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Specific Fiscal Risks

Introduction

This chapter describes the specific fiscal risks of the Crown, including contingent liabilities and other specific fiscal risks. The risks are disclosed as either quantifiable or unquantifiable, depending on their characteristics. Only contingent liabilities and other specific fiscal risks involving amounts of $10 million or more in any one year are separately disclosed. Contingent liabilities below $10 million are included in the “other quantifiable contingent liabilities” total. Comparatives have been adjusted where appropriate to align with the disclosure of new “material” contingent liabilities. The total amount of contingent liabilities remains unchanged.

Contingent liabilities

Contingent liabilities are costs which the Crown will have to face if a particular event occurs. Typically, contingent liabilities consist of guarantees and indemnities, legal disputes and claims, and uncalled capital. The contingent liabilities facing the Crown are a mixture of operating and balance sheet risks, and they can vary greatly in magnitude and likelihood of realisation. In general, if a contingent liability were realised it would reduce the operating balance and net worth, and increase net Crown debt. However, in the case of contingencies for uncalled capital, the negative impact would be restricted to net Crown debt.

Where contingent liabilities have arisen as a consequence of legal action being taken against the Crown, the amount shown is the amount claimed and thus the maximum potential cost. It does not represent either an admission that the claim is valid or an estimation of the possible amount of any award against the Crown.

Contingent liabilities have been stated as at 31 October 2001, being the last set of published contingent liabilities.

Quantifiable Contingent Liabilities

Guarantees and indemnities	**Status**[12]	**($ million)**
Cook Islands – Asian Development Bank loans	Changed	25
Huntly East mine subsidence	Unchanged	22
Indemnification of receivers and managers – Terralink Limited	Unchanged	10
Post Office Bank – guaranteed deposits	Unchanged	16
Guarantees and indemnities of state-owned enterprises and Crown entities	Changed	272
Other guarantees and indemnities	Changed	49
		394
Uncalled capital		
Asian Development Bank	Changed	1,522
European Bank for Reconstruction and Development	Unchanged	15
International Bank for Reconstruction and Development	Changed	1,985
		3,522
Legal proceedings and disputes		
Agriculture and Forestry – legal claims	Changed	23
Education – legal claims	Changed	11
Health – legal claims	Changed	126
Māori Development – Māori Reserved Land	Unchanged	94
New Zealand Defence Force – legal claims	Changed	10
Police – legal claims	Changed	61
Tax in dispute	Changed	79
Treasury – legal claim	Unchanged	21
Other legal claims	Changed	94
		519
Other quantifiable contingent liabilities		
International finance organisations	Changed	1,839
Reserve Bank – demonetised currency	Unchanged	24
Other quantifiable contingent liabilities	Changed	99
		1,962
Total quantifiable contingent liabilities		**6,397**

12 Relative to reporting in the 30 June 2001 Crown Financial Statements.

Unquantified Contingent Liabilities

Institutional guarantees	**Status**
Commerce Commission – indemnity for damages	Unchanged
District Court Judges, Justices of the Peace, Coroners and Disputes Tribunal	Unchanged
Earthquake Commission	Unchanged
Fletcher Challenge Limited	Unchanged
Māori Trustee	Unchanged
Ministry of Fisheries – indemnity provided for delivery of registry services	New
National Provident Fund	Unchanged
Persons exercising investigating powers	Unchanged
Public Trust Office	Unchanged
Reserve Bank of New Zealand	Unchanged
Other unquantified contingent liabilities	
Accident Compensation Corporation	New
Bank of New Zealand	Unchanged
Contaminated sites	Unchanged
Crown research institutes	Unchanged
DFC New Zealand Limited (under statutory management)	Unchanged
District health boards	Unchanged
Electricity Corporation of New Zealand Limited	Unchanged
Housing New Zealand Corporation	Unchanged
Indemnities against acts of war and terrorism	New
Pharmaceutical Management Agency Limited – indemnity	Unchanged
Purchasers of Crown operations	Unchanged
Sale of Crown assets	Unchanged
Tax liabilities	Changed
Treaty of Waitangi claims	Unchanged
Treaty of Waitangi claims – settlement relativity payments	Unchanged
Works Civil Construction	Unchanged
Works Consultancy Services	Unchanged

Quantifiable Contingent Liabilities

Guarantees and indemnities

Cook Islands – Asian Development Bank (ADB) loans

Before 1992, the New Zealand Government guaranteed the Cook Islands' borrowing from the ADB. These guarantees have first call on New Zealand's Official Development Assistance to the Cook Islands.

$25 million at 31 October 2001 ($26 million at 30 June 2001).

Huntly East mine subsidence

Claims from private landowners concerning property damage or loss of value.

$22 million at 31 October 2001 ($22 million at 30 June 2001).

Indemnification of receivers and managers – Terralink Limited

The Crown has issued a Deed of Receivership indemnity to the appointed receivers of Terralink Limited.

$10 million at 31 October 2001 ($10 million at 30 June 2001).

Post Office Bank (PostBank) – guaranteed deposits

In the sale of PostBank to ANZ Banking Group Limited (ANZ), the Crown agreed to continue its guarantee, under the Post Office Bank Act 1987, for certain PostBank deposits lodged with the Bank before 1 July 1988. ANZ agreed to indemnify the Crown for the cost of any liability that may arise from the Crown guarantee. The amount guaranteed reduces as deposits mature.

$16 million at 31 October 2001 ($16 million at 30 June 2001).

Guarantees and indemnities of state-owned enterprises and Crown entities

$272 million at 31 October 2001 ($243 million at 30 June 2001).

Other guarantees and indemnities

$49 million at 31 October 2001 ($54 million at 30 June 2001).

Uncalled capital

The Crown's uncalled capital subscriptions are as follows:	**Uncalled Capital at 31 October 2001 $ million**	**Uncalled Capital at 30 June 2001 $ million**
Asian Development Bank	1,522	1,553
European Bank for Reconstruction and Development	15	15
International Bank for Reconstruction and Development	1,985	2,026

Legal proceedings and disputes

The amounts under quantifiable contingent liabilities for legal proceedings and disputes are shown exclusive of any interest and costs that may be claimed if these cases were decided against the Crown.

Where contingent liabilities have arisen as a consequence of legal action being taken against the Crown, the amount shown is the amount claimed and thus the maximum potential cost. It does not represent either an admission that the claim is valid or an estimation of the possible amount of any award against the Crown.

Agriculture and Forestry – legal claims

Claims against the Ministry of Agriculture and Forestry for alleged legal or administrative faults.

$23 million at 31 October 2001 ($26 million at 30 June 2001).

Education – legal claims

Claims against the Crown in respect of the reduction of dental subsidies.

$11 million at 31 October 2001 ($10 million at 30 June 2001).

Health – legal claims

Claims against the Crown in respect of people allegedly contracting Hepatitis C through contaminated blood and blood products, and claims arising from the Gisborne inquiry.

$126 million at 31 October 2001 ($72 million at 30 June 2001).

Māori Development – Māori Reserved Land

The Māori Reserved Land Amendment Act 1997 provides for compensation to lessees for the move to market rents for land, for shorter review periods and for additional transaction costs. In addition, Schedule 5 to the Act recognises that Māori have not been obtaining fair market rents for their land and that this issue will be dealt with by the Government as part of its consideration of historical grievances.

$94 million at 31 October 2001 ($94 million at 30 June 2001).

New Zealand Defence Force – legal claims

Claims against the New Zealand Defence Force for alleged legal or administrative faults.

$10 million at 31 October 2001 ($15 million at 30 June 2001).

Police – legal claims

Claims against the Police for alleged legal or administrative faults.

$61 million at 31 October 2001 ($56 million at 30 June 2001).

Tax in dispute

Represents 50% of the outstanding debt of those tax assessments raised, against which an objection has been lodged and legal action is proceeding.

$79 million at 31 October 2001 ($77 million at 30 June 2001).

Treasury – legal claim

A claim against the Crown relating to a dispute involving the supply of gas in 1987/88.

$21 million at 31 October 2001 ($21 million at 30 June 2001).

Other legal claims

$94 million at 31 October 2001 ($200 million at 30 June 2001).

Other quantifiable contingent liabilities

International finance organisations

The Crown has lodged promissory notes with the following international finance organisations:

	31 October 2001 $ million	30 June 2001 $ million
Asian Development Bank	nil	12
International Monetary Fund	1,839	1,810

Payment of the notes depends upon the operation of the rules of the individual organisations.

Reserve Bank – demonetised currency

The Crown has a contingent liability for the face value of the demonetised $1 and $2 notes issued which have yet to be repatriated.

$24 million at 31 October 2001 ($24 million at 30 June 2001).

Other quantifiable contingent liabilities

$99 million at 31 October 2001 ($124 million at 30 June 2001).

Unquantifiable Contingent Liabilities

This part of the chapter provides details of those contingent liabilities of the Crown that cannot be quantified.

Institutional guarantees

The following institutional guarantees have been provided through legislation.

Commerce Commission – indemnity for damages

Under a Deed of Indemnity dated 12 November 1991, the Minister of Finance agreed to indemnify the Commission when it gives an undertaking as to damages when seeking injunctions under the Fair Trading Act, and subsequently the Court orders the Commission to pay damages. The sum payable under this Deed is limited to an amount up to $40 million per case taken to Court.

District Court Judges, Justices of the Peace, Coroners and Disputes Tribunals

Section 119 of the District Courts Act 1947 indemnifies District Court Judges acting in their civil jurisdiction. Section 196A of the Summary Proceedings Act 1957 also indemnifies District Court Judges for any liabilities arising as a result of an act done by a Judge in excess of, or without, jurisdiction.

Section 35 of the Coroners Act 1988 confers on Coroners acting within the Coroners Act 1988 the same privileges and immunities as District Court Judges under the Summary Proceedings Act 1957.

Under section 197 of the Summary Proceedings Act 1957, Justices of the Peace are similarly covered as long as a High Court Judge certifies that they have acted in good faith and ought to be indemnified.

Section 58 of the Disputes Tribunals Act 1988 confers on Disputes Tribunal referees acting within the Disputes Tribunals Act 1988 the same protection as Justices of the Peace under the Summary Proceedings Act 1957.

Earthquake Commission

The Crown is liable to meet any deficiency in the Earthquake Commission's assets in meeting the Commission's financial liabilities (section 16 of the Earthquake Commission Act 1993).

Fletcher Challenge Limited (FCL)

Under the Sale and Purchase Agreement for the sale of Forestry Corporation of New Zealand Limited, the Crown has indemnified FCL for the cost of cleaning up on-site environmental contamination incurred up to settlement date (27 September 1996). The Crown is to pay for half of any cost over $30 million and for all costs over $50 million. The on-site indemnity runs until 1 January 2020. The Crown has also indemnified FCL in respect of off-site environmental costs and losses incurred up until settlement date. The off-site indemnity is unlimited as to amount and time.

Māori Trustee

The Crown is liable to meet any deficiency in the Māori Trustee's Common Fund (section 27(1) of the Māori Trustee Act 1953).

Ministry of Fisheries – indemnity provided for delivery of registry services

The Crown has indemnified Commercial Fisheries Services Limited against claims made by third parties arising from Commercial Fisheries Services undertaking registry services under contract to the Chief Executive of the Ministry of Fisheries. This indemnity, provided under the Fisheries Acts 1983 and 1996 expires on 30 October 2006 unless varied, in which case it will expire on 30 September 2008.

National Provident Fund

The Crown guarantees the benefits payable by all National Provident Fund Board schemes (section 60 of the National Provident Fund Restructuring Act 1990). The Crown also guarantees investments and interest thereon deposited with the National Provident Fund Board prior to 1 April 1991 (section 61 of the same Act).

A provision has been made in these Financial Statements in respect of the actuarially assessed deficit in the DBP (Annuitants') Scheme (refer Note 12 of the Financial Statements).

Persons exercising investigating powers

Section 63 of the Corporations (Investigation and Management) Act 1989 indemnifies the Securities Commission, the Registrar and Deputy Registrar of Companies, members of advising committees within the Act, every statutory manager of a corporation, and persons appointed pursuant to sections 17 to 19 of the Act, in the exercise of investigating powers, unless the power has been exercised in bad faith.

Public Trust Office

The Crown is liable to meet any deficiency in the Public Trust Office's Common Fund (section 36 of the Public Trust Office Act 1957).

Reserve Bank of New Zealand (the Reserve Bank)

Under section 146 of the Reserve Bank of New Zealand Act 1989, every statutory manager of a Registered Bank, every person appointed under section 99 or section 101 of the Act and every member of an advisory committee, shall be indemnified by the Crown in respect of any liability arising from the exercise, purported exercise or omission to exercise of any power conferred by Part V of the Act, unless that power has been exercised in bad faith.

The Crown pays to the Reserve Bank any exchange losses incurred by the Reserve Bank as a result of dealing in foreign exchange under sections 17, 18 and 21(2) of the Act.

Other unquantifiable contingent liabilities

Accident Compensation Corporation (ACC)

A court decision has determined that the ACC practice, prior to the Accident Insurance Act 1998, of allowing for familial responsibility when determining attendant care entitlements was not legitimate. The decision is likely to apply to a number of seriously injured claimants.

Bank of New Zealand (BNZ)

A deed, entered into by the Crown, Fay Richwhite and Company Limited and National Australia Group Limited (the purchaser of BNZ), provides for the sharing of certain costs arising from defined risks that pre-date the sale of the BNZ. These risks are associated with New Zealand taxation and specified litigation.

Contaminated sites

Under common law and various statutes, the Crown may have responsibility to remedy adverse effects on the environment arising from Crown activities. The *Discussion Document on Contaminated Sites Management* discusses the possibility of the Crown contributing to funding the clean-up of "orphan" contaminated sites.

Crown research institutes (CRIs)

The Crown has indemnified the CRIs for any costs arising from certain third-party claims that are the result of acts or omissions prior to the transfer date, for costs of complying with statutes, ordinances and bylaws which relate to or affect certain buildings, and (subject to certain limitations) for the costs of obtaining title to land.

DFC New Zealand Limited (under statutory management) (DFC)

DFC and the National Provident Fund have been indemnified for certain potential tax liabilities.

District health boards (DHBs)

The Crown has provided transitional indemnities to directors and officers of some DHBs, for liabilities arising from inherited assets and business practices under the Building Act 1991 and the Health and Safety in Employment Act 1992.

Electricity Corporation of New Zealand Limited (ECNZ)

The ECNZ Sale and Purchase Agreement provides for compensation to ECNZ for any tax, levy, royalty or impost imposed on ECNZ for the use of water or geothermal energy for plants in existence or under construction at the date of the Sale and Purchase Agreement. The Agreement also provides for compensation for any net costs to ECNZ arising from resumption of assets pursuant to the Treaty of Waitangi (State Enterprises) Act 1988.

The Deed of Assumption and Release between ECNZ, Contact Energy Limited and the Crown provides that the Crown is no longer liable to ECNZ in respect of those assets transferred to Contact Energy. As a result of the split of ECNZ in 1999, Ministers have transferred the benefits of the Deed to ECNZ's successors – Meridian Energy Limited, Mighty River Power Limited, and Genesis Power Limited.

Under the Transpower New Zealand Limited Sale and Purchase and Debt Assumption Agreements, the Crown has indemnified ECNZ for any losses resulting from changes in tax rules applicable to transactions listed in the Agreements. Additionally, the Crown has indemnified the directors and officers of ECNZ for any liability they may incur in their personal capacities as a result of the Transpower separation process.

Following the split of ECNZ in 1999 into three new companies, the Crown has indemnified ECNZ in relation to all ECNZ's pre-split liabilities, including:

- existing debt and swap obligations
- hedge contracts and obligations
- any liabilities that arise out of the split itself.

Housing New Zealand Corporation (HNZC)

The Crown has indemnified the following entities in respect of the accuracy of information provided on the sale of various parcels of HNZC (formerly Housing Corporation of New Zealand) mortgages: Countrywide Bank, TSB Bank, and Westpac Banking Corporation.

Under the sale of mortgages to Westpac, HNZC has insured the purchaser against certain credit losses with the Crown standing behind this obligation.

Legal proceedings have been initiated against a number of defendants, including the Crown, alleging breach of fiduciary duties in respect of the transfer of the Agreement for Sale and Purchase and mortgage agreements to HNZC under the Housing Assets Transfer Act 1993.

In addition, the Crown has provided a warranty in respect of title to the assets transferred to HNZC (formerly Housing New Zealand) and has indemnified the company against any breach of this warranty. The Crown has indemnified the company against any third party claims that are as a result of acts or omissions prior to 1 November 1992. It has also indemnified the directors and officers of the company against any liability consequent upon the assets not complying with statutory requirements, provided they are taking steps to rectify any non-compliance.

Indemnities against acts of war and terrorism

The Crown has indemnified Air New Zealand against claims arising from acts of war and terrorism that cannot be met from insurance, up to a limit of US$2 billion in respect of any one claim.

The Crown has offered non-airline aviation companies indemnities against acts of war, terrorism and related causes where commercial cover has been withdrawn following the events in the USA on 11 September 2001. The indemnities are for a maximum of US$200 million for each party. At 31 October 2001, indemnities had been signed with Airways Corporation, Auckland International Airport, Christchurch International Airport, and Wellington International Airport. Further indemnities may be offered to eligible parties.

Pharmaceutical Management Agency Limited (Pharmac) – indemnity

Section 99 of the Social Security Act 1964 provided for the fixing of prices for pharmaceutical products by way of a list specified by the Minister of Health (“the Drug Tariff”). This list was superseded by a list (“the Pharmaceutical Schedule”) developed and issued by Pharmac, a company owned by the Crown and having various powers under the New Zealand Public Health and Disability Act 2000.

Under the Transfer Agreement between Pharmac and the Crown, the Crown has indemnified Pharmac against any liability in respect of operations, activities, decisions and policies relating to the Drug Tariff and the Pharmaceutical Schedule.

A number of legal claims have been lodged against Pharmac. If these claims are successful, the Crown’s financial position may be adversely affected by any damages arising either directly through the indemnity, or indirectly through its ownership of Pharmac.

Purchasers of Crown operations

The Crown has indemnified the purchasers of various Crown operations for losses owing to changes in legislation which uniquely and adversely affect those purchasers.

Sale of Crown assets

On the sale of Crown assets and the corporatisation of Crown assets into SOEs and Crown entities, the Crown has generally provided a warranty that the Crown was the rightful owner of the assets transferred, and that the assets were free of encumbrances.

Tax liabilities

The Crown has granted to the purchasers of the State Insurance Office Limited, and the Rural Banking and Finance Corporation Limited an indemnity for certain potential tax liabilities.

Treaty of Waitangi claims

Under the Treaty of Waitangi Act 1975, any Māori may lodge claims relating to land or actions counter to the principles of the Treaty with the Waitangi Tribunal. Where the Tribunal finds a claim is well founded, it may recommend to the Crown that action be taken to compensate those affected. The Tribunal can make recommendations that are binding on the Crown with respect to land which has been transferred by the Crown to an SOE or tertiary institution, or is subject to the Crown Forest Assets Act 1989.

Settlement relativity payments

The Deeds of Settlement negotiated with Waikato-Tainui and Ngai Tahu include a relativity mechanism. The mechanism provides that, where the total redress amount for all historical Treaty settlements exceeds $1 billion in 1994 present-value terms, the Crown is liable to make payments to maintain the real value of Ngai Tahu's and Waikato-Tainui's settlements as a proportion of all Treaty settlements. The agreed relativity proportions are 17% for Waikato-Tainui and approximately 16% for Ngai Tahu. The non-quantifiable contingent liability relates to the risk that total settlement redress, including binding recommendations from the Waitangi Tribunal, will trigger these relativity payments.

Works Civil Construction

The Crown has provided an indemnity to the purchasers of Works Civil Construction in relation to the activities of the Ministry of Works and Development prior to 1 April 1989. In addition, an indemnity has been provided against certain costs, claims or damages in relation to the Clyde and Ohaaki power projects.

Works Consultancy Services

The Crown has provided an indemnity to the purchasers of Works Consultancy Services in relation to the activities of the Ministry of Works and Development prior to 1 April 1989.

Specific fiscal risks

Specific fiscal risks (excluding contingent liabilities) are a category of Government decisions or circumstances that may have a material impact on the fiscal position. The risks have not been included in the main forecasts because their fiscal impact cannot be reasonably quantified, the likelihood of realisation is uncertain and/or the timing is uncertain. The risks disclosed may not eventuate into Government policy and the final cost or saving may differ from the amount disclosed if the policy is developed.

To ensure a practicable and consistent disclosure approach, risks have been reported that have an expected cost or saving of over $10 million in any one forecast year; and either:

- reflect Government decisions or legislative commitments with uncertain fiscal consequences or timing, or
- are generally being actively considered by the Minister of Finance and responsible Ministers, or
- are decisions that have been deferred until a later date.

The forecasts incorporate operating and capital provisions to accommodate policy initiatives on which decisions have yet to be made. Some risks outlined in this chapter, if they eventuate, would be covered by these provisions and therefore have no impact on the forecasts. These risks have been disclosed to provide an indication of the pressure the risks place upon the fiscal provisions.

There are a number of other “pressures” on the fiscal position that have not been included as risks. These “pressures” comprise proposals largely generated within individual departments and not yet considered by the Minister of Finance and responsible Ministers. Such items are also expected to be managed within the provisions noted above.

Specific fiscal risks do not include:

- normal forecasting risks, such as uncertainty around welfare benefits, SOE/Crown entity surpluses or finance costs
- possible changes to the interpretation of accounting policies, such as the changes to revenue recognition rules and recognition of liabilities
- discussion documents containing proposals that the Minister of Finance and responsible Ministers will not actively consider until the consultation process has been completed.

The Fiscal Responsibility Act 1994 requires that all specific fiscal risks be disclosed, except where it is determined by the Minister of Finance that disclosing a risk is likely to:

- prejudice the substantial economic interests of New Zealand, or
- prejudice the security or defence of New Zealand or international relations of the Government, or
- compromise the Crown in a material way in negotiation, litigation or commercial activity, or
- result in a material loss of value to the Crown.

In addition, the Minister of Finance has to determine that there is no reasonable or prudent way the Government can avoid this prejudice, compromise or material loss by making a decision on the fiscal risk before the finalisation of the forecasts, or by disclosing the fiscal risk without reference to its fiscal implications.

The fiscal risks included in the Statement of Specific Fiscal Risks were finalised as at 26 November 2001.

Quantified Risks[13]

Risks as at 26 November 2001	Operating Balance	Net Debt	Net Worth	($ million)
Accident Insurance – Treatment Cost Review	Decrease	Increase	Decrease	–7 from 2002/03.
Child, Youth and Family Services – Potential Underpayment of Care Allowances	Decrease	Increase	Decrease	–15 in 2001/02.
Conservation – Asset Maintenance	Decrease	Increase	Decrease	Up to –100 split between operating and capital.
Corrections – Capital Projects	Decrease	Increase	Decrease	–475 capital and –152 operating across the outyears.
Defence – Capital Injections	Decrease	Increase	Decrease	–1,000 over the next five to ten years.
Defence – East Timor	Decrease	Increase	Decrease	–16 operating in 2002/03.
Education – Centres of Research Excellence	Decrease	Increase	Decrease	–20 capital.
Education – School Property	Decrease	Increase	Decrease	–68 in 2001/02, –200 in 2002/03, –160 in 2003/04 and subsequent outyears for capital; and -10 in 2001/02, –20 in 2002/03, –30 in 2003/04 and –40 in 2004/05 for operating.
Energy Efficiency and Conservation – National Strategy	Decrease	Increase	Decrease	–78 operating over five years.
Environment – Genetic Modification	Decrease	Increase	Decrease	–10 in 2003/04 and outyears.
Finance – Air New Zealand	Unclear	Increase	Unclear	–885 capital in 2001/02 and –150 before June 2003.
Finance – Purchase of Auckland Rail Network	Decrease	Increase	Decrease	–81 capital.

13 In the summary tables listing specific risks:

- negative numbers indicate a deterioration in the Crown’s financial position
- “N/A” means no effect
- “Unclear” means insufficient information is available to determine the risk’s effect.

Risks as at 26 November 2001	Operating Balance	Net Debt	Net Worth	($ million)
Health – Budget Allocation	N/A	N/A	N/A	N/A[14]
Inland Revenue – Tax Simplification	Decrease	Increase	Decrease	–25 to 30 operating.
Labour – Paid Parental Leave	Decrease	Increase	Decrease	–40 operating from 2002/03
Responses to Terrorism	Decrease	Increase	Decrease	–2 in 2001/02, –12 in 2002/03 and –14 in 2003/04.
Social Development – Making Work Pay	Decrease	Increase	Decrease	–16 operating ongoing.
Social Development – Benefit Payment Systems	Decrease	Increase	Decrease	Up to –95 split between operating and capital.
Transport – Transport Strategy	Decrease	Increase	Decrease	–250 per year split between operating and capital.

14 The impact of decisions to be funded from the Health Budget Allocation has already been included in the forecasts.

Unquantified Risks

Risks as at 26 November 2001	Operating Balance	Net Debt	Net Worth
Accident Insurance – Medical Misadventure	Unclear	Unclear	Unclear
Education – Capital Injections for Tertiary Education Institutions	Decrease	Increase	Decrease
Education – Collective Employment Agreements	Decrease	Increase	Decrease
Education – ECE Strategic Plan	Unclear	Unclear	Unclear
Education – Pay Parity for Kindergarten Teachers	Decrease	Increase	Decrease
Education – Review of School Staffing	Decrease	Increase	Decrease
Education – School and Early Childhood Operational Funding	Decrease	Increase	Decrease
Education – School Property Code	Decrease	Increase	Decrease
Education – Stabilisation of Tertiary Fees	Decrease	Increase	Decrease
Education – Tertiary Education Advisory Commission	Decrease	Increase	Decrease
Education – Wananga Capital Injection	N/A	Increase	N/A
Environment – Climate Change	Unclear	Unclear	Unclear
Health – District Health Board Debt Financing	N/A	Increase	N/A
Health – Meningococcal Vaccine	Decrease	Increase	Decrease
Inland Revenue – Gaming Review	Unclear	Unclear	Unclear
Inland Revenue – GST and Imported Services and Financial Services Review	Unclear	Unclear	Unclear
Inland Revenue – Taxation of Savings and Investment Vehicles, Including Superannuation Funds	Decrease	Increase	Decrease
Inland Revenue – Tax Review of International Issues	Unclear	Unclear	Unclear
Inland Revenue – Trans-Tasman Triangular Tax Relief	Decrease	Increase	Decrease
Police – Capital Projects	Decrease	Increase	Decrease
Social Development – Families and Work			
TVNZ – Change of Direction	Unclear	Unclear	Unclear

Risks Removed since the 2001 Budget

Risk	In Forecasts	Comment
Accident Insurance – Seriously Injured Claimants	No	Now considered to be a contingent liability
Agriculture and Forestry – South Island Landless Māori	No	No longer greater than $10 million
Economic Development – Sale of Spectrum Licences	Yes	Baselines
Māori Trustee – Payment of Services	Yes	Baselines
Public Trust Office – Modernisation	Yes	Baselines
Rating Exemption on Crown Land	No	No longer under active consideration
Work and Income – Review of Information Systems for International Agreements	Yes	Baselines

Quantified Fiscal Risks

Accident Insurance – Treatment Cost Review (changed risk)

The Department of Labour is currently undertaking a review of the subsidies paid for accident-related treatment costs. Some of these subsidies are paid out of the Non-Earners' Account, which is funded by the Crown. The outcome of this review is likely to increase subsidies by up to $7 million per year from 2002/03, which would decrease the operating balance.

The Minister of Finance has yet to fully consider the quantum of this risk.

Source: Department of Labour

Child, Youth and Family Services – Potential Underpayment of Care Allowances (new risk)

The Department of Child, Youth and Family Services faces a potential liability related to historical under payment of board payments and associated allowances to caregivers. The cost of retrospectively compensating for these underpayments and ensuring that future payments are at acceptable levels is estimated at up to $15 million in 2001/02, which would decrease the operating balance.

The Minister of Finance has yet to fully consider the quantum of this risk.

Source: Child, Youth and Family Services

Conservation – Asset Maintenance (changed risk)

The Department of Conservation provides a range of recreational facilities including campsites, tracks and huts. Many of these facilities are rundown, due in part to maintenance issues. These facilities require further maintenance and possibly upgrading to meet more rigorous building standards introduced recently.

The associated operating and capital cost pressures are currently being assessed, but additional costs could range up to $100 million per annum. The operating and capital split is unclear at this stage, but operating funding would decrease the operating balance and any capital injection would increase net debt.

The Minister of Finance has yet to fully consider the quantum of this risk.

Source: Department of Conservation

Corrections – Capital Projects (changed risk)

The Department of Corrections has estimated that a total of $475 million ($188 million 2001 Budget) in capital costs and $152 million ($78 million 2001 Budget) in operating costs may be required over the forecast period for capital projects as a result of higher prison musters. Operating funding would decrease the operating balance and any capital injections would increase net debt.

These estimates include consideration of funding for:

- future options for South Auckland Men's Corrections Facility (including options for Mt Eden Prison)
- Otago Men's Corrections Facility
- Bay of Plenty Corrections Facility
- Auckland Women's Corrections Facility and
- expansion of Waikeria Corrections Facility.

The Minister of Finance has yet to fully consider the quantum of the risks identified above.

Source: Department of Corrections

Defence – Capital Injections (unchanged risk)

Implementing the Government's decisions on the future force structure of the New Zealand Defence Force will involve a series of capital acquisitions across all three armed services to achieve the required capability upgrades. It is anticipated that capital injections of up to $1 billion over the next 10 years may be necessary, with the bulk likely to be required within the next five years. The actual expenditure profile will depend on the specification and timing of the individual projects, the contracted prices, and the prevailing exchange rate at the time of purchase. Any capital injections would increase net debt.

The Minister of Finance has yet to fully consider the quantum of this risk.

Defence – East Timor (changed risk)

Funding was agreed in the 2001 Budget for New Zealand's contribution to the United Nations Transitional Administration of East Timor until 31 May 2002. The future contribution by the Government to the United Nations operation is dependent on the nature of New Zealand's involvement. The estimated additional cost of extending New Zealand's involvement at its current level for an additional six months is $33 million. It is expected that the United Nations will reimburse a proportion of the in-theatre costs of the deployment. The level of reimbursement is estimated at $17 million (based on the mission remaining "peace-making"), although the timing of the payment is unknown.

The net costs of operating funding would decrease the operating balance.

The Minister of Finance has yet to fully consider the quantum of this risk.

Source: New Zealand Defence Force

Education – Centres of Research Excellence (unchanged risk)

The Government provided operational funding in the 2001 Budget for the establishment and support of Centres of Research Excellence within the tertiary education sector. Capital injections will be required to fund these Centres, which would increase net debt. The Ministry of Education estimates $20 million of capital injections may be required.

The Minister of Finance has yet to fully consider the quantum of this risk.

Source: Ministry of Education

Education – School Property (changed risk)

The Government has provided $120 million in 2001/02 for school accommodation ($98 million 2001 Budget). Additional capital injections for school accommodation are likely to be required later this financial year and in future years to meet roll growth. Capital injections are estimated to be up to $68 million ($90 million 2001 Budget) in 2001/02, $200 million in 2002/03 and $160 million in 2003/04 and each subsequent outyear, which would increase net debt.

In addition to capital injections, consequential operating costs are likely to be incurred, which would decrease the operating balance. These are estimated at $10 million in 2002/03, $20 million in 2003/04, $30 million in 2004/05 and $40 million in 2005/06.

The Minister of Finance has yet to fully consider the quantum of this risk.

Source: Ministry of Education

Energy Efficiency and Conservation – National Strategy (new risk)

The National Energy Efficiency and Conservation Strategy was launched in September 2001. It includes an economy-wide energy efficiency target and a renewable energy target range. Implementation of specific policy measures to achieve these targets has been estimated at up to $78 million over five years, which would decrease the operating balance.

The Minister of Finance has yet to fully consider the quantum of this risk.

Source: Ministry for the Environment

Environment – Genetic Modification (new risk)

The Government has recently taken decisions in response to the recommendations of the Royal Commission on Genetic Modification. Most of these decisions require further work before the final policy changes can be designed and implemented. The ongoing fiscal cost of these policy changes has been estimated at up to $10 million per annum from 2003/04, which would decrease the operating balance. The final cost will depend on what policy and implementation options are chosen.

The Minister of Finance has yet to fully consider the quantum of this risk.

Source: Ministry for the Environment

Finance – Air New Zealand (new risk)

The Government has announced a recapitalisation package for Air New Zealand (Air NZ) that has been agreed with the Air NZ Board, being immediate capital of $885 million (tranches A and B) and a further commitment by the Government to provide $150 million before June 2003 in a form that is appropriate for Air NZ's capital structure at the time the money is required.

The capital provision in the forecasts has been increased to allow for the announced recapitalisation package, though any impacts of the package are not included in forecasts as shareholder approval of the offer has yet to be obtained. If the package is agreed to by Air NZ shareholders, Air NZ's operating results will be incorporated into the forecasts and Crown Financial Statements from the date of effective ownership.

Accounting issues around the fair value of assets and liabilities to be brought onto the Crown's Balance Sheet on acquisition are being considered at present. There is a risk that if there is a differential in the purchase price and the value of Air NZ's assets and liabilities, a write-down in the Crown Financial Statements would be required. It is likely to take some time to work through this issue and assess the probability of the risk crystallising.

Further information on the recapitalisation package is included in the Fiscal Outlook chapter on page 67.

Source: The Treasury

Finance – Purchase of Auckland Rail Network (changed risk)

The Government has commenced negotiations with the objective of purchasing Tranz Rail's Auckland rail lease and infrastructure assets. While no agreement has yet been reached, indicative terms included a price of $81 million, which would increase net debt.

Source: The Treasury

Health – Budget Allocation (new risk)

The Government has agreed to increase Health operating expenditure by approximately $50 million in 2001/02, $450 million in 2002/03, $850 million in 2003/04 and $1,250 million in 2004/05. These amounts have been included in the forecast financial statements in the Health functional classification.

This allocation is to fund and manage risks and pressures in Vote Health for the period 2001/02 to 2004/05, as well as any new policy initiatives the Government may want to undertake over this timeframe, including:

- Funding Forecast Track (FFT)

The purpose of the FFT is to sustain purchasing power in the health sector. The cost of the FFT in 2002/03 and subsequent outyears is expected to be $148 million. Decisions regarding the various components of the FFT for outyears have yet to be taken

- Maintaining Services at Existing Levels

An additional $120 million per annum from 2002/03 onwards is expected to be allocated to DHBs to maintain services at existing levels

- GP and Referred Services

The Crown is expected to contribute to a shortfall in General Practitioner and Referred Services (Pharmaceuticals and Laboratory Services) of approximately $50 million in 2001/02 and outyears

- Health Funding Authority (HFA) Contracts

A review of HFA contracts has found an expected $20 million in ongoing commitments per annum

- Health – Residential Care Prices

The Government has agreed to negotiate a price increase for residential services providers. The cost is $13 million from 2002/03 onwards

- Primary Health Care

The timing, value and implementation of the Primary Care Strategy is contingent upon other fiscal risks and pressures being managed within the overall allocation to Vote Health

- Removing Asset Testing

The Government is considering a proposal to remove asset testing on all forms of long-stay geriatric care, including public and private hospitals and rest homes. The proposal costs have yet to be finalised.

Any decisions that are funded from the additional allocation will not impact on the operating balance as this has already been forecast.

Source: Ministry of Health

Inland Revenue – Tax Simplification (changed risk)

The Government is considering further tax simplification measures that were outlined in the discussion document *More Time for Business*. Measures already approved by the Government and to be included in the December Tax Bill have been removed from this specific fiscal risk. The further measures include the possibility of providing a vehicle for some provisional taxpayers to reduce their risks around estimating provisional tax and the possibility of basing provisional tax on GST returns.

The estimated costs are unclear at this stage, as they depend on which measures are introduced. The impact could range from an operating balance increase of up to $30 million per year to a decrease of up to $25 million per year in tax revenue. If all measures are introduced they will likely offset each other to be fiscally neutral once initial timing impacts have occurred.

The Minister of Finance has yet to fully consider the quantum of this risk.

Source: Inland Revenue Department

Labour – Paid Parental Leave (changed risk)

The Government has agreed to broad policy parameters for paid parental leave, although some detailed issues and cost implications are still being considered. Following the passage of legislation, paid parental leave is expected to be implemented from 1 July 2002 and the cost is estimated at about $40 million per annum.

Source: Department of Labour

Responses to Terrorism (new risk)

The Government is considering a package of measures across a number of departments in response to heightened security risks following the events of 11 September 2001. The operating costs of the total package are estimated at $2 million in 2001/02, $12 million in 2002/03 and $14 million in 2003/04, which would decrease the operating balance.

Source: Department of Prime Minister and Cabinet

Social Development – Making Work Pay (new risk)

The Government is currently considering a package of "Making Work Pay" policies, which if fully implemented could cost up to $16 million per annum. This would decrease the operating balance.

The Minister of Finance has yet to fully consider the quantum of this risk.

Source: Ministry of Social Development

Social Development – Benefit Payment Systems (new risk)

The Ministry of Social Development is undertaking an evaluation of options for the upgrading of benefit payment systems SWIFTT and TRACE. The evaluation is expected in April 2002.

If the evaluation recommends improvement of the existing systems, the development cost is estimated at $25 million to $40 million. If the review recommends replacement of systems, the development cost is estimated at $95 million. Operating funding would decrease the operating balance and capital injections would increase net debt.

The Minister of Finance has yet to fully consider the quantum of this risk.

Source: Ministry of Social Development

Transport – Transport Strategy (changed risk)

Officials are developing a New Zealand Land Transport Strategy and a Safety Strategy for consideration by Ministers, which if implemented could cost up to $250 million per year (split between operating and capital).

The Minister of Finance has yet to fully consider the quantum of this risk.

The Government will consider options to fund these proposals, including the possibility of a contribution from third party revenue, so the impact on the operating balance and net debt is unclear.

Source: Ministry of Transport

Unquantified Fiscal Risks

Accident Insurance – Medical Misadventure (changed risk)

The Medical Misadventure Account is currently funded partly from the Earners' Account and partly by the Crown through the Non-Earners' Account. A review of the Medical Misadventure Account is about to take place, which will consider the scope of the Account and potential funding options. The net impact of the review is unquantified and may either increase or decrease the operating balance.

Education – Capital Injections for Tertiary Education Institutions (unchanged risk)

Several tertiary education institutions are facing financial pressure. They may seek assistance from the Government as they develop their plans for the future. The risk is unquantified as the amount or timing of any request for financial assistance is unclear, but any capital injection would increase net debt.

Education – Collective Employment Agreements (changed risk)

The primary, secondary and area schools' teachers' and principals' collective employment contracts expired on 30 April 2001. The primary and area schools' agreements have now been settled, but the secondary agreements have not been completed. The Crown will need to meet any fiscal impact in 2001/02 and beyond owing to the renegotiation of these contracts and any adjustments to individual employment agreements, which would decrease the operating balance.

This risk is unquantified as disclosure could compromise the Crown in negotiations.

Education – ECE Strategic Plan (unchanged risk)

The Early Childhood Education Strategic Plan Working Group submitted its final report to the Government in October 2001. The Government will develop its response to this report during the next 12 months. The impacts on the operating balance and net debt are unclear at this point.

Education – Pay Parity for Kindergarten Teachers (changed risk)

The Ministerial Working Group on Pay Parity for Kindergarten Teachers will recommend to the Minister of Education in December 2001 a phased approach to the implementation of pay parity for kindergarten teachers. The costs associated with this approach are unclear at this stage but would decrease the operating balance.

Education – Review of School Staffing (changed risk)

Since the 2001 Budget, the Government has decided to increase school staffing levels in response to a report from the School Staffing Review Working Group. However, further decisions about school staffing are expected, which are likely to decrease the operating balance.

Education – School and Early Childhood Operational Funding (unchanged risk)

The Government has previously made annual adjustments to school and early childhood education operational funding to reflect inflation. This risk is unquantified but is likely to decrease the operating balance. As an indication of cost, a 1% adjustment would increase annual operational funding by around $10 million for schools from the 2003 school year and $4 million for early childhood education from 2002/03.

Education – School Property Code (unchanged risk)

The Ministry of Education is developing a new intermediate school property code that will allow the property entitlement of each school to be defined explicitly. It is expected that the existing entitlements of many schools will be below the new code. Additional capital injections may be required to upgrade schools to the new code level and would increase net debt. Associated operating costs, including depreciation and maintenance, would decrease the operating balance.

This risk is unquantified because the implementation process for the code has yet to be considered.

Education – Stabilisation of Tertiary Fees (unchanged risk)

In the 2001 Budget, additional funding was provided to offset the increasing costs faced by the tertiary education sector. This funding allowed for the stabilisation of student fees. Additional funding for the same purpose may be considered as part of the 2002 Budget process, depending on final decisions taken in response to the Tertiary Education Advisory Commission's recommendations. Any additional operating funding would decrease the operating balance.

Education – Tertiary Education Advisory Commission (changed risk)

The Tertiary Education Advisory Commission was established in April 2000 to provide advice on aspects of the tertiary education sector; it has provided four reports. In response to the Commission's reports, the Government has decided to establish a Tertiary Education Commission and to introduce charters and profiles for tertiary education providers. The Government will develop its final response to the Commission's recommendations, including funding policy, during 2002. The likely impacts will be a decrease in the operating balance and an increase in net debt.

Education – Wananga Capital Injection (changed risk)

Ministers are currently negotiating with two wananga (Māori tertiary institutions) over settlement of their Waitangi Tribunal claim, having reached a settlement with one wananga (Te Whare Wananga o Aotearoa) since the 2001 Budget. The Waitangi Tribunal has recommended that the wananga be compensated for capital expenditure that has been incurred on facilities to date, and be provided funding to bring their facilities up to a standard comparable with other tertiary institutions and to meet additional capital requirements over the next three years. Any capital injection would increase net debt.

This risk is unquantified as disclosure could compromise the Crown in negotiations.

Environment – Climate Change (changed risk)

The Government has indicated its intention to ratify the Kyoto Protocol by September 2002, and is in the process of consulting on the issue of ratification, and the policy options required to meet commitments under the Protocol.

At this stage, it is unclear what impact the decision to ratify the Protocol would have on the operating balance, either positive or negative, since this is closely related to which policy options are accepted.

Health – District Health Board Debt Financing (new risk)

The Government is considering a number of DHB major capital projects, including Southland DHB and Capital and Coast DHB. These capital projects are expected to involve a mixture of debt and equity financing, both predominantly sourced from the Crown. The size of the risk has not been quantified and will depend upon approval of the projects, their final cost, and the extent to which Crown debt and equity can be met from the existing capital baselines in Vote Health.

Capital injections to DHBs over the existing baseline will increase net debt.

Health – Meningococcal Vaccine (new risk)

The Government is considering the development of a vaccine for a Meningococcal strain that is specific to New Zealand, the cost of which would decrease the operating balance. Final decisions and negotiations have yet to be undertaken.

This risk is unquantified as disclosure could compromise the Crown in negotiations.

Inland Revenue – Gaming Review (new risk)

During 2001 the Government has undertaken a review of the regulation of gaming, including the taxation of gaming. This review is largely complete, and the Government expects to make final decisions and introduce legislation in December 2001.

Any changes to the taxation structure of the gaming industry would impact on the operating balance. At this stage it is unclear what impact, either positive or negative, the outcome of the review will have.

Inland Revenue – GST and Imported Services and Financial Services Review (changed risk)

In March 1999 a discussion document entitled *GST: A Review* outlined potential longer-term changes to the Goods and Services Act 1985 of taxing financial services and imported services. The Government issued a discussion document on GST and imported services (including electronic commerce) in June 2001, proposing GST be applied to some imported services, and is considering submissions at present. The Government is reviewing the treatment of financial services and is likely to issue a discussion document on GST and financial services next year. Both reviews are expected to result in amendments to the GST Act that will impact on the operating balance. The impact is unclear at this stage.

Inland Revenue – Taxation of Savings and Investment Vehicles, Including Superannuation Funds (changed risk)

The Government is considering its response to the recommendations on the taxation of savings and investment vehicles of the Tax Review 2001.

The Government is interested in stimulating savings through the use of tax incentives. While the design of such a scheme has not been finalised, it is likely that it would provide a saving incentive by introducing a rebate on contributions to superannuation funds or by reducing the tax on the earnings of such funds.

Any new regime would not be implemented prior to the 2003/04 year.

The impact of any tax incentive (if accepted) is likely to reduce the operating balance.

Inland Revenue – Tax Review of International Issues (new risk)

The Government is considering its response to the International Tax Recommendations of the Tax Review 2001. Details of the Government's response will be included in the 2002 Budget; the impact on the operating balance, whether positive or negative, is unclear.

Inland Revenue – Trans-Tasman Triangular Tax Relief (unchanged risk)

Imputation credits generated by a New Zealand subsidiary company with a non-resident parent company cannot be passed on to New Zealand shareholders of the parent company. As such, New Zealand taxes residents twice on their New Zealand-sourced income. The Government is considering providing relief for this aspect of double taxation, in a trans-Tasman context only.

This risk is unquantified as no clear estimate of this proposal has been finalised, but is likely to decrease the operating balance.

Police – Capital Projects (changed risk)

The new strategic plan for the New Zealand Police identifies scope for improvement in access and use of information through additional investments in technology and upgrades to the Police communications infrastructure. In addition, New Zealand Police has identified a number of Police stations that require capital work to bring them up to a modern operating standard.

The timing, scale and funding for new technology are unclear at this stage, but any capital injections would increase net debt.

Social Development – Families and Work (new risk)

The Government has decided to remove the current work test for those receiving the Domestic Purposes Benefit and the Widows Benefit, introduce enhanced case management and replace the current dual abatement regime with a single abatement regime.

This risk is unquantified as the impacts have not yet been finalised, but it is likely to decrease the operating balance.

TVNZ – Change of Direction (unchanged risk)

The Government is implementing its work programme for development of future directions and priorities for public service broadcasting. TVNZ's objective, for the television part of its business, will be to give effect to its charter while it maintains its commercial performance. This change in structure and direction may impact on TVNZ's surplus, which would impact on the operating balance, and dividends paid to the Crown, which would impact on net debt.

This risk is unquantified as the impact of the change and how it will be funded have not yet been determined.