it is clear the simple existence of the LAPP Fund will stand its two most affected members in good stead. Despite the most unprecedented nature, magnitude and frequency of such devastation in Canterbury the Fund is responding in the manner for which it was established. That was to provide funds towards 40% of the reinstatement and response costs from catastrophic damage to councils' essential infrastructure. In fact the very existence of the Fund has eased the process for members in claiming their 60% direct from Central Government. LAPP had previously set

claim processes and documentation in place that were agreed as acceptable to Central Government as well as fulfilling LAPP and its reinsurers' requirements. Duplication of claims documentation has mostly been avoided.

The two more unfortunate aspects of this situation for the Fund and its members were firstly; with the advent of the February 22 Earthquake, the Fund, in meeting its commitments to affected members would now be without funds and further reinsurance backing for a subsequent event, and secondly; the continuing earthquakes have so alarmed the local primary and the international reinsurance markets that the ready opportunity to purchase or renew reinsurance has become extremely difficult.

The LAPP Trustees and the Fund Administrators were faced with the task of providing future options for members, the main thrust of which was whether members wished to see the Fund re-established in difficult economic conditions. A considerable amount of work was undertaken by the Fund Administrators and the Trustees on the financial and reinsurance positions that needed to be assessed prior to putting options to the Members. The Member Meeting held in May 2011 espoused the various options. A clear majority gave a mandate to the Trustees to resurrect and re-build the Fund despite a significant increase in contributions being required, mostly to be able to purchase a minimum level of catastrophe reinsurance.

And that is where we are today: the Fund has been resurrected. Members' contributions have increased approximately four-fold, noting that previously most members were enjoying a 50% discount on their council's assessed cost of risk. The reinsurance programme has been renewed, albeit only at approximately 92% of what it had been the previous year and of course at a much greater cost.

During all this the Trustees and Administrators have been in regular dialogue with Central Government, both Treasury and Ministers of the Crown, keeping them fully apprised of the LAPP and Local Government position

following the damage to infrastructure and the expected costs of reinstatement. Even today we are still a long way from accurately identifying the ultimate costs and thus whether the Fund's reinsurance programme will be sufficient to meet those costs and ultimately what level of Central Government assistance may be available if at all.

We must also remember that over the last year or two, despite the focus on earthquake claims, the fund has responded to a number of mainly weather related claims that have impacted on member councils.

Earthquake issues aside, day-to-day activities have continued. In the early part of the year the Trustees approved revised claims provisions which amongst other benefits gave cover to members for emergency response costs and temporary repairs, as it transpired, quite a boon for our earthquake affected members.

The Fund's risk managers (Risk Management Partners) have given sterling support to LAPP over this very difficult period. Currently they are collecting high level detail on earthquake damage sustained to infrastructure assets in Canterbury. In conjunction with the Institute of Geological and Nuclear Sciences (GNS) this information will be used to modify various parameters in their earthquake assessment model, particularly the fragility functions for infrastructure assets in very highly liquefiable soils. This so far has been used to review the earthquake risk assessment for the Wellington region. The work is continuing with a full review of soil conditions for every member. The application of the updated fragility functions to individual member assessments is planned for the coming year.

The Fund's risk management programme has continued with visits to a number of members during the year. Each member is visited at least every four years for a review of their infrastructure assets covered by the LAPP Fund, asset management practices and management of natural hazard exposures to these assets. The visits have been an opportunity to present information on the LAPP Fund to council staff and to discuss the lessons learned following

## CHAIRMAN'S REPORT *(continued)*

the Canterbury earthquakes, especially in relation to asset valuations. This programme ensures that the Trustees and reinsurers have up-to-date information on the assets being covered by the LAPP Fund. Risk Profile reports are also prepared for members.

The LAPP Fund website at [www.lappfund.co.nz](http://www.lappfund.co.nz) continues to be an excellent resource, providing members with current information on the policies and procedures of the LAPP Fund. Each member can access the latest information it has provided on the infrastructure assets declared for cover by the LAPP Fund and other reports. The web site also carries information from the Ministry of Civil Defence and Emergency Management and other relevant authorities relating to natural hazard risk assessment and the reinstatement of assets following a major natural hazard event. Council staff that are unable to attend member meetings can access presentations made at those meetings and associated materials for their information.

In the immediate future the principal objective of the trustees and management is to ensure that LAPP is fully

re-established and financially secure, so that it can provide financial security for members, in other words, to be able to fulfill the reasons for which it was established.

This has to have been the busiest year so far for administrators and risk managers of the Fund and I wish to thank the administration management staff, particularly Christopher Munden, Tim Sole and Roger Gyles along with Risk Management Partners, Bryan Whitefield and Marlene Kanga, for their work during the year. Special thanks must also go to Geoff Mercer for his assistance to the Fund and its members following the September earthquake. I also thank my fellow trustees for their strong participation and input into the Fund's affairs.



Kinsley Sampson  
Chairman

# AUDIT REPORT

## TO THE MEMBERS OF NEW ZEALAND LOCAL AUTHORITY PROTECTION PROGRAMME DISASTER FUND



We have audited the accompanying special purpose financial statements of the New Zealand Local Authority Protection Programme Disaster Fund ("the Fund") on pages 6 to 17. The special purpose financial statements comprise the statement of financial position as at 30 June 2011, the statements of comprehensive income, statement of cash flows and changes in equity for the year then ended, and a summary of significant accounting policies and other explanatory information. The special purpose financial statements have been prepared based on the accounting policies determined by the Fund, which are set out in Note 1.

### Trustees' responsibility for the special purpose financial statements

The trustees are responsible for the preparation of these special purpose financial statements, in accordance with the accounting policies determined by the Fund, for determining the acceptability of the basis of accounting, and for such internal control as the trustees determine is necessary to enable the preparation of special purpose financial statements that are free from material misstatement whether due to fraud or error.

### Auditor's responsibility

Our responsibility is to express an opinion on these special purpose financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing (New Zealand). Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the special purpose financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the special purpose financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the special purpose financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Fund's preparation of the special purpose financial statements 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 Fund's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the

reasonableness of accounting estimates, as well as evaluating the presentation of the special purpose financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Other than in our capacity as auditors we have no relationship with, or interests in, the Fund.

### Opinion

In our opinion the special purpose financial statements of New Zealand Local Authority Protection Programme Disaster Fund on pages 6 to 17 for the year ended 30 June 2011 are prepared, in all material respects, in accordance with the accounting policies as set out in Note 1, as determined by the Fund.

### Emphasis of matter

We draw attention to Note 5 to the special purpose financial statements which describe that considerable uncertainty exists in measuring reinsurance recoveries and outstanding claims liabilities arising from the Canterbury earthquakes which occurred during the year. Our opinion is not qualified in respect of this matter.

### Basis of accounting and restriction on distribution and use

We draw attention to Note 1 to the special purpose financial statements, which describe the basis of accounting. The special purpose financial statements are prepared for the purpose of informing Fund Members and the Charities Commission of the Fund's financial performance during the year. As a result, the special purpose financial statements may not be suitable for another purpose. Our report is intended solely for New Zealand Local Authority Protection Programme Disaster Fund, Members of the Fund and the Charities Commission and should not be distributed to or used by any parties other than New Zealand Local Authority Protection Programme Disaster Fund, Members of the Fund and the Charities Commission. Our opinion is not modified in respect of this matter.

11 October 2011  
Wellington

New Zealand Local Authority Protection Programme Disaster Fund

**STATEMENT OF FINANCIAL PERFORMANCE**

FOR THE YEAR ENDED 30 JUNE 2011

	Note	2011 \$	2010 \$
<b>INCOME</b>			
Members' Below Ground Contributions		11,429,025	3,174,879
Members' Above Ground Contributions		2,378,711	38,187
Interest – Bank Deposits		1,028,998	1,134,710
Income from Managed Funds (net)	3	1,685,265	252,812
<b>TOTAL INCOME</b>		<b>16,521,999</b>	<b>4,600,588</b>
<b>EXPENDITURE</b>			
<b>Direct Expenses</b>			
Claims Expense	5	522,225,951	1,327,394
Reinsurance Recoveries	5	(471,368,900)	-
Net Claims Expense		50,857,051	1,327,394
Risk Management Programme		323,526	253,393
Excess of Loss Insurance Premium		2,900,568	1,974,865
Reinstatement Premium		1,305,000	-
		<b>55,386,145</b>	<b>3,555,652</b>
<b>Other Expenses</b>			
Administration Fees	8	316,035	245,158
Audit Fees-Financial Statements		6,808	6,450
Consultancy		25,306	46,287
Legal Fees		4,135	455
Meeting/Travel Expenses		18,416	13,076
Printing and Stationery		8,781	8,302
Rating Agency Fee		11,572	10,058
Trustees' Liability Insurance		12,500	12,500
Trustees' Remuneration		32,052	18,900
Sundry Expenses		587	1,900
		<b>436,192</b>	<b>363,086</b>
<b>TOTAL EXPENDITURE</b>		<b>55,822,337</b>	<b>3,918,738</b>
Net (Deficit)/Surplus before tax		(39,300,338)	681,850
Tax Expense		-	-
<b>NET (DEFICIT)/SURPLUS</b>		<b>(39,300,338)</b>	<b>681,850</b>

The notes to the Special Purpose Financial Statements form part of and are to be read in conjunction with this Statement of Financial Performance.

New Zealand Local Authority Protection Programme Disaster Fund

**STATEMENT OF MOVEMENTS IN EQUITY**

FOR THE YEAR ENDED 30 JUNE 2011

	2011	2010
	\$	\$
Net (Deficit)/Surplus for the Year	(39,300,388)	681,850
<b>TOTAL RECOGNISED REVENUES AND EXPENSES</b>	<b>(39,300,388)</b>	<b>681,850</b>
EQUITY AT BEGINNING OF YEAR	37,644,945	36,963,095
<b>EQUITY AT END OF YEAR</b>	<b>(1,655,393)</b>	<b>37,644,945</b>

The notes to the Special Purpose Financial Statements form part of and are to be read in conjunction with this Statement of Movements in Equity.

New Zealand Local Authority Protection Programme Disaster Fund

**STATEMENT OF FINANCIAL POSITION**

AS AT 30 JUNE 2011

	Note	2011 \$	2010 \$
<b>TOTAL EQUITY</b>		<b>(1,655,393)</b>	<b>37,644,946</b>
Represented By:			
<b>Current Assets</b>			
Bank – ANZ National Bank Ltd		2,416,426	640,225
Short Term Deposits – Bank Deposits		26,305,000	28,450,000
Accrued Interest		18,413	225,098
Accounts Receivable		13,181,285	50,322
Reinsurance Recoveries Receivable		471,368,900	-
GST Receivable		1,185,295	12,193
New Entrant Additional Contributions	12	-	185,820
<b>Total Current Assets</b>		<b>514,475,319</b>	<b>29,563,659</b>
<b>Investments</b>			
Managed Funds:			
AMP – WiNZ Fund		-	9,536,964
<b>Total Investments</b>		<b>-</b>	<b>9,536,964</b>
<b>TOTAL ASSETS</b>		<b>514,475,319</b>	<b>39,100,623</b>
<b>Current Liabilities</b>			
Accounts Payable		1,223,934	138,677
Reinsurance Borderau Received in Advance		18,000,000	-
Premium Reserve		115,668	-
Reinstatement Premiums Payable		710,000	-
Provision for Claims	7	496,081,110	1,317,000
<b>Total Current Liabilities</b>		<b>516,130,712</b>	<b>1,455,677</b>
<b>TOTAL LIABILITIES</b>		<b>516,130,712</b>	<b>1,455,677</b>
<b>(DEFICIT)/EXCESS OF ASSETS OVER LIABILITIES</b>		<b>(1,655,393)</b>	<b>37,644,946</b>

Approved for and on behalf of the Board on 11 October 2011:



KN SAMPSON – CHAIRMAN



LD CAVERS – TRUSTEE

New Zealand Local Authority Protection Programme Disaster Fund

**STATEMENT OF CASH FLOWS**

FOR THE YEAR ENDED 30 JUNE 2011

	Note	2011 \$	2010 \$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Cash was Provided from:			
Members' Contributions		3,534,622	3,220,922
Interest Received – Bank		1,235,683	1,413,639
Sundry Income		2,410,313	34,448
		<b>7,180,618</b>	<b>4,669,009</b>
Cash was Applied to:			
Claims		12,634,008	1,779
Risk Management Programme		338,044	261,146
Excess of Loss Insurance		2,475,568	1,974,865
Administration Fees		279,751	242,913
Meeting/Travel Expenses		20,623	1,710
Trustees' Remuneration		32,052	18,900
Other Expenses		57,789	84,807
Net GST Paid		2,933,811	5,468
		<b>18,771,646</b>	<b>2,591,588</b>
<b>NET CASH INFLOW FROM OPERATING ACTIVITIES</b>	<b>4</b>	<b>(11,591,028)</b>	<b>2,077,421</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Cash was Provided from:			
Sale of Investments – WinZ Funds		9,536,964	-
Maturity of Investments – Short term Bank Deposits		2,145,000	-
Investment Income		1,685,265	130,010
		<b>13,367,229</b>	<b>130,010</b>
Cash was Applied to:			
Purchase of Investments – Short term Bank Deposits		-	1,995,000
		<b>-</b>	<b>1,995,000</b>
<b>NET CASH OUTFLOW FROM INVESTING ACTIVITIES</b>		<b>13,367,229</b>	<b>(1,864,990)</b>
Net Increase/(Decrease) in Cash Held		1,776,201	212,431
Opening Cash Balance		640,225	427,794
<b>CLOSING CASH BALANCE</b>		<b>2,416,426</b>	<b>640,225</b>
Represented by:			
Bank – ANZ National Bank Ltd		2,416,426	640,225
		<b>2,416,426</b>	<b>640,225</b>

The notes to the Special Purpose Financial Statements form part of and are to be read in conjunction with this Statement of Cash Flows.

New Zealand Local Authority Protection Programme Disaster Fund

## NOTES TO THE SPECIAL PURPOSE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2011

### NOTE 1. SIGNIFICANT ACCOUNTING POLICIES

#### Reporting Entity and Basis of Preparation

These special purpose financial statements for the New Zealand Local Authority Protection Programme Disaster Fund, ("The Fund") have been prepared in accordance with the accounting policies set out below and the Charitable Trusts Act 1957.

The Fund no longer meets the deferral criteria under Release 9 – Delay of Mandatory adoption of New Zealand equivalent to International Financial Reporting Standards (NZIFRS) for certain small entities, and as a result has decided to adopt a special purpose basis of preparation.

The special purpose financial statements are prepared in accordance with the same policies as those adopted in the prior year, which were in accordance with New Zealand Financial Reporting Standards ("NZ GAAP").

The special purpose financial statements of the Fund are for the year ended 30 June 2011. The special purpose financial statements were authorised for issue by the Board of Trustees on 11 October 2011.

#### Basis of Measurement

The measurement base adopted is that of historical cost, except for investments which are at market value.

#### Currency

These special purpose financial Statements are presented in New Zealand Dollars.

#### Particular Accounting Policies

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

##### INVESTMENTS

Investments are recorded at quoted market value, less the estimated cost of disposal. Changes in the value of investments are recognised in the Statement of Financial Performance.

##### TAXATION

The Fund has been granted charitable status under section CW 34(1) of the Income Tax Act 2004 by the Inland Revenue Department, hence no taxation has been provided for in the financial statements.

##### GOODS AND SERVICES TAX

The Special Purpose Financial Statements are prepared on a GST exclusive basis, except for receivables and payables that are stated inclusive of GST.

##### PROVISION FOR CLAIMS

A provision for claims is recognised when:

- a claim has been received;
- a potential obligation has been recognised by the Board of Trustees;
- it is probable that an outflow of resources will be required to settle the obligation; and
- an estimate can be made of the amount of the obligation: and
- based on the approved discretionary payment from the trustees.

New Zealand Local Authority Protection Programme Disaster Fund

## NOTES TO THE SPECIAL PURPOSE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2011 (*continued*)

### INCOME RECOGNITION

Interest income is accounted for on an accruals basis. Any unrealised gains or losses arising from the revaluation of investments and realised gains or losses from the sale of investments during the year are included in the Statement of Financial Performance.

### FINANCIAL INSTRUMENTS

#### **Non-derivative financial instruments**

Non-derivative financial instruments comprise investments in shares, trade and other receivables, cash and cash equivalents, loans and borrowings, and trade and other payables.

Non-derivative financial instruments are recognised initially at fair value plus, for instruments not at fair value through profit or loss, any directly attributable transaction costs. Subsequent to initial recognition, non-derivative financial instruments are measured as described below.

A financial instrument is recognised if the Fund becomes a party to the contractual provisions of the instrument. Financial assets are derecognised if the Fund's contractual rights to the cash flows from the financial assets expire or if the Fund transfers the financial asset to another party without retaining control or substantially all risks and rewards of the asset.

#### **Fair value through profit or loss**

An instrument is classified as at fair value through profit or loss if it is held for trading or designated as such upon initial recognition.

Shares are designated at fair value through profit or loss if the Fund manages such investments and makes purchase and sale decisions based on their fair value. Shares held for trading are classified as current assets. Upon initial recognition, attributable transaction costs are recognised in profit or loss when incurred. Subsequent to initial recognition, financial instruments at fair value through profit or loss are measured at fair value, and changes therein are recognised in the Statement of Financial Performance.

### OTHER

Subsequent to initial recognition, other non-derivative financial instruments are measured at amortised cost using the effective interest method, less any impairment losses.

### STATEMENT OF CASH FLOWS

The following are definitions of the terms used in the Statement of Cash Flows:

**Cash:** comprises cash balances held with banks in New Zealand and overseas. Cash excludes term deposits that are not used as part of the Fund's day to day cash management.

**Investing activities:** comprise acquisition and disposal of investments. Investments include securities not falling within the definition of cash.

**Operating activities:** include all transactions and other events that are not investing activities.

### Critical Accounting Policies

The critical estimates and judgements taken in respect to the accounts for the year ended 30 June 2011 have been in respect to the quantification of the losses arising from the Canterbury earthquakes and the subsequent reinsurance recoveries. The uncertainties are set out in Note 5 and Note 6 of the financial statements but include such matters as the level of certainty as to the extent of losses. Loss assessors have performed assessments on all claims, however the extent of these assessments ranges from initial visual assessments, to full details reviews including structural engineering considerations. As such, the final extent of claims that would be subject to consideration by LAPP is still being quantified.

New Zealand Local Authority Protection Programme Disaster Fund

**NOTES TO THE SPECIAL PURPOSE FINANCIAL STATEMENTS**FOR THE YEAR ENDED 30 JUNE 2011 (*continued*)**Changes in Accounting Policies**

There have been no changes in accounting policies during the year. All policies have been applied on a basis consistent with previous years.

**NOTE 2. NATURE OF ACTIVITIES**

The purpose of the Fund is to provide cover to member local governments for losses or damage to infrastructure assets resulting from flooding, earthquakes and other damaging events.

**NOTE 3. INVESTMENTS**

	2011 \$	2010 \$
<b>Income from Managed Funds</b>		
Investment Income	1,685,265	200,090
Change in Net Current Value	-	52,722
	1,685,265	252,812

**Managed Funds**

**AMP:** The cost of investments held by AMP at 30 June 2011 was \$0 (2010: \$12,000,000).

Market value of investments held by AMP at 30 June 2011 was \$0 (2010: \$9,536,964).

**NOTE 4. RECONCILIATION OF NET SURPLUS TO NET CASH INFLOW FROM OPERATING ACTIVITIES**

	2011 \$	2010 \$
<b>Net Surplus</b>	(39,300,338)	681,850
<b>Items included in Investing Activities</b>		
Investment Income	(1,685,265)	(130,010)
Gain in Managed Funds	-	(122,802)
	(1,685,265)	(252,812)
<b>Add/(less) movements in other working capital items</b>		
Accrued Interest	206,685	278,929
GST Receivable	(1,173,102)	(7,244)
New Entrant Additional Contributions	185,820	76,360
Contributions received in Advance	-	(29,063)
Accounts Receivable	(449,119,862)	5,364
Accounts Payable & Provisions	479,295,034	1,324,037
	29,394,575	1,648,383
<b>NET CASH INFLOW FROM OPERATING ACTIVITIES</b>	(11,591,028)	2,077,421

New Zealand Local Authority Protection Programme Disaster Fund

**NOTES TO THE SPECIAL PURPOSE FINANCIAL STATEMENTS**FOR THE YEAR ENDED 30 JUNE 2011 (*continued*)**NOTE 5. CLAIMS AND REINSURANCE RECOVERIES**

There are considerable uncertainties surrounding the measurement of gross claim liabilities and the related reinsurance recoveries arising from the Canterbury earthquakes. These arise from a number of factors including; longer than normal claim development periods; the presence and frequency of aftershocks; the extent of damage; the ability of risk assessors to access damaged sites, some of which are below ground and have not yet been excavated; the ability for loss assessors to access and fully assess all sites; and the extent to which losses will be met by the Earthquake Commission.

Gross outstanding claims liabilities for Christchurch totals \$488 million which is the central estimate of outstanding claims liabilities arising from the Canterbury earthquakes. This estimate represents loss assessors estimates as at 30 June 2011 of what LAPP will ultimately pay, prior to receiving any reinsurance recoveries, in relation to these claims. The estimates or projections are based on the known facts and circumstances and assumptions regarding future events and key variables as detailed in Note 2.

Given the nature and number of uncertainties associated with the Canterbury earthquakes, the actual claims experience may deviate, perhaps substantially, from the gross outstanding claims liabilities as at 30 June 2011. Any changes to estimates will be recorded in the accounting period when they become known.

After reinsurance and other recoveries, the net outstanding claims liabilities in relation to the Canterbury earthquakes amounts to \$24.7 million as at 30 June 2011.

	2011 \$	2010 \$
Claims – below ground (Chch EQ 4 Sept 2010)	109,000,000	-
Reinsurance Recoveries	(96,000,000)	-
	13,000,000	-
Claims – below ground (Chch EQ 22 Feb 2011)	109,000,000	-
Reinsurance Recoveries	(97,250,000)	-
	11,750,000	-
Claims – below ground (Other)	3,054,118	1,327,394
Reinsurance Recoveries	-	-
	3,054,118	1,327,394
Claims – above ground (Chch EQ 4 Sep 2010)	42,439,347	-
Reinsurance Recoveries	(35,239,347)	-
	7,200,000	-
Claims – above ground (Chch EQ 26 Dec 2010)	771,086	-
Reinsurance Recoveries	-	-
	771,086	-

New Zealand Local Authority Protection Programme Disaster Fund

**NOTES TO THE SPECIAL PURPOSE FINANCIAL STATEMENTS**FOR THE YEAR ENDED 30 JUNE 2011 (*continued*)**NOTE 5. CLAIMS AND REINSURANCE RECOVERIES (*continued*)**

	2011 \$	2010 \$
Claims – above ground (Chch EQ 22 Feb 2011)	231,277,855	-
Reinsurance Recoveries	(224,077,855)	-
	7,200,000	-
Claims – above ground (Chch EQ 13 June 2011)	25,969,500	-
Reinsurance Recoveries	(18,769,500)	-
	7,200,000	-
Claims – above ground (Other)	714,045	-
Reinsurance Recoveries	(32,198)	-
	681,847	-
Gross Claims	522,225,951	1,327,394
Reinsurance Recoveries	(471,368,900)	-
<b>NET CLAIMS</b>	<b>50,857,051</b>	<b>1,327,394</b>

The trustees have resolved to cap the below ground claims for 4 September 2010 and 22 February 2011 at \$109 million, which is the maximum level of reinsurance available.

**NOTE 6. REINSURANCE RECOVERIES RECEIVABLE**

	2011 \$	2010 \$
Reinsurance Recoveries	471,368,900	-

Details of the uncertainties that exist in measuring reinsurance recoveries arising from the Canterbury earthquakes are explained in Note 5.

New Zealand Local Authority Protection Programme Disaster Fund

**NOTES TO THE SPECIAL PURPOSE FINANCIAL STATEMENTS**FOR THE YEAR ENDED 30 JUNE 2011 (*continued*)**NOTE 7. PROVISION FOR CLAIMS**

	2011	2010
	\$	\$
<b>Opening Balance</b>	1,317,000	-
<i>Less: Claims Paid</i>		
Below ground (Chch EQ 4 Sept 2010)	(9,385,663)	-
Below ground (Chch EQ 22 Feb 2011)	(8,127,129)	-
Below ground (Other)	(817,325)	-
Above ground (Chch EQ 4 Sept 2010)	(2,988,258)	-
Above ground (Chch EQ 26 Dec 2010)	-	-
Above ground (Chch EQ 22 Feb 2011)	(5,799,501)	-
Above ground (Chch EQ 13 June 2011)	-	-
Above ground (Other)	(311,767)	-
	(27,429,643)	
<i>Plus: New Claims Received and Agreed</i>		
Below ground (Chch EQ 4 Sept 2010)	109,000,000	-
Below ground (Chch EQ 22 Feb 2011)	109,000,000	-
Below ground (Other)	3,054,118	1,317,000
Above ground (Chch EQ 4 Sept 2010)	42,439,347	-
Above ground (Chch EQ 26 Dec 2010)	769,721	-
Above ground (Chch EQ 22 Feb 2011)	231,277,855	-
Above ground (Chch EQ 13 June 2011)	25,969,500	-
Above ground (Other)	683,212	-
	522,193,753	
<b>Closing Balance</b>	<b>496,081,110</b>	<b>1,317,000</b>

Claims payments are made as claims are quantified and approved by the Trustees.

**NOTE 8. RELATED PARTIES**

Administration fees of \$316,035 (2010: \$245,158) relate to the New Zealand Local Government Insurance Corporation Limited, trading as Civic Assurance (Civic). Civic is the Administration Manager of the Fund.

**NOTE 9. FINANCIAL INSTRUMENTS**

The Fund is involved with a number of financial instruments in the course of its normal activities.

**Fair Value**

The carrying amounts of all financial assets and liabilities are considered to be equivalent to their fair value.

New Zealand Local Authority Protection Programme Disaster Fund

**NOTES TO THE SPECIAL PURPOSE FINANCIAL STATEMENTS**FOR THE YEAR ENDED 30 JUNE 2011 (*continued*)**Credit Risk**

Financial instruments which potentially expose the Fund to credit risk consist of cash, short term deposits, receivables and investments in managed funds. The maximum exposure to credit risk is the carrying value of these financial instruments.

All investments and short term deposits are with high credit quality counterparties.

**Interest Rate Risk**

The Fund is exposed to interest rate risk in that future interest rate movements will affect cash flows and net market values of fixed interest assets and, indirectly, the valuation of investments in managed funds which invest in cash and fixed interest investments.

The intention of the Trustees is not necessarily to hold these assets to maturity, but to realise and purchase similar assets as part of the on going management of the investments of the Fund. There is no maturity period for unutilised investments.

	Effective Interest Rate 2011	2011 \$	6 months or less	6 – 12 months	1 – 2 years	Non-Interest Bearing
<b>Financial Assets</b>						
Bank	2.8%	2,416,426	2,416,426	-	-	-
Short Term Cash Deposits	4.0%	26,305,000	26,305,000	-	-	-
Receivables	-	449,657,684	-	-	-	449,657,684
New Entrant Contributions	-	-	-	-	-	-
Investments	-	-	-	-	-	-
<b>Total financial assets</b>		<b>478,379,110</b>	<b>28,721,426</b>	<b>-</b>	<b>-</b>	<b>449,657,684</b>
<b>Financial Liabilities</b>						
Payables	-	1,229,162	-	-	-	1,229,162
<b>Total financial liabilities</b>		<b>1,229,162</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,229,162</b>
Provision for Claims	-	496,081,110	-	-	-	496,081,110
<b>NET FINANCIAL POSITION</b>		<b>(18,931,162)</b>	<b>28,721,426</b>	<b>-</b>	<b>-</b>	<b>(47,652,588)</b>

	Effective Interest Rate 2010	2010 \$	6 months or less	6 – 12 months	1 – 2 years	Non-Interest Bearing
<b>Financial Assets</b>						
Bank	2.8%	640,225	640,225	-	-	-
Short Term Cash Deposits	4.0%	28,450,000	28,450,000	-	-	-
Receivables	-	50,322	-	-	-	50,322
New Entrant Contributions	-	185,820	-	-	-	185,820
Investments	-	9,536,964	-	-	-	9,536,964
<b>Total financial assets</b>		<b>38,863,331</b>	<b>29,090,225</b>	<b>-</b>	<b>-</b>	<b>9,773,106</b>
<b>Financial Liabilities</b>						
Payables	-	138,677	-	-	-	138,677
<b>Total financial liabilities</b>		<b>138,677</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>138,677</b>
Provision for Claims	-	1,317,000	-	-	-	1,317,000
<b>NET FINANCIAL POSITION</b>		<b>37,407,654</b>	<b>29,090,225</b>	<b>-</b>	<b>-</b>	<b>8,317,429</b>

New Zealand Local Authority Protection Programme Disaster Fund

## NOTES TO THE SPECIAL PURPOSE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2011 (*continued*)

### Liquidity Risk

Liquidity risk is the risk that the Fund will encounter difficulty in meeting obligations from its financial liabilities.

#### MANAGEMENT OF LIQUIDITY RISK

The Fund's approach to managing liquidity is to ensure, as far as possible, that it will always have sufficient liquidity to meet its liabilities when due, under both normal and stressed conditions, without incurring unacceptable losses or risking damage to the Fund's reputation. The Fund manages this risk as they have discretion in the total amount of claims paid, in accordance with the Trust Deed. This Deed enables the Trustees to ensure sufficient liquidity and reserves are retained by the Fund. Additionally, cash and short term deposit reserves are maintained at sufficient levels to ensure all such claims can be met.

### NOTE 10. COMMITMENTS AND CONTINGENT LIABILITIES

The Fund has the ability to provide support to Members based on its reserves and its ability to make reinsurance recoveries. For the period from 30 June 2011 to 30 June 2012, the reinsurance in place is \$89.59 million, but there is no reinsurance cover for damage to Waimakariri District Council or Christchurch City Council's assets. The reinsurance contract has one automatic reinstatement, so in the event of a reinsurance claim there would be further cover for a second reinsurance claim, but the cost of up to \$8.66 million for putting this cover in place would be deducted from the first claim.

The protection will only be available to Members at the discretion of the Trustees exercised in accordance with the provisions of the Trust Deed.

### NOTE 11. EVENTS AFTER THE BALANCE DATE

There have been no significant events after balance date.

### NOTE 12. NEW ENTRANT ADDITIONAL CONTRIBUTIONS

New Councils joining the Fund are required to pay an additional levy to the Fund.

	2011 \$	2010 \$
<b>Opening Balance</b>	185,827	262,180
New Member	-	-
Payments 2010/11	(185,827)	(76,353)
Claims Off-set	-	-
<b>Closing Balance</b>	-	185,827

### NOTE 13. GOING CONCERN

The Trustees have determined that as a result of a meeting of members held in May 2011 at which the members gave strong support for the continuance of the Trust the Trust is a going concern. To support this opinion a significant increase in Members' contributions for the 2011/12 year was agreed thereby enabling the commencement of the rebuilding of the Fund.

## TRUSTEE INFORMATION

The Trustees and their nominating bodies are:

LD Cavers	SOLGM	CEO, Hauraki District Council
DA Lott	Civic Assurance	Company Director
IRF McKelvie	LGNZ	Mayor, Manawatu District Council
KN Sampson MNZM	Civic Assurance	Former Chairman, Civic Assurance
LA Yule	LGNZ	Mayor, Hastings District Council and President, Local Government New Zealand

During the year, the Trustees met for formal meetings on 7 occasions.

Attendance was:

LD Cavers	7
DA Lott	7
IRF McKelvie	6
DJ McLeod (resigned 26 May 2011)	3
WA Raymond (resigned 18 February 2011)	3
KN Sampson	7
LA Yule (Appointed 19 February 2011)	4

## 2010 / 2011 FUND YEAR MEMBERSHIP

Ashburton District Council	Kaikoura District Council	South Wairarapa District Council
Buller District Council	Kapiti Coast District Council	Stratford District Council
Carterton District Council	Kawerau District Council	Tararua District Council
Central Hawke's Bay District Council	Manawatu District Council	Tasman District Council
Christchurch City Council	Marlborough District Council	Tauranga City Council
Clutha District Council	Masterton District Council	Thames Coromandel District Council
Environment Bay of Plenty	Matamata-Piako District Council	Timaru District Council
Environment Southland	Nelson City Council	Upper Hutt City Council
Environment Waikato	New Plymouth District Council	Waimakariri District Council
Gisborne District Council	North Shore City Council	Waimate District Council
Gore District Council	Opotiki District Council	Waipa District Council
Grey District Council	Otorohanga District Council	Wairoa District Council
Hastings District Council	Palmerston North City Council	Waitaki District Council
Hauraki District Council	Papakura District Council	Waitomo District Council
Hawke's Bay Regional Council	Porirua City Council	Wanganui District Council
Horizons Regional Council	Rangitikei District Council	West Coast Regional Council
Horowhenua District Council	Rotorua District Council	Westland District Council
Hurunui District Council	Ruapehu District Council	Whakatane District Council
Hutt City Council	South Taranaki District Council	Whangarei District Council
Invercargill City Council	South Waikato District Council	

## HISTORY OF THE LAPP FUND

**Below is an extract from Civic Assurance's 50th Anniversary Book *Assuring and Enduring*.**

### Introduction

Many readers will have heard of the Ministry of Works, and some may even have seen the ministry in operation. As a younger man I remember regularly seeing the men and machines from the Ministry of Works doing infrastructure maintenance and repair work, particularly after some of the devastating floods that occurred in the South Island, where I was living at the time. In those days central government took responsibility for all costs associated with the restoration of water and sewage services, along with the other services considered essential to the community that were otherwise uninsurable.

That has now changed. In the late 1980s the government completely reviewed the methodology and responsibility for restoration of community infrastructure, placing much greater onus on local government. In 1991 a whole new emergency management process was set in place to respond to catastrophic events. These changes resulted in the establishment of The Local Authority Protection Programme Disaster Fund (LAPP) in 1993. LAPP is a charitable trust operating as a mutual pool, which was set up specifically to support local authorities' requirements to respond to their share of the costs of restoring essential infrastructure assets following a major disaster.

### Emergency Management

A strategy for Civil Defence Emergency Management (CDEM) has been evolving since 1991 with the objective of providing effective mechanisms to respond to the impacts of catastrophes. The strategy comprises a comprehensive framework to improve individual, community and business preparedness for such events and provides the overall direction for civil defence emergency management in New Zealand.

Significant legislation supports the strategy, including the Resource Management Act 1991, the Civil Defence Emergency Management Act 2002, the Local Government Act 2002 and the Building Act 2004. Emergency management arrangements assign responsibilities across local communities, local authorities and central government. Alongside these acts, many other statutes set out further functions, roles and responsibilities for the individuals and the many agencies that might need to be involved.

The National CDEM Plan and Guide are two of the key mechanisms contributing to the goals of the national CDEM strategy, and these are available online. The strategy uses the '4Rs' (reduction, readiness, response and recovery) to describe the emergency management cycle. The approach has resulted in an effective sharing and coordination of responsibility between central government, local government and other organisations such as the police, St John's, welfare agencies, radio stations, and so forth. Through regional CDEM plans, these organisations have developed strategies and action plans to achieve the common goal of restoring assets and services as quickly as possible following a catastrophe, with minimum disruption and cost to the community.

Under the national CDEM strategy, overall responsibility for emergency management moves from local to national government depending on the nature of the emergency or risk reduction programme. For example, a severe storm may be manageable within a particular area, whereas a large regional event such as widespread flooding or a major earthquake may be coordinated nationally through the National Crisis Management Centre operated by the Ministry of Civil Defence & Emergency Management. Within each region, local governments are unified into Civil Defence Emergency Management Groups (CDEMGs). Every CDEMG is responsible for ensuring that local emergency management is as robust as possible. These structures are defined by national regulation.

## The Birth of LAPP

Under the Guide to the National CDEM Plan, full responsibility for repairing or replacing their essential infrastructure following a natural disaster in the first instance was placed on local authorities. However, central government simultaneously undertook to contribute 60% of reinstatement costs above a certain threshold following a major catastrophe, provided the local authority could demonstrate it could meet the remaining 40% through the provision of reserve funds, effective insurance, or participation in a mutual assistance scheme with other local authorities.

Government policy stated the following may be eligible for government assistance:

- repair or recovery of essential infrastructure assets, which would include water, stormwater, electrical, sewerage and gas facilities, and other structures such as retaining walls and tunnels upon which essential services depend. These assets must be local authority assets, which are not the property of trading utilities;
- repair or recovery of river management systems (including drainage schemes that are part of integrated river systems) where there is major community disruption or continuing risk to life; and
- repair or recovery of other community assets damaged as a consequence of the failure of flood protection schemes.

In 1993 a working party formed from local government interest groups, and led by Kinsley Sampson, considered the means by which local authorities could meet their 40% obligation. This resulted in the formation of LAPP, which commenced operations on 1 July 1993. The fund was established to enable local authority members to pay their share of infrastructure replacement costs for water, sewerage and other uninsurable essential services damaged by natural disaster.

The concept of a mutual fund structured as a charitable trust with annual contributions was considered the best option of the many that were studied by the working party. It was seen to have the following advantages:

- it is cost effective — there are no profit motives or commissions, a charitable trust has tax-exempt status, there are much lower overheads to cover when compared to an insurance company, and investment income is retained;
- greater certainty for both coverage and costs compared to the uncertainties of the insurance cycle;
- management by local-government-appointed trustees;
- a collective approach means improved risk management practices can be implemented;
- the costs of disasters are spread over time and throughout New Zealand;
- a collective approach means better terms can be procured for reinsurance protection; and
- funds are locked in under the trustees' control and are specifically to be used for the repair or replacement of local authority infrastructure assets, thus preventing the raiding of such funds for unrelated purposes.

Since inception LAPP has been administered by Civic Assurance.

## HISTORY OF THE LAPP FUND *(continued)*

### COVER PROVIDED

LAPP provides catastrophe protection only, covering serious disruptive loss or damage caused by sudden events or situations that may or may not involve the declaration of a Civil Defence Emergency.

Covered perils include, but are not necessarily limited to, earthquake, storms, floods, cyclones, tornadoes, volcanic eruption, tsunamis and other disasters of a catastrophic nature. Where required by a member, LAPP covers the following asset categories:

- water reticulation, treatment and storage;
- sewage reticulation and treatment;
- stormwater drainage;
- dams and canals;
- river systems;
- flood protection schemes including stopbanks;
- floodgates, seawalls and harbour risks such as buoys, beacons and uninsurable foreshore lighthouses.

Roads and bridges are not covered by the fund as local authorities have access to subsidies via the New Zealand Transport Agency.

### GOVERNANCE AND MEMBERSHIP

LAPP is a charitable trust registered under the Charitable Trust Act 1957, and the functions of the fund are overseen by six trustees appointed by local government agencies. The fund is governed by a trust deed, copies of which can be found on LAPP's website, [www.lappfund.co.nz](http://www.lappfund.co.nz). Civic Assurance is the fund administrator under the trust deed and the settlor of the trust is Local Government New Zealand (LGNZ), whose consent is required for any changes to the trust deed.

Membership of LAPP is restricted to local authorities and Council Controlled Organisations (CCOs). Of the 78 local authorities in New Zealand, 57 are currently fund members. Membership of the fund remains open.

As a condition of fund membership the trustees require that all member authorities undergo a full risk management programme. As a result, high risk exposures are identified and remedial action, as far as practicable, is taken to minimise the impact of a natural disaster on communities and help reduce the potential drain on the fund.

### CONTRIBUTIONS

The annual contribution determined by the trustees depends on the actual size of the fund, the target size of the fund, the desired timeframe for reaching that target, the cost of reinsurance, the assessed residual risk after allowing for reinsurance cover, the fund's estimated expenses for that year and the fund's expected investment income. Each member's share of the total contribution is then assessed on a risk-based formula that takes into account the replacement value of the member's infrastructural assets adjusted to recognise their particular exposures to risk such as floods, storms, volcanic eruptions and earthquakes.

Contributions have remained relatively low when compared to the significant growth in asset values covered by LAPP. Over the life of LAPP, asset values have grown more than fourfold, from \$4 billion in 1993 to \$16.45 billion by December 2010. While some of this increase is explained by LAPP's growth in membership, with the benefit of hindsight it is now apparent that the early asset values as estimated by many of LAPP's members were well below actual replacement values.

Contributions received by LAPP between 1 July 1993 and 30 June 2011 total \$59 million and claims for that period will probably exceed three times that number. In 1993 contributions were \$2.9 million for 43 members, which equates to \$103,000 per member in today's dollars. For 2010–11, annual contributions were \$3.4 million for 59 members, which is \$59,000 per member. Again with the benefit of hindsight, annual contributions in 2010–11 equating to \$1 million for every \$4.8 billion of assets were too low, on top of which, following the Christchurch earthquake claims, there will need to be several years of higher than average contributions for the fund to rebuild. For the year 2011–12, members' annual contributions total \$14 million.

## **Risk Management**

The fund administrator since 1994 has been advised by Bryan Whitefield and Marlene Kanga of Risk Management Partners, who fulfil for the fund a significant role in the technical areas of risk management. The administrator and risk advisers also work with organisations such as the Institute of Geological and Nuclear Sciences (GNS Science) and the National Institute of Water and Atmospheric Research (NIWA) to conduct risk assessments for large regional natural disaster scenarios including earthquake, volcanic eruption and tsunami.

For example, the expected cost of earthquake damage to infrastructure for a large regional earthquake is based on research by GNS Science. This estimates earthquake damage by location, soil conditions and asset type. The research includes the latest information from around the world and incorporates the results of research from recent earthquakes such as those in Seattle, California, Kobe and Canterbury. Since 2000, the research by GNS Science for the LAPP Fund has been ongoing. It ensures that the best available research is incorporated into earthquake risk assessment for LAPP and its members.

Flood risk is assessed by each member authority based on guidelines originally developed in 1994 by a LAPP Flood Special Focus Group. The members of the Flood Special Focus Group were representatives from various member authorities. This methodology is reviewed periodically, most recently by a Flood Special Focus Group in 2005. The flood risk assessment is usually completed by engineers within the member authority. This ensures that local knowledge and experience is incorporated in the flood risk assessment. GNS Science has also developed models to estimate expected losses from volcanic eruption.

The LAPP Fund has used research by NIWA to estimate expected losses from tsunami events. The fund also supports the costs of reconnaissance visits by GNS scientists to locations affected by major natural disasters so that experience from these events can be incorporated into the New Zealand infrastructure risk assessment models.

The fund has an ongoing risk management programme that includes annual updates of asset schedules and visits to every member every three to four years. These visits are used to obtain information on asset values and asset management practices and any natural hazard studies that may have been completed to manage risks to local infrastructure. As a result of these visits, LAPP's risk advisers prepare asset and risk profiles for each member, and they help to facilitate the exchange of risk management ideas between councils, as do the annual LAPP member meetings.

## HISTORY OF THE LAPP FUND *(continued)*

All members have also had the opportunity to participate in a risk management benchmarking exercise in 2006 and 2009. This enables them to compare their risk management performance to that of other local authorities and also against the risk management standard. This is the first time that such a risk management benchmarking exercise for infrastructure assets has been undertaken for local authorities in New Zealand.

### Claims

Up to June 2010, there were eight events leading to claims on the LAPP Fund. Six of these were due to flood damage, one was the result of tsunami damage to a water pipeline and one followed wastewater pipe damage from a series of earthquake swarms.

The largest claim before the 4 September 2010 Christchurch earthquake was made in 2004 by Horizons MW Regional Council following significant damage to its flood control assets on the Lower Manawatu Scheme. The LAPP Fund paid approximately \$4.8 million for its share of this claim. Additional but relatively modest claims were also paid to other LAPP members materially affected by these floods.

The LAPP earthquake claims in 2010 and 2011 are expected to total between \$178 and \$218 million. In the eight months to February 2011, five claims for flood damage for a total of \$3 million were also made to LAPP. The number of flood claims was higher than in previous years, in part because of unusual weather, but mainly because for that period LAPP was applying lower deductibles.

The fund has documented procedures and information requirements for making a claim. These requirements are similar to the requirements of central government for it to pay a claim, meaning members need only complete a single set of documentation for LAPP and central government.

The LAPP Fund uses professional loss adjusters to inspect damaged sites, assess claims and to liaise with members when they make a claim. The loss adjusters then report to the trustees of the fund with their recommendations on the amount of claim that is payable.

### Reinsurance

Excess of loss reinsurance protection is purchased to enhance the fund's ability to meet claims. The level of protection purchased depends on the losses estimated for large regional loss scenarios, the contingency margin determined by the trustees, the capacity available from the global reinsurance markets from time to time and the price required to purchase the reinsurance cover.

On 1 July 2010, LAPP had reserves of approximately \$40 million and a \$96 million excess of loss reinsurance programme with one automatic reinstatement for protecting local governments' 40% responsibility. At the 100% level this equated to up to \$340 million of cover for one event or up to \$580 million for two events. The reinsurance bought was thought to contain generous contingency margins (both by LAPP and its reinsurers), but as we now know these limits have been tested by the Christchurch earthquakes of 2010 and 2011. We also better appreciate that the probability of back-to-back major earthquakes is far from insignificant, because aftershocks themselves can be very damaging, and because of the effects earthquakes can have on the stress levels of nearby faultlines.

The most cost-effective way for local authorities to access the reinsurance market is through a nationwide collective programme. It is not only that the price is cheaper this way, but most LAPP members also benefit from much higher levels of protection than if they were arranging the cover themselves. It can only be speculation, but had Christchurch City Council not been a member of LAPP and relied on having its own insurance, then following the Christchurch earthquakes its insurance claims for below-ground infrastructure would probably have been about \$100 million less than the amount it is expected to receive from LAPP.

LAPP is also able to save its members money by self-insuring a reinsurance deductible at a level much higher than most individual members would be prepared to accept.

### **The Future of LAPP**

All of New Zealand is exposed to natural hazards. This was well understood before the Christchurch earthquakes, of course, but only in the sense that an event might happen rather than it would happen. Any such complacency has now gone, at least for the time being. We don't know where and we don't know when, but we know there will be more disasters that cause major damage to local authority infrastructure for which local authorities will need to pay. We also know that the least painful way for councils to fund this is through the use of a shared facility with regular, equitable contributions and that, as determined by that far-sighted local government working party in 1993, a charitable trust such as LAPP is the most effective way to achieve this.

Self-insurance for councils' essential infrastructure is not recommended. When a catastrophe occurs there will be many uninsured items for councils to cover, while at the same time there is likely to be both lost revenues and unbudgeted expenses. Disaster may also strike a council more than once. It also needs to be remembered that models that use a 'Probable Maximum Loss' provide estimates not actuals, and can be horribly wrong. Modelling done for Canterbury in April 2010 for a 1 in 1000-year earthquake predicted less than \$44 million of damage to underground assets in 90% of the model's scenarios. The actual damage to underground assets from the 4 September 2010 earthquake and its aftershocks could be as much as 20 times that amount.

The Christchurch earthquake claims exhausted the LAPP Fund and put it back to the financial position it was in when LAPP started in 1993. There is one key difference between now and then, however. As noted above, the LAPP 2010 and 2011 earthquake claims to be paid for LAPP's 40% share are expected to total between \$178 and \$218 million. We now know that LAPP works.

## DIRECTORY

### ADMINISTRATION MANAGER

Civic Assurance  
PO Box 5521  
Wellington 6145

### REINSURANCE MANAGER

Aon Benfield  
Sydney  
Australia

### RISK MANAGER

Risk Management Partners Pty Ltd  
Beacon Hill  
Sydney  
Australia

### THE ADDRESS FOR CORRESPONDENCE IS

Christopher Munden  
Administration Manager  
NZ Local Authority Protection Programme Disaster Fund  
PO Box 5521  
Wellington 6145

Phone: 04 978 1251

Facsimile: 04 978 1260

Email: [christopher.munden@civicassurance.co.nz](mailto:christopher.munden@civicassurance.co.nz)

New Zealand Local Authority  
Protection Programme Disaster Fund

**TRUST DEED**

Burrowes and Company  
Barristers and Solicitors

P O Box 24515, Wellington 6142

Ph. 04 473 7733: Fax. 04 471 1121

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## THIS DEED is made the 14th day of December 2007

**BETWEEN** **NEW ZEALAND LOCAL GOVERNMENT ASSOCIATION INCORPORATED**, a society incorporated in Wellington pursuant to the Incorporated Societies Act 1908 ("the Settlor")

**AND** **ROBERT DAVID RENNIE ELLIOTT** of Gisborne, formerly Chief Executive Officer now retired, **WYNNE ARCHDALL RAYMOND**, formerly Mayor now retired, **IAN ROBERT FLOCKHART MCKELVIE**, Mayor of Manawatu, **KINSLEY NEVILLE SAMPSON** of New Plymouth, formerly General Manager now Company Director, **DALE ALWYN LOTT** of North Shore City, Auckland, Accountant, and **LANGLEY DAVID CAVERS** of Hauraki District, District Manager (together "the Trustees")

### WHEREAS

- A The Settlor established a fund for the reinstatement of lost or damaged generally uninsurable local government infrastructure known as the New Zealand Local Authority Protection Programme Disaster Fund, by Deed of Trust dated 29 June 1993 ("the Establishment Trust Deed")
- B Only those Local Authorities that are contributing to the fund are to be eligible for distributions in the event of loss or damage to their infrastructure.
- C The Fund is to be accumulated and applied for the purpose by the Trustees in accordance with this Trust Deed.
- D The Trust Deed provides that the Trustees may amend the Trust Deed by unanimous resolution of the Trustees present at any validly convened meeting, provided such amendment is not inconsistent with the charitable scope of the trusts contained in the Trust Deed.
- E The Trust Deed was amended by Deeds of Variation dated 14 February 1997 and 5 June 2003, both times with the consent of the Settlor as required by the Establishment Trust Deed.
- F At a meeting of the Trustees held on 9 November 2007 the Trustees resolved that:
- (a) the Trust Deed would be further amended, and
  - (b) such amendments would be incorporated into this deed once the consent of the Settlor had been obtained.

## NOW THIS DEED WITNESSES AND IT IS AGREED AND DECLARED AS FOLLOWS:

### 1 DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

Each of the following words and expressions shall, unless the context otherwise requires, have the following meanings, as indicated:

"the Act" means the Charitable Trusts Act 1957;

"Administration Manager" means the person appointed to that office;

"Advisory Trustee" means any advisory trustee appointed pursuant to clause 3.1.8;

"Alternate Trustee" means any alternate trustee appointed pursuant to clause 3.1.3;

"Annual Accounts" means statements of income and expenditure and balance sheets of the Fund prepared or to be prepared in accordance with the provisions of this Trust Deed;

"Annual Contribution" means the annual payment to the Fund made by each Member in return for Coverage by the Fund for a Fund Year;

"Asset Value" means the cost of reinstatement of a Member's Infrastructure as determined pursuant to clause 7.1.1(a);

"Auditor" means the office of auditor or auditors to the Fund for the time being;

"Commencement Date" means 1 July 1993;

"Coverage" means protection for the cost of reinstatement of the Members' Infrastructure required as a result of a Damaging Event;

"Damaging Event" includes flooding, earthquake, volcanic eruptions (including the effects of volcanic ash), storm surge, tsunami, wildfire, gas explosion, hail, snow, wind damage, landslide, lahar and any other sudden event or sudden situation causing serious disruption, loss or damage to Infrastructure;

"Deductible" means any uninsured first amount of any loss or damage following a Damaging Event that the Trustees determine shall be borne by the Member;

"Distribution" means payment, made to a Member from the Fund, consequent upon their Coverage;

"Extraordinary Contribution" means any contribution to the Fund which a Member is required to make as:

- (i) a condition of their entry to membership of the Fund at any time after the Commencement Date; or
- (ii) any contribution for Coverage for any part or portion of a year;

"Fund" means the New Zealand Local Authority Protection Programme Disaster Fund, established by the Establishment Trust Deed;

"Fund Year" means each year of the Fund commencing on 1 July and ending on 30 June in the calendar year following;

"Infrastructure" means any asset accepted as such by the Trustees and registered with the Trustees for Coverage for which a Local Authority has an insurable interest and may include reticulation, storage and treatment facilities (water, sewage, stormwater); tunnels other than road tunnels; dams; canals; stopbanks; flood control protection works; drainage works; detention ponds; sea walls; and harbour risks (including buoys, beacons and foreshore lighthouses).

"Investment Manager" means any person to whom the Trustees have contracted the investment of some or all of the assets of the Fund pursuant to clause 4.1.1(b);

"Local Authority" means any New Zealand Local Authority or Territorial Authority or Regional Council as defined in section 5 of the Local Government Act 2002, and includes any Council-Controlled Organisation as defined by section 6 of that Act.

"Member" means any Local Authority admitted as a member of the Fund, the membership of which has not been terminated.

"Participation Deed" means the agreements so called entered into by Local Authorities on admission to membership of the Fund;

"Stated Value" means the Member's estimate of the reinstatement value of its Infrastructure.

"the Trustees" means the trustees named in this Trust Deed (until removed from office), any new trustees appointed either pursuant to clause 3.1.2 or clause 3.1.6, any Alternate Trustees appointed pursuant to clause 3.1.3 and any Advisory Trustees appointed pursuant to clause 3.1.8 collectively.

"written" or "in writing" includes printing, engraving, lithography, telegraphy, facsimile or any other communication by written word.

#### 1.2 Interpretation

1.2.1 Words importing any one gender shall include the other.

1.2.2 Plurals shall include the singular and vice versa.

1.2.3 Reference to persons shall include body corporates.

- 1.2.4 Reference to any Act of Parliament shall be deemed to include every amendment or re-enactment of it and every Act of Parliament substituted for it, and any regulations made under the Act.
- 1.2.5 All references in this Trust Deed, or to provisions or clauses of this Trust Deed, shall be deemed to be references to this Trust Deed and to those provisions or clauses as altered from time to time pursuant to the provisions of this Trust Deed.
- 1.2.6 Except as otherwise defined in this Trust Deed, the terms used in this Trust Deed which have been defined in the Act shall have the same meaning as ascribed to those terms in the Act.

## 2 CONSTITUTION OF THE FUND

### 2.1 New Zealand Local Authority Protection Programme Disaster Fund

- 2.1.1 A fund is hereby established by the New Zealand Local Government Association Incorporated, with the charitable purposes set out in clause 2.1.3.
- 2.1.2 The name of the fund shall be the New Zealand Local Authority Protection Programme Disaster Fund.
- 2.1.3 The charitable purposes of the Fund shall be:
- (a) To assist New Zealand local government to carry out its responsibilities under central government's disaster recovery policies and plans; and
  - (b) To provide funds for Members for the purpose of reinstatement of lost or damaged Infrastructure as a result of Damaging Events; and
  - (c) To facilitate effective programmes to enable New Zealand local government to identify and manage risks to their Infrastructure by minimising and reducing the exposure, limiting the risks and diminishing the potential for loss or damage; and
  - (d) To provide Members with the capacity for self-help to recover from consequences of Damaging Events; and
  - (e) To do anything else which the Trustees may think is conducive or incidental to the attainment of the above charitable purposes.
- 2.1.4 There are no non-charitable purposes for the Fund.
- 2.1.5 The Fund shall consist of all property for the time being held by or on behalf of the Trustees, derived from:
- (a) Any gifts or donations;
  - (b) Extraordinary Contributions;
  - (c) Annual Contributions;
  - (d) Income from investments;
  - (e) Proceeds of realisation of investments;
  - (f) Any policies or contracts of re-insurance;
  - (g) Any recoveries;
  - (h) Any other source.
- 2.1.6 The Fund shall be held in trust by the Trustees upon the trusts and for the charitable purposes contained in this Trust Deed and shall be managed, administered and applied by the Trustees, in accordance with the powers contained in this Trust Deed, in order to attain those charitable purposes.
- 2.1.7 The Trustees are 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 of the assets from the Fund, from time to time vested in them.

## 3 TRUSTEES

### 3.1 Appointment and Removal of Trustees

- 3.1.1 The number of Trustees shall be not less than four nor more than six. The Trustees shall be one or two appointees of the Settlor; one or two appointees of the New Zealand Local Government Insurance Corporation Limited; and one or two appointees of the NZ Society of Local Government Managers Incorporated (together called the "Appointors").
- 3.1.2 The power of appointing new Trustees shall be vested in the Appointors each of which shall have the power to appoint two persons as Trustees and they having been appointed as Trustees to remove and/or replace them, by notice in writing given to the Administration Manager.
- 3.1.3 The Appointors shall be entitled to appoint any person as an Alternative Trustee in place of any Trustee appointed by them, by notice in writing given to the Administration Manager, either for a specified period, or for a specified meeting or any part of a meeting, or for any particular subject matter at any meeting, or generally during the absence of any such Trustee, and from time to time, in the same manner, to remove any Alternate Trustee.
- 3.1.4 An Alternate Trustee appointed pursuant to clause 3.1.3 shall:
- (a) not be remunerated otherwise than out of the remuneration of the Trustee in whose place the Alternate Trustee acts;
  - (b) be deemed to have automatically vacated office when the Trustee in whose place the Alternate Trustee acts vacates office;
  - (c) unless otherwise provided by the terms of appointment of the Alternate Trustee, have the same rights, powers and privileges (including without limitation, the right to receive notice of meetings of Trustees, the power to sign resolutions of Trustees and the power to witness the affixing of the common seal) as the Trustee in whose place the Alternate Trustee is appointed;
  - (d) discharge all the duties of, and be subject to the same provisions in this Trust Deed as the Trustee in whose place the Alternate Trustee acts.
- 3.1.5 The Administration Manager shall within seven days of it being notified in writing of the appointment, removal or resignation of a Trustee give to every Member and Appointor (other than an Appointor exercising its powers of appointment or removal) written notice of the appointment, removal or resignation of the Trustee.
- 3.1.6 Notwithstanding the provisions of clause 3.1.2 of this Trust Deed, if any Appointor shall fail at any time to exercise its power of appointment and notify the Administration Manager in writing accordingly, within fourteen days of:
- (a) it being notified in writing of the removal or resignation of their appointee; or
  - (b) it becoming aware of the occurrence of another event which creates a vacancy (as provided for in clause 3.1.7); and
  - (c) the number of Trustees falls below four – then the Trustees shall forthwith appoint further or additional Trustees on behalf of any Appointors so failing, so as to ensure there are not less than four nor more than six Trustees and every Trustee then appointed may thereafter only be removed by unanimous resolution of the Trustees.
- 3.1.7 A vacancy in the office of Trustee shall arise if:
- (a) a Trustee is adjudged bankrupt; or
  - (b) a Trustee resigns by notice in writing to the Administration Manager; or
  - (c) a Trustee refuses to act; or

- (d) a Trustee becomes of unsound mind; or becomes subject to a property order under the Protection of Personal and Property Rights Act, 1988; or
- (e) a Trustee is removed by their Appointor in accordance with the provisions of this Trust Deed; or
- (f) a Trustee is otherwise removed by operation of law.
- 3.1.8 The Trustees shall have power to appoint any person at any time as an Advisory Trustee to the Fund, and to prescribe the function of such Advisory Trustee. An Advisory Trustee shall not be counted in the number of Trustees required by clause 3.1.1, or in the quorum required for meetings of the Trustees, nor be entitled to vote thereat.
- 3.2 Meetings of Trustees**
- 3.2.1 The Trustees shall from time to time meet for the despatch of business of the Fund, and subject to the provisions of this Trust Deed and particularly this clause 3.2 shall have the power to adjourn or otherwise regulate their meetings and proceedings, and vary the regulation and procedure of such meetings and proceedings, as the Trustees think fit.
- 3.2.2 Questions arising at any meeting of the Trustees shall be determined by a majority of the votes of those present and voting.
- 3.2.3 (a) The Trustees shall at their inaugural meeting and again before the end of each Fund Year elect one of their number to be the chairman of Trustees for the ensuing Fund Year. The person so elected shall hold office as chairman of Trustees during the ensuing Fund Year, and shall be eligible for re-appointment.
- (b) The person so appointed shall chair all meetings of the Trustees at which they are present. If at any meeting the chairman is not present within fifteen minutes of the appointed time for holding the meeting the Trustees present shall then choose one of their number to be the chairman of that meeting.
- (c) A chairman shall not be entitled to a second or casting vote.
- 3.2.4 Every meeting of the Trustees shall be called by giving not less than seven days notice in writing to the Trustees provided that a meeting of the Trustees shall be deemed to have been duly called if it is so agreed by all the Trustees entitled to attend and vote thereat.
- 3.2.5 Upon the written request of three Trustees giving notice of the subject matter of that meeting, the Administration Manager shall summon a special meeting of the Trustees, within seven days of that request.
- 3.2.6 Every notice of a meeting of the Trustees shall;
- (a) be given in writing by the Administration Manager to each Trustee at their last known address;
- (b) be exclusive of the day on which it is served and of the day of the meeting;
- (c) specify the place, day and hour of the meeting;
- (d) specify, in the case of special business, the general nature of that business.
- 3.2.7 The accidental omission to give notice of a meeting to, or the non receipt of notice of a meeting by, any Trustee shall not invalidate the proceedings at the meeting.
- 3.2.8 (a) No business shall be transacted at any meeting of the Trustees unless a quorum is present at the time when the meeting proceeds to business. The quorum for meetings of the Trustees shall be as fixed by resolution of the Trustees and until so fixed any number of the Trustees more than one-half of the total number of the Trustees entitled to vote thereat shall constitute a quorum. Where one-half in number of the Trustees so entitled to vote is a fraction it shall be rounded-up to the next whole number and such number shall be the quorum for a meeting of the Trustees.
- (b) If within half an hour from the time appointed for a meeting of the Trustees a quorum is not present the meeting shall stand adjourned to the same day in the next week at the same time and place, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Trustees present shall constitute a quorum.
- (c) Every Trustee present shall, notwithstanding their conflict between interest and duty (if any), be counted in a quorum present.
- 3.2.9 A validly called meeting of the Trustees at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions by or under this Deed vested in or exercisable by the Trustees.
- 3.2.10 Any Trustee who is in any way, whether directly or indirectly;
- (a) personally interested in a contract or arrangement or any proposed contract or arrangement with the Trustees or with any Member; or
- (b) is an elected member, office or employee of any Member or proposed Member which is interested –
- shall declare the nature of the interest and unless the interest is no greater than or any different from –
- (c) in the case of an interest to which subclause (a) of this clause applies, that of the other Trustees present; or
- (d) on the case of an interest to which subclause (b) of this clause applies, that of the Members generally, they shall thereafter take no further part in the deliberations in respect of that matter.
- 3.2.11 The foregoing rule shall not operate to prevent any Trustee taking part in discussions and decisions regarding rules, guidelines, or policies regarding Annual Contributions.
- 3.2.12 All disclosures of interest by any Trustee, and whether or not they took part in discussion on or voted on the matter before the meeting, shall be recorded in the minutes of the meeting.
- 3.2.13 (a) The Trustees may meet by means of a Telephone Meeting, the Trustees having been given notice of the meeting as required by the provisions of this Trust Deed.
- (b) In this clause:
- “Telephone Meeting” means the contemporaneous linking together by telephone of Trustees comprising a quorum (whether or not any one or more of those persons is outside New Zealand);
- “Telephone” means and indicates any instant electronic means of communication.
- (c) Before a Telephone Meeting proceeds to business:
- (i) each of the Trustees taking part must be able to hear each of the other Trustees taking part;
- (ii) the chairman shall ask each Trustee taking part in turn to respond by way of confirmation that they are in fact linked to and are taking part in the Telephone Meeting;
- (iii) the chairman shall thereupon announce to the Telephone Meeting the names of those Trustees who have so responded.
- (d) The Trustees so named by the chairman shall be conclusively deemed to be present at the Telephone Meeting and, unless given permission to leave under subclause (e) of this clause, to have been present all the time during the Telephone Meeting.
- (e) No Trustee may leave a Telephone Meeting by disconnecting their telephone unless the chairman has first granted that Trustee permission to leave.
- (f) A minute of the proceedings at a Telephone Meeting shall be conclusive evidence of the proceedings and the regularity of the meeting if certified as a correct minute by the chairman.

### 3.3 Subcommittees

- 3.3.1 (a) The Trustees may at any time, for any specified purpose, appoint such of their number as they think fit to be members of any one or more subcommittees.
- (b) Each such subcommittee shall have such powers and duties as are delegated to it by the Trustees.
- (c) Each such subcommittee shall have power to co-opt such person or persons whether or not Trustees as the Trustees think fit, provided that:
- (i) in relation to each subcommittee the number of co-opted members shall not exceed the number of Trustees who are members of the subcommittee; and
  - (ii) such co-option shall be subject to the approval of the Trustees at the first meeting of the Trustees following the co-option.
- (d) The Trustees may appoint a chairman of each subcommittee. If no such chairman is appointed or if at any meeting the chairman is not present within 15 minutes after the time appointed for holding the same, the members of the subcommittee present shall then choose a chairman of the meeting.
- (e) Each subcommittee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of all those present and voting. In the case of an equality of votes the chairman shall have a second or casting vote.

### 3.4 Validity of Acts of Trustees

- 3.4.1 All acts done in good faith at any meeting of the Trustees or any subcommittees of the Trustees, or by any person acting as a Trustee, shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of such Trustee or that such Trustee was disqualified, be as valid as if every such Trustee had been duly appointed, and was qualified to be a Trustee.

### 3.5 Resolutions in Writing

- 3.5.1 A resolution in writing, signed by all of the Trustees entitled to vote thereon shall be as valid as if it had been passed at a meeting of the Trustees duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more of the Trustees so entitled. Any such document sent by a Trustee by telegram, cable, facsimile, copier, telex or other electronic means of communication shall be deemed to have been signed by the Trustee.

### 3.6 Remuneration of Trustees

- 3.6.1 The Trustees shall not make any private pecuniary profit from the Fund, except that the Trustees shall be entitled to reasonable fees for their services in respect of the management and administration of the Fund. The amount of the fees shall be determined from time to time by the Administration Manager after consultation with the Settlor and the Trustees.

### 3.7 Indemnity and Limitation of Trustee's Liability

- 3.7.1 The Trustees shall be indemnified and shall be entitled to reimburse themselves out of the Fund in respect of all costs, charges and expenses which they incur in or about management or administration of the Fund.
- 3.7.2 No Trustee acting or purporting to act in execution of the trusts created by this Trust Deed shall be liable for any loss not attributable to their own dishonesty or their wilful commission of or omission to do any act known by them to be a breach of trust, and in particular (without limitation) no Trustee shall incur any liability in respect of:
- (a) Any act done or not done in the exercise of or in respect of any discretion vested in them.
  - (b) Anything done or suffered by them in good faith in reliance upon any advice or opinion (whether or not obtained by the Trustees)

of any professional person, or upon any advice the Trustees may obtain directly or indirectly from any company, firm or person as shall, in the opinion of the Trustees, be qualified to provide advice.

- (c) Any failure or refusal to perform or do any act or thing which by reason or provision of any law of New Zealand they are hindered or prevented from doing or performing.

- 3.7.3 No Trustee shall be bound to or be liable for any failure to take any proceedings against a co-Trustee for any breach or alleged breach of trust committed by the co-Trustee.

## 4 POWERS OF TRUSTEES

### 4.1 General Powers

- 4.1.1 In addition to the powers conferred by law and elsewhere in this Trust Deed the Trustees shall have the power:
- (a) Subject to clause 5.1.3, from time to time to appoint and remove the Administration Manager and, subject to the specific duties imposed on the Administration Manager by this Trust Deed, define the duties and responsibilities of the Administration Manager, on terms to be agreed in writing between the Trustees and the Administration Manager.
  - (b) From time to time to appoint and remove one or more investment managers. The Investment Managers shall have such powers and duties in relation to the investment of the fund as the Trustees shall determine and agree in writing between the Trustees and the Investment Managers.
  - (c) To appoint and remove a custodian trustee to hold in safe custody all policies, certificates and other documents of title in connection with the whole or any part of the Fund, on terms to be agreed in writing between the Trustees and the custodian trustee.
  - (d) To otherwise retain the services of professional advisors and managers in relation to the management, administration and investment of the Fund, to delegate powers and discretions to professional advisors and managers as the Trustees see fit, and to determine and to pay out of the Fund, any fees payable to those professional advisors and managers.
  - (e) To make rules or guidelines, and to adopt procedures, consistent with the provisions of this Trust Deed, including, without limitation, in relation to membership; calculating and fixing Asset Values, Deductibles, Extraordinary Contributions, Annual Contributions and Distributions; determining from time to time which of a Member's assets can be registered with the Trustees as Infrastructure; and to make rules or guidelines and to adopt procedures as shall be appropriate for the convenient administration of the Fund.
  - (f) To borrow money for the purpose of providing Distributions where the assets of the Fund are not immediately realizable, or if realizable are only realizable at a material loss to the Fund, and to secure the repayment of such moneys in any manner and upon any terms the Trustees consider advisable, whether by charge over all or any portion of the Fund or any particular property or otherwise, provided however the Trustees shall first have had and obtained the consent in writing of the Settlor thereto and provided further that in no event shall the amount borrowed exceed the then estimated values of the assets of the Fund, less any existing liabilities of the Fund, contingent or otherwise.
  - (g) To seek reinsurance protection in support of the Fund.
  - (h) Generally to do all such acts and things as the Trustees may consider necessary or expedient for the administration, maintenance and preservation of the Fund and in performance of their obligations under this Trust Deed.

## 4.2 Investments Authorised

4.2.1 All moneys belonging to the Fund and available for investment shall be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.

## 4.3 Exercise of Discretion

4.3.1 The Trustees may exercise or enforce all of the authorities, discretions and powers vested in them from time to time, and at any time and may refrain from exercising all or any such powers.

## 4.4 Appointment of Auditor

4.4.1 The Trustees shall from time to time appoint an Auditor (being the holder of a certificate of public practice issued by the Institute of Chartered Accountants of New Zealand) of the Fund at a remuneration to be fixed, and payable, by the Administration Manager, out of the Fund.

# 5 MANAGEMENT AND ADMINISTRATION

## 5.1 Appointment of Administration Manager

5.1.1 The Trustees shall appoint an Administration Manager which shall, in addition to other duties or responsibilities conferred on the Administration Manager elsewhere in this Trust Deed, and as from time to time agreed by the Administration Manager with the Trustees:

- (a) Receive applications for membership of the Fund;
- (b) Ascertain and audit the infrastructural assets of Members;
- (c) Issue debit notes for and maintain records of all Annual Contributions and Extraordinary Contributions paid to the Fund;
- (d) Use its best endeavours to secure economic reinsurance support of the Fund;
- (e) Facilitate effective programmes to enable Members to identify and manage risks to their Infrastructure by minimising and reducing the exposure, limiting the risks and diminishing the potential for damage by Damaging Events;
- (f) Receive and process applications for Distributions, within the scope of guidelines laid down by the Trustees;
- (g) Furnish the Trustees with full and complete reports of all losses by and of all payments made out of the Fund;
- (h) Liaise with local government agencies with respect to the application of their appropriate disaster recovery and emergency plans;
- (i) Make recommendations to the Trustees regarding any matters pertaining to the administration and management of the Fund;
- (j) Undertake such services as may be required by the Trustees or as may be reasonably necessary for the management, administration and investment of the Fund, and the operation of the trusts contained in this Trust Deed.

5.1.2 The Administration Manager shall be responsible to the Trustees for the proper management, and administration of the Fund and the trusts contained in this Trust Deed.

5.1.3 The first Administration Manager shall be the New Zealand Local Government Insurance Corporation Limited which shall hold office for an initial term of six years from the Commencement Date (unless removed earlier) on such terms (including terms relating to performance) as may be agreed in writing with the Trustees.

## 5.2 Records to be Kept

5.2.1 The Administration Manager shall keep or cause to be kept a complete record of:

- (a) The membership of the Fund including the dates on which Members were admitted to membership and when they ceased to be or were suspended as Members of the Fund.
- (b) Proper records of all meetings, resolutions and decisions of the Trustees.
- (c) The affairs, matters and transactions of the Fund.
- (d) All other matters, information and data necessary or expedient for the proper and effective working of the Fund and the operation of this Trust Deed.

## 5.3 Accounts

5.3.1 The Administration Manager shall ensure that:

- (a) All assets of the Fund are kept separate and apart from any assets or funds of the Administration Manager, with all moneys received by the Administration Manager to be banked in a separate bank account in the name of the Fund;
- (b) Proper books of account are kept in respect of the Fund;
- (c) Annual Accounts are prepared in respect of the Fund, presenting a true and fair view of the Fund's financial affairs at the end of each Fund Year; and
- (d) The Auditor appointed in accordance with the provisions of this Trust Deed examines and reports upon the Annual Accounts.

## 5.4 Annual Report of the Fund

5.4.1 The Administration Manager shall within six months after the end of each Fund Year:

- (a) Prepare an Annual Report for the Fund for the previous Fund Year.
- (b) Provide each Member with a copy of the Annual Report.

5.4.2 The following matters shall be contained in the Annual Report:

- (a) A statement of numerical changes in the membership of the Fund during the Fund Year;
- (b) The Annual Accounts for the Fund in respect of the previous Fund Year;
- (c) The Auditor's report on the Annual Accounts;
- (d) A statement by the Administration Manager as to whether all the Annual Contributions and Extraordinary Contributions required to be made to the Fund in accordance with the Participation Deeds and this Trust Deed have been made by the Members, and if not the amount or amounts outstanding;
- (e) A summary of any amendments to this Trust Deed that have been made during the Fund Year;
- (f) The names of and any changes since the last Annual Report in the Trustees, the Administration Manager, re-insurers, and changes in any actuaries, auditors and solicitors to the Fund (either by reference to their own names or the names of their firms);
- (g) The name and address of the person to whom all correspondence from the Members to the Trustees should be sent.

## 5.5 Delegation

5.5.1 Subject to this clause, the Administration Manager may at any time with the consent of the Trustees and from time to time, delegate any of its powers to any person.

5.5.2 A delegation pursuant to this clause may be:

- (a) Subject to such conditions and on such terms for the protection and convenience of persons dealing with the delegate as the person making the delegation thinks fit; and
- (b) Amended or revoked at any time.

5.5.3 If the Trustees or the Administration Manager exercise a power that is for the time being delegated that shall not revoke the delegation.

5.5.4 The Trustees shall not be liable for any act or defaults of any delegatee of the Administration Manager.

#### 5.6 Expenses of Administration

5.6.1 The Administration Manager may pay from the Fund such costs, charges and expenses of management, administration and investment of the Fund as are properly payable by the Administration Manager on behalf of the Fund.

5.6.2 The Administration Manager shall be paid from the Fund such fees or charges for its administration of the Fund and the trusts contained in this Trust Deed, as shall from time to time be authorised by the Trustees.

#### 5.7 Indemnity of Administration Manager

5.7.1 The Administration Manager shall not be liable for any loss which is not attributable to the Administration Manager's own dishonesty and the Trustees shall indemnify and keep indemnified the Administration Manager from the Fund against all claims demands and liabilities from Members or persons not parties to this Trust Deed, howsoever arising.

#### 5.8 Execution of Deeds

5.8.1 If the Trustees are incorporated as a Board the Trustees shall obtain and adopt a common seal of the Board. The common seal of the Board shall be kept in the safe custody of the Administration Manager. The common seal shall only be used by the authority of the Board or of a committee of the Board authorised by the Board in that behalf, and every instrument to which the common seal is affixed shall be signed by a member of the Board and shall be countersigned by a second member of the Board or by some other person appointed by the Board for the purpose.

## 6 MEMBERSHIP COVERAGE

### 6.1 Admission of Members

6.1.1 Only Local Authorities shall be eligible for admission as Members of the Fund.

6.1.2 A Local Authority shall not be admitted to membership without first entering into a Participation Deed with the Fund in the form and on the terms acceptable to the Trustees.

6.1.3 In executing a Participation Deed the Local Authority shall agree to be bound by the terms of this Trust Deed.

### 6.2 Withdrawal from Membership

6.2.1 Any Member may withdraw from membership of the Fund by giving notice in writing to the Trustees of its desire to withdraw from membership, on or before the end of any Fund Year, and their membership shall terminate at the end of the Fund Year following.

6.2.2 Any notice in writing of a Member's desire to withdraw from membership may itself be withdrawn at any time prior to the termination of its membership.

6.2.3 Members who have given notice of their desire to withdraw from the Fund shall pay their Annual Contributions due for the following Fund Year.

### 6.3 Suspension or Termination of Membership

6.3.1 Membership of the Fund may be terminated or membership rights suspended, by resolution of the Trustees, in the event that a Member:

- (a) Refuses or fails to comply with the reasonable directions of the Trustees given for the purpose of minimizing or reducing the exposure, limiting the risks and diminishing the potential for loss or damage to its Infrastructure; or
- (b) Refuses or fails to allow an audit of the Member's management of the risk to its Infrastructure; or

(c) Omits to make or unduly delays payment of its Annual Contribution; or

(d) Commits any breach of the provisions of this Trust Deed or its Participation Deed which in the opinion of the Trustees warrants the termination or suspension of membership.

6.3.2 A former Member may if so desiring re-apply for membership, but if successful shall not thereby gain any benefit credit or entitlement accruing consequent upon their former membership.

6.3.3 The action or decision of the Trustees in any matter relating to membership or suspension or termination of membership shall be final and binding.

## 6.4 Coverage

6.4.1 Coverage of Members shall commence from the later of the date of payment of the initial Annual Contribution (or part thereof if so agreed) and the Extraordinary Contribution (if any, or part thereof if so agreed) as required by the Trustees or such other date as may be agreed in writing by the Trustees.

6.4.2 There shall be no Coverage of Local Authorities that are not Members.

6.4.3 Upon termination or suspension of membership all Coverage shall cease from the date of termination or suspension as the case may be, and the Member shall not be eligible for Coverage until re-admission to membership (in the case of termination) or (in the case of suspension) the lifting of the suspension by further resolution of the Trustees, or the satisfaction of any pre-condition imposed for the automatic lifting of the suspension of the Member.

6.4.4 On termination of membership all claim, right, title or interest or benefit in the assets of the Fund shall forthwith cease.

## 7 GENERAL PROVISIONS RELATING TO CONTRIBUTIONS

### 7.1 Annual Contributions

7.1.1 The Trustees shall before the end of each Fund Year:

(a) Fix the Asset Value of each Member's Infrastructure, having regard to:

- (i) their Stated Value;
- (ii) any actual valuation made of a Member's Infrastructure, or any parts of it;
- (iii) any other measure (including valuations) which may enable or assist the Trustees to assess the value of Members' Infrastructure;
- (iv) any appropriate method or principles of valuation whether or not they are the same as those applied in any other valuation of the Members' Infrastructure or parts of it.

(b) Determine the approximate amount of total Annual Contributions to be sought from Members for the ensuing Fund Year having regard to:

- (i) the combined Asset Values of Members as determined in clause 7.1.1(a) above; and
- (ii) the risk or exposure of the Members' Infrastructure to Damaging Events; and
- (iii) possible Deductibles; and
- (iv) any other factors that seem relevant:

7.1.2 The Trustees shall after determining the approximate amount of the total Annual Contributions to be sought from Members for the ensuing Fund Year fix the Annual Contributions to be paid by individual Members, and in fixing the Annual Contributions to be paid by individual Members the Trustees shall have regard to:

- (a) The risk or exposure of the Member to a Damaging Event in its region compared with the risk or exposure of Members to Damaging Events generally;
- (b) The Asset Value of the Member, as determined by the Trustees pursuant to clause 7.1.1(a);
- (c) The likely availability to the Member of other monies by way of compensation, indemnity, replacement or subsidy for the loss or damage to its Infrastructure, including any payment from central government, from insurance claims, and any rights against persons not party to this Trust Deed;
- (d) The quantum of any Deductible for the Member which the Trustees may fix;
- (e) The state of repair, maintenance and condition generally of the Member's Infrastructure or parts of it;
- (f) The nature of any particular risks affecting the Member's Infrastructure;
- (g) Any refusal or persistent failure by the Member to comply with any reasonable directions given by the Administration Manager for the purpose of identifying and managing risk.

7.1.3 Members shall then be advised of the Annual Contribution payable by them, and the amount of any Deductible.

7.1.4 Notwithstanding anything hereinbefore contained the Trustees may adopt or determine such methods of setting Annual Contributions or Extraordinary Contributions as they in their absolute discretion think fit.

## 7.2 Method of Payment

7.2.1 Payment of the Annual Contributions shall be effected by the Members in accordance with any provisions of the Participation Deed for payment, or in the absence of any such provisions as from time to time determined by the Trustees.

7.2.2 Any unpaid Annual Contribution as determined by the Administration Manager shall be recoverable by the Fund as a debt with associated interest and recovery costs.

## 7.3 Disputes regarding Quantum of Annual Contributions

7.3.1 If the Member disputes the quantum of any Annual Contribution it shall give written notice to the Administration Manager within twenty-one days of receipt of advice of the quantum, following which the quantum of the Annual Contribution payable by the Member shall be reviewed by the Trustees, whose decision as to the appropriate quantum to be paid shall be final and binding.

7.3.2 Where the quantum of the Annual Contribution is not determined until after the date on which payment of the Annual Contribution was due, the Member shall have ten days following receipt of advice in writing of the determination of the dispute in which to pay the Annual Contribution.

7.3.3 Except as otherwise provided above the action or decision of the Trustees in fixing the Annual Contributions shall be final and binding.

## 7.4 Extraordinary Contributions

7.4.1 The Trustees may fix Extraordinary Contributions.

7.4.2 Subject to clause 7.1.4 in determining the quantum of any Extraordinary Contribution as a condition of entry to membership the Trustees shall have regard to:

- (a) The number of Fund Years completed since the Commencement Date;
- (b) The net value of the assets of the Fund had there been no Distributions from the Fund;
- (c) The current value of the assets, and the amount of any liabilities of the Fund;
- (d) Any other factors which seem relevant to the Trustees.

7.4.3 In determining the quantum of any Extraordinary Contribution being fixed for Coverage of a part or portion of a Fund Year the Trustees shall have regard to the Annual Contribution that would have been payable by the Member for Coverage for the full Fund Year and, that part or portion of the Fund Year for which Coverage is being provided.

7.4.4 Any decision of the Trustees regarding the quantum of any Extraordinary Contribution shall be final and binding.

7.4.5 Any Extraordinary Contribution fixed by the Trustees that is not paid may be recovered in the same way as an Annual Contribution including associated interest and recovery costs.

## 8 DISTRIBUTIONS FROM THE FUND

8.1 A Member may at any time within nine calendar months (time being of the essence) of a Damaging Event apply to the Trustees for a Distribution from the Fund in respect of any loss or damage caused to the Member's Infrastructure by that Damaging Event.

8.2 Upon receiving an application for a Distribution in respect of a Damaging Event, the Trustees shall satisfy themselves that:

- (a) the loss or damage is to Infrastructure;
- (b) the loss or damage was caused by the Damaging Event.

8.3 Once the Trustees have satisfied themselves as to the matters specified in clause 8.2, they may make a Distribution to the Member in respect of its application, subject to:

- (a) any Asset Value or Stated Value of the Member's Infrastructure;
- (b) the state of repair, maintenance and condition generally of the Infrastructure or of any particular parts of the Infrastructure before and after the Damaging Event for which the Distribution is claimed;
- (c) the Member's Deductible;
- (d) the expected availability when the Annual Contribution was set and the actual availability to the Member of other monies by way of compensation, indemnity, replacement or subsidy for the loss or damage to its Infrastructure, including any payment from central government, from insurance claims, and any rights against persons not party to this Trust Deed;
- (e) the desirability of the Fund maintaining reserves for future Damaging Events;
- (f) the length of time that the Member has been a Member of the Fund;
- (g) any other factors which seem relevant to the Trustees.

The Trustees at their sole discretion will determine what if any Distribution will be made in any situation where in the Trustees' opinion the damage is a consequence of an act of war or terrorism.

8.4 Without being bound to see or being liable for not seeing to the application of any Distributions from the Fund, the Trustees shall take reasonable steps to ensure each Distribution from the Fund is applied by its Members for the reinstatement of their Infrastructure, and for that purpose, the Trustees may require from the Member reasonable evidences of the expenditure, and may make progress payments.

8.5 The Trustees may also pay the whole or any part of the Fund to any other charity that is charitable under New Zealand law and has purposes similar or related to those of the Fund.

## 9 ALTERATION

### 9.1 Alteration of the Trust Deed

9.1.1 The Trustees may amend this Trust Deed in any way, subject to this clause 9.

9.1.2 The Trustees may by unanimous resolution of the Trustees present at any validly convened meeting revoke, vary or add to any of the provisions of this Trust Deed provided no such revocation, variation or addition may be made if it would result in the Fund ceasing to qualify for registration as a charitable entity under the Charities Act 2005 or would vary the terms of this proviso or would otherwise be inconsistent with the general charitable scope of the trusts contained in this Trust Deed.

9.1.3 Every amendment shall be conditional upon and come into effect upon the Settlor giving its consent in writing.

9.1.4 Amendments shall not be retrospective in effect.

## 9.2 Notice to Members

9.2.1 The Trustees shall notify Members forthwith in writing of every amendment to this Trust Deed made pursuant to these provisions.

9.2.2 Any accidental failure or omission on the part of the Trustees to give a Member notice as required by this clause, or its non-receipt by a Member, shall not affect the validity of the amendment.

## 9.3 Alteration of Participation Deeds

9.3.1 The Trustees, with the agreement of a Member, may from time to time:

- (a) Amend any of the provisions of the Participation Deed relating to the Member; or
- (b) Cancel any Participation Deed and in substitution, enter into a new Participation Deed with a Member.

## 10 WINDING UP OF THE FUND

### 10.1 Procedures

10.1.1 The Trustees shall wind up the Fund and shall apply the provisions of this Clause in relation to every Member:

- (a) If the Trustees unanimously resolve that the Fund shall be wound up, and advise the Settlor accordingly, and the Settlor consents thereto; or
- (b) Upon the determination of the trusts hereof; or
- (c) Upon any insolvency of the Fund; or
- (d) Upon any order of the Court that the Fund be wound up.

10.1.2 The Trustees shall within fourteen days after they have resolved to wind up the Fund, lodge a copy of that resolution with the Settlor and (the Settlor consenting thereto) with the Registrar of Incorporated Societies.

10.1.3 The Trustees shall for the purpose of winding up the Fund:

- (a) Ensure that final accounts of the Fund are prepared showing the financial position of the Fund as at the date on which the winding up commenced; and
- (b) Ensure that those final accounts are audited; and
- (c) As soon as practicable after the final accounts have been audited send a copy of those accounts to the Settlor and all the Members as at the date the winding up commenced.

### 10.2 Allocation of Proceeds

10.2.1 Members shall have no right or claim against the Fund on winding up except in respect of any application for a Distribution made prior to the commencement of the winding up.

10.2.2 The Trustee shall apply the proceeds of the Fund in accordance with the following priority:

- (a) First, in providing for the payment of the costs of the winding up;
- (b) Secondly, in providing for the payment of all liabilities and debts of the Fund;

(c) Thirdly, paying any outstanding Distributions which the Trustees have resolved to pay any Member prior to the commencement of the winding up and remain unpaid at that date;

(d) Fourthly, in providing for payment of any Distributions for which applications have been made immediately prior to the commencement of the winding up;

(e) Finally, payment of any balance in the Fund is to be made or transferred to another organisation as decided by the Trustees that is charitable under New Zealand law and has purposes similar or related to those of the Fund, or in default of a decision by the Trustees, as directed by the Court pursuant to section 27 of the Act.

## 11 MISCELLANEOUS

### 11.1 Notices

11.1.1 Any notice or document shall be deemed to have been served upon the Trustees if left at the registered office of the Fund or if sent through the post in a registered letter addressed to the Administration Manager at that office. Any notice or document shall be deemed to have been duly given to a Member, if given generally or sent to the Member at the address of the Member last known to the Administration Manager.

11.1.2 Any notice or document delivered by post shall be deemed to have been delivered in the ordinary course of post and in proving such service it shall be sufficient to prove that the envelope or wrapper containing it was properly addressed and posted. A statement signed by the Administration Manager that a notice was so addressed and posted to a Member and when, shall be conclusive evidence of those facts.

### 11.2 Succession

11.2.1 If the activities of any of the Appointors are assigned to or succeeded by any other undertaking (whether a corporation, association partnership or natural person) then that other undertaking may, with the written approval of the Trustees as from the date of the assignment or succession, take the place of that Appointor for the purposes of the Fund, and assume all rights and obligations of that Appointor under the Trust Deed.

11.2.2 If the Trustees do not give their written approval of such other undertaking taking the place of that Appointor, then the Fund shall either be wound up in accordance with the provisions of this Trust Deed, or the Trustees may appoint another body to take over the role of that Appointor.

### 11.3 Waiver and Precedent

11.3.1 No failure by the Trustees to enforce any breach of any obligation or provision contained or implied in by this Trust, in one, or more instances shall constitute a waiver of the right of the Trustees to enforce any other provision, or any subsequent breach, whether against the same Member or another.

11.3.2 No action on the part of the Trustees or the Administration Manager whether taken in accordance with any specific provisions contained in this Trust Deed or otherwise shall be taken as a precedent for any like or similar action on either part and neither the Trustees nor the Administration Manager may thereafter be compelled to take similar or identical action consequent thereupon.

### 11.4 Office

11.4.1 The office of the Fund shall be at the offices of the New Zealand Local Government Insurance Corporation Limited, 9th Floor, Civic Assurance House, 114 Lambton Quay, Wellington, or at such other place as the Trustees may from time to time by resolution determine.

**IN WITNESS WHEREOF** this Deed has been executed on the day and year first hereinbefore written.

**THE COMMON SEAL** of the )  
**NEW ZEALAND LOCAL GOVERNMENT** )  
**ASSOCIATION INCORPORATED** was )  
hereunto affixed in the presence of: )

**Signed by** )  
**ROBERT DAVID RENNIE ELLIOTT** )  
in the presence of: )

**Signed by** )  
**WYNNE ARCHDALL RAYMOND** )  
in the presence of: )

**Signed by** )  
**DALE ALWYN LOTT** )  
in the presence of: )

**Signed by** )  
**KINSLEY NEVILLE SAMPSON** )  
in the presence of: )

**Signed by** )  
**IAN ROBERT FLOCKHART MCKELVIE** )  
in the presence of: )

**Signed by** )  
**LANGLEY DAVID CAVERS** )  
in the presence of: )

**PARTICIPATION DEED**

**ADMITTING**

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**TO MEMBERSHIP OF  
THE NEW ZEALAND LOCAL AUTHORITY PROTECTION  
PROGRAMME DISASTER FUND**

**THIS DEED is made the \_\_\_ day of \_\_\_\_\_ 201\_\_.**

**BETWEEN NEW ZEALAND LOCAL AUTHORITY PROTECTION PROGRAMME DISASTER FUND** ("the Fund") and **NEW ZEALAND LOCAL GOVERNMENT INSURANCE CORPORATION LIMITED** ("the Administration Manager") (together called "the Administration")

**AND** ..... being a Local Authority as defined in the Trust Deed ("the Member")

#### **BACKGROUND**

- A. The Trustees of the New Zealand Local Authority Protection Programme Disaster Fund are incorporated as a Board pursuant to the Charitable Trusts Act, 1957 ("the Board").
- B. The Fund is also registered as a charitable entity under the Charitable Trusts Act 1957.
- C. The Settlor of the Fund is the New Zealand Local Government Association Incorporated. The Settlor established the Fund as a self funding disaster protection scheme for the purposes of and for the objects set out in the original trust deed dated 29 June 1993. The trust deed was amended by deeds of variation dated 14 February 1997 and 5 June 2003. The trust deed was further amended and all amendments consolidated by a new trust deed dated 14 December 2007 ("the Trust Deed").
- D. The New Zealand Local Government Insurance Corporation Limited is the Administration Manager of the Fund.
- E. The Trust Deed contains provision for Local Authorities to apply for membership of the Fund, and for their admission to membership of the Fund, on the terms required by the Board.
- F. The Member has applied to become a member of the Fund, and is being admitted as a member on the terms and conditions contained herein.

#### **NOW THIS DEED WITNESSES AND IT IS AGREED AND DECLARED**

as follows:

### **1 MEMBERSHIP**

#### **Admission to Membership**

1. The Member hereby covenants and agrees with the Administration to be bound by
  - (a) the terms of the Trust Deed, as if it were a party to the Trust Deed; and
  - (b) this Participation Deed;
 and acknowledges and accepts the powers, discretions and authorities of the Board, and the Administration Manager appointed pursuant to the Trust Deed, as provided in the Trust Deed.
2. In consideration of the Member agreeing to be bound by the terms of the Trust Deed, and of this Participation Deed, the Member is hereby admitted as a Member of the Fund.

#### **Withdrawal, Suspension or Termination of Membership**

Withdrawal from, termination and suspension of membership shall be effected in accordance with the provisions of the Trust Deed.

### **2 COVERAGE AND DEDUCTIBLE**

#### **Coverage**

Coverage of the Member shall commence on the date appearing in the First Schedule and shall continue until the Member's membership of the Fund is either terminated, or the Member is suspended, as provided in the Trust Deed.

#### **Deductible**

The level of any deductible shall be fixed by the Board and the first such deductible shall be as provided in the First Schedule.

### **3 CONTRIBUTIONS AND DISTRIBUTIONS**

#### **Payment of Annual Contributions**

1. The Member shall pay to the Fund its Annual Contribution as determined by the Board, within 14 days of the commencement of each Fund Year, or as otherwise agreed by the Administration in writing.
2. The Member shall pay the sum set out in, and in the manner provided in the First Schedule, as its first Annual Contribution.

#### **Payment of Extraordinary Contributions**

The Member shall forthwith pay to the Fund the Extraordinary Contribution set out in the First Schedule.

#### **Distributions**

1. The Member shall in making an application for a Distribution use any form of application which the Administration may prescribe, and shall from time to time provide such information as the Administration may reasonably require to enable it to consider the Member's application.
2. Any Distribution from the Fund shall be at the sole and absolute discretion of the Board, which shall, having regard to the factors set out in the Trust Deed, act in accordance with the objectives of the Fund and in the interests of all members.
3. The amount of the Deductible applying at the time of any Natural Disaster or Emergency or event shall be deducted from any Distribution from the Fund in respect of the same.

### **4 ASSET VALUES**

#### **Information Regarding Assets**

1. The Member shall within 3 months of the commencement of each Fund Year or such lesser period as the Administration may from time to time advise:
  - (a) supply the Administration with any information regarding categories, details and condition of its Infrastructure, including any list of or register of its Infrastructure, both insured and uninsured, and any insurance particulars, which the Administration may reasonably require;
  - (b) state to the Administration in writing its estimate of the cost of reinstatement of its Infrastructure;
2. The Member shall advise the Administration of any additions or deletions to its Infrastructure, during the Fund Year.

### **5 RISK MANAGEMENT AND AUDIT**

#### **Risk Management**

The Member agrees to:

- (a) introduce and maintain such programs to identify, assess and control risks applicable to its Infrastructure, as may from time to time be reasonably required by the Administration; and

- (b) notify the Administration of any matters, events or things which might be reasonably considered relevant to the assessment and management of the risk or exposure of the Member's Infrastructure to Natural Disasters and Emergencies.

**Audit of Infrastructure**

The Member agrees that the Administration Manager may from time to time inspect and audit the Member's Infrastructure and all records and information pertaining thereto.

**6 ALTERATION**

**Alteration of the Trust Deed**

- 1 The Member acknowledges that every alteration or amendment to the Trust Deed shall upon the consent of the Settlor being given in writing, be binding on the Member as to its terms and conditions, as if it were a party thereto.
- 2 This Participation Deed shall be deemed to be amended to the extent and in the manner (if any) required as a consequence of the amendment of the Trust Deed.

**7 MISCELLANEOUS**

**Co-operation**

The Member agrees to take all such other actions and supply such information and assistance as the Administration may reasonably require from time to time in order to give effect to the provisions and purposes of the Trust Deed and this Participation Deed, including (without limitation) following any rules or guidelines or prescribed procedures required by the Administration, not being rules guidelines or procedures inconsistent with this Participation Deed or the Trust Deed.

**No Assignment**

The Member may not assign its rights under this Participation Deed or any of its rights or obligations as a member of the Fund to any other person, or encumber, charge or otherwise dispose of any of its right, entitlement or interest in the Fund.

**Notices**

- 1 Any notice or document shall be deemed to have been served upon the Administration if left at the registered office of the Fund or if sent through the post in a letter addressed to that office.
- 2 Any notice or document shall be deemed to have been duly served on the Member, if delivered personally to the Member's chief executive officer, or if sent through the post to the Member at the address of the Member last known to the Administration.
- 3 Any notice or document delivered by post shall be deemed to have been delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the envelope or wrapper containing it was properly addressed and posted.

**8 DEFINITIONS AND INTERPRETATION**

**Definitions**

- 1 Each of the following words and expressions shall, unless the context otherwise requires, have the following meanings:  
 "the Trust Deed" means the consolidated Trust Deed dated 14 December 2007;  
 "the Board" means the Trustees of the Fund and vice versa.
- 2 The words and expressions used in this Participation Deed shall unless the context otherwise requires have the same definitions as given them in the Trust Deed.

**Interpretation**

- 1 Unless the context otherwise requires the same interpretations shall be placed on words and phrases used in this Participation Deed as contained in the Trust Deed.
- 2 In the event of any conflict between the terms and conditions of this Deed and the provisions of the Trust Deed, the provisions of the Trust Deed shall prevail.
- 3 Nothing in this Participation Deed shall be taken to excuse the failure of the Member to perform any and each of its obligations as a Member of the Fund, nor the commission of any act in breach of its obligations as a Member of the Fund, as set out in the Trust Deed.

**FIRST SCHEDULE**

**Annual Contribution:**

The Annual Contribution for the period 30 June 201\_ to 30 June 201\_ is assessed at \$\_\_\_\_\_ plus GST, less full member discount. This is the Member's first annual contribution.

**Extraordinary Contribution:**

The Extraordinary Contribution is assessed at \$\_\_\_\_\_ plus GST.

In consideration of the payment of the Extraordinary Contribution ..... Council shall immediately be entitled to full rights of Fund Membership including any discount on the assessed Annual Contribution for future years that the Fund Trustees may declare from time to time.

**Deductible:**

The Deductible shall be .....

**IN WITNESS WHEREOF** this Deed has been executed on the day and year first herein before written.

**THE COMMON SEAL** of the **NEW ZEALAND LOCAL AUTHORITY** )  
**PROTECTION PROGRAMME DISASTER FUND** was hereunto affixed )  
in the presence of:- )

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**THE COMMON SEAL** of **NEW ZEALAND LOCAL GOVERNMENT** )  
**INSURANCE CORPORATION LIMITED** was hereunto affixed )  
in the presence of:- )

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**THE COMMON SEAL** of the ..... **COUNCIL** )  
was hereunto affixed pursuant to a resolution of the Council, )  
in the presence of:- )

