4

Fiscal Risks

Structural deficits, the collapse of a number of finance institutions and a series of natural disasters have led to an increase in net government debt. As a result, the Government's fiscal buffers are smaller and fiscal policy will need to continue to be sensitive to future developments. The Government's policy response is outlined in the *FSR*. Policy will need to remain adaptive as global markets remain volatile and many major developed economies face significant structural challenges.

The most significant economic risks have been identified in Chapter 3. The first section of this chapter illustrates the link between these risks to the economy and the fiscal position. The second section presents a Statement of Specific Fiscal Risks.

The Statement of Specific Fiscal Risks is a requirement of the Public Finance Act 1989 and sets out all pending government decisions and other circumstances known to the Government at the finalisation of the fiscal forecasts that may have a material effect on the fiscal and economic outlook. It is not possible to identify every possible risk and disclosure is also subject to the legal requirements and materiality thresholds described at the end of this chapter.

The Economy and Public Finances

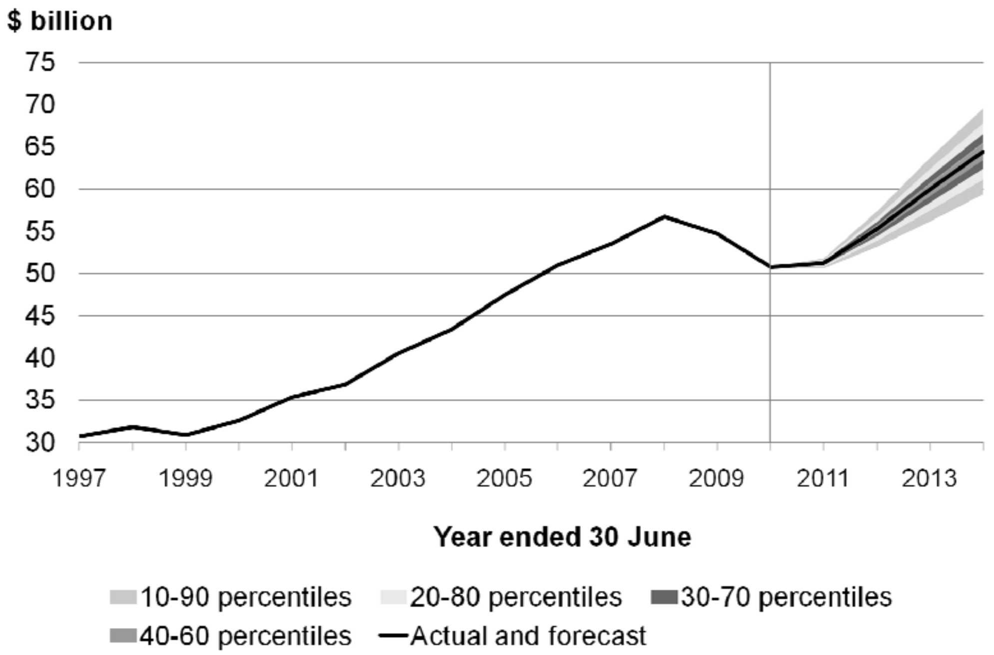
The economic and fiscal forecasts are subject to heightened forecast uncertainty as a result of a volatile external environment and domestic factors such as high levels of external debt held by the New Zealand private sector. Chapter 3 provides scenarios to illustrate a plausible range for the economic and fiscal projections. However, further shocks are possible, potentially leading to outcomes well beyond the range suggested by these scenarios.

New Zealand's strong fiscal track record provides confidence that the risk of default for the Crown's creditors remains remote. Reflecting this, the Crown currently holds the top Aaa foreign currency rating from Moody's and strong AA+ foreign currency ratings from Standard and Poor's (S&P) and Fitch Ratings. The ratings from S&P and Fitch, however, are currently on a negative outlook and will be sensitive to developments in the economy. Markedly slower growth or any other factor that negatively impacts on the fiscal position represents a potential risk to the current rating. A key implication of a sovereign rating downgrade could be an increase in debt-servicing costs for the Government and higher borrowing rates for New Zealand households and businesses.

The fiscal outlook is particularly exposed to structural economic shocks, which have a permanent impact on the level of national income and therefore tax revenue. High levels of external indebtedness increase the economy's exposure to shocks from the global economy. Financial markets remain volatile and many major economies are currently facing significant structural challenges. Notably, many advanced economies are dealing with high government debt, household balance sheets needing repair and a financial sector (especially in Europe) that remains weak. In this global environment, shocks could rapidly flow between countries through changes in trade, the terms of trade or interest and exchange rates.

Under constant policy settings, the main source of uncertainty about the fiscal position arises from the inherent uncertainty about future tax revenue. An analysis of historical tax forecast errors provides some guide to how unforeseen events in New Zealand or abroad can impact on the fiscal position. Tax revenue in the next fiscal year (2011/12) would normally fall within a range of two standard deviations of historical forecast errors. This range is ±6% of actual tax revenue, which equates to ±$3 billion (based on an analysis of forecast errors over 1994 to 2010). Greater variance can occur, but would be expected at more infrequent intervals (around one year in every 20 if errors are normally distributed). Figure 4.1 shows core Crown tax revenue with uncertainty estimated from historic forecast variance.

Figure 4.1 – Core Crown tax revenue uncertainty



Source: The Treasury

Note: The coloured band represents sequential deciles such that the difference between the 10th and 90th percentiles represents an 80% confidence interval. See Treasury Working Paper 10/08 for further information about the methodology used.

Overview of Specific Fiscal Risks

Specific fiscal risks can be positive or negative and can affect revenue or spending. The links between external events and spending are indirect because new policies that change spending and revenue usually require a decision by the Government and approval from Parliament. The approach taken in this chapter is to disclose those pending policy decisions and key areas of uncertainty that may have a material effect on the fiscal outlook. The specific fiscal risks are categorised into:

- **Pending policy decisions affecting revenue:** Changes to tax policy or ACC levies could reduce or increase government income.
- **Pending policy decisions affecting expenses:** Costs of policy proposals could increase or decrease depending on decisions taken and they are risks to the extent that they cannot be managed within baselines or budget allowances.
- **Pending capital decisions:** Capital investment decisions are risks to the extent that they cannot be managed within balance sheets or budget allowances.
- **Matters dependent on external factors:** The liability of the Government for costs is sometimes dependent on external factors such as the outcome of negotiations or international obligations.

Some key examples of the risks disclosed in this chapter are outlined below:

- government decisions relating to the recommendations of the Welfare Working Group and the redesign of business processes at Inland Revenue
- specific policies that may have flow-on costs that are not accounted for within allocated funding, such as early childhood education funding, but are not likely enough to include in the forecasts
- explicit guarantees that give assurance to the public and businesses about the Crown's planned response to specific events are recognised as risks; the largest current guarantee relates to the Extended Deposit Guarantees Scheme with a total value of $1.9 billion, and
- generic cross-Government risks such as the renegotiation of collective employment agreements could have material costs and flow-on effects to remuneration in other sectors.

General cost pressures, such as those associated with an ageing population, are not recognised as specific fiscal risks.

A number of new risks have been added since the *Half Year Update*. Key examples are:

- the amount and timing of cash proceeds from the planned partial sale of State-owned assets are uncertain
- possible policy decisions relating to Canterbury earthquakes, social housing and legal aid may affect expenses

- pending decisions relating to irrigation are likely to require capital investment, and
- negotiations such as those on an international climate change agreement are yet to settle on final costs, which are likely to be material.

The costs of individual natural disasters, and other major events, are not recognised as specific fiscal risks in advance as they usually occur infrequently and their timing cannot be predicted. Once a disaster does occur, a number of choices arise about how to respond. Specific risks are disclosed at this point based on the range of possible responses.

A number of earthquake-related risks have been added to this chapter. In addition to policy choices for the Government, recent events in Canterbury and Japan have placed pressure on private sector insurers. As a result, the cost of insurance premiums, most notably for EQC's reinsurance, could increase over the next five years with potential flow-on effects to the Crown. This is not yet certain enough to be a risk but could be recognised in the future.

The final part of the chapter contains a current list of contingent liabilities, which are likely costs that the Crown will have to face if a particular event occurs. Typically, contingent liabilities consist of guarantees and indemnities, legal disputes and claims on uncalled capital. The largest quantified contingent liabilities are to international financial organisations and mostly relate to uncalled capital and promissory notes.

Statement of Specific Fiscal Risks

Summary Table

The matters listed below are disclosed as specific fiscal risks because they meet the rules for disclosure outlined at the end of the chapter. Full descriptions of the risks listed below are set out in the next section.

Specific fiscal risks as at 2 May	Status	Value of risk
Pending policy decisions affecting revenue		
ACC – Levies	Unchanged	Unquantified
Finance – Mixed Ownership Model	New	Unquantified
Revenue – Apportionment Rules for High-Value Assets	New	Unquantified
Revenue – Potential Tax Policy Changes	Unchanged	Unquantified
Revenue – Salary Sacrifice	New	Unquantified
Revenue – Income-Sharing Tax Credits	Changed	$500m per annum by 2014/15
Risk to Third-Party Revenue	Unchanged	Unquantified
Pending policy decisions affecting expenses		
Climate Change – Review of the Emissions Trading Scheme	New	Unquantified
Communications – Recovery of Value of Broadband Investment	New	Unquantified
Education – Early Childhood Education Funding	Unchanged	Unquantified
Education – Inflation Adjustment for School Operating Funding	Unchanged	Unquantified
Housing – Reform of Social Housing	New	Unquantified
Justice – Legal Aid	New	Unquantified
Revenue – Child Support	Unchanged	Unquantified
Revenue – Redesigning Business Processes at Inland Revenue	Unchanged	Unquantified
Revenue – Student Loans Redesign	New	Unquantified
Social Development – ServiceLink	New	Unquantified
Social Development – Welfare Working Group Recommendations	New	Unquantified
State Sector Employment Agreements	Unchanged	Unquantified
Pending capital decisions		
Agriculture and Forestry – Investment in Water Infrastructure	New	Investment of up to $400m
Departmental Capital Intentions	New	Unquantified
Finance – Crown Overseas Properties	Unchanged	$150m over 2 to 3 years
Housing – Weathertight Homes	Unchanged	Unquantified

Specific fiscal risks as at 2 May	Status	Value of risk
Reviews of the Delivery of Public Services	Changed	Unquantified
Transport – Support for New Zealand Railways Corporation (KiwiRail)	Changed	Unquantified
Matters dependent on external factors		
ACC – Non-Earners' Account	Unchanged	Unquantified
Canterbury Earthquake – AMI Support Package	New	Unquantified
Canterbury Earthquake Recovery Fund	New	Unquantified
Climate Change – Finance for Developing Countries	Changed	Unquantified
Climate Change – Kyoto Protocol Obligations	Changed	Unquantified
Climate Change – Post-2012 International Climate Change Obligations	New	Unquantified
Defence Force – Future Operationally Deployed Forces Activity	Unchanged	$30m operating expenses per annum
Defence Force – Sale of Skyhawks and Aermacchi Trainers	Changed	Unquantified
Education, Health, Social Development – Caregiver Employment Conditions	Changed	Unquantified
Energy – Crown Revenue from Petroleum Royalties	Changed	Unquantified
Finance – Entities in Receivership under Crown Retail Deposit Guarantee Schemes	Changed	Unquantified
Finance – Extended Crown Retail Deposit Guarantee Scheme	Changed	Unquantified
Finance – Government Commitments to International Financial Institutions	Unchanged	Unquantified
Health – Payment of Family Caregivers	Changed	Unquantified
Revenue – Cash Held in Tax Pools	Unchanged	Unquantified
State Services – KiwiSaver Contribution	Unchanged	Unquantified
Treaty Negotiations – Treaty Settlement Forecast	New	Unquantified
Treaty Negotiations – Treaty of Waitangi Claims – Settlement Relativity Payments	Unchanged	Unquantified

Statement of Specific Fiscal Risks

Pending policy decisions affecting revenue

ACC – Levies (Unchanged, Unquantified)

Changes in tax settings, economic factors, and ACC's financial performance affect ACC's levy income.

Finance – Mixed Ownership Model (New, Unquantified)

The Government is considering extending the type of Mixed Ownership Model that currently applies to Air New Zealand, Genesis Energy, Meridian Energy, Mighty River Power and Solid Energy, and further reducing the Crown's shareholding in Air New Zealand. The final amount and timing of any cash proceeds, the flow-on effects to future dividend streams and any implementation costs are uncertain.

Revenue – Apportionment Rules for High-Value Assets (New, Unquantified)

A government discussion document will be released on the apportionment rules applying to tax deductions for high-value assets that are also partly used for private purposes. Any changes to those rules could have a positive impact on tax revenue.

Revenue – Potential Tax Policy Changes (Unchanged, Unquantified)

The tax policy work programme announced by the Government includes a number of items that are under consideration, including:

- the tax treatment of profit distribution plans
- the tax treatment of charitable giving
- the imputation system
- the tax treatment of employee benefits
- amortisation of capital raising costs
- the international tax review
- the GST treatment of cross-border business activities, and
- the tax treatment of hybrid instruments.

Measures on the work programme are expected to be revenue neutral or positive in aggregate; however, individual initiatives could be revenue negative in themselves.

Revenue – Salary Sacrifice (New, Unquantified)

The Government is reviewing the tax treatment of employee benefits paid in lieu of salary. Any changes are expected to result in an increase in tax revenues.

Revenue – Income-Sharing Tax Credits (Changed, Quantified)

The Government has introduced legislation to establish an income-sharing tax credit. If passed as introduced, the legislation will allow couples with children under the age of 18 to pool their earnings for income tax purposes if they meet certain criteria. If implemented, the changes will reduce tax revenues by $500 million per annum once the scheme is fully operational. The Finance and Expenditure Committee has recommended the significant fiscal cost of the package be addressed before the Bill proceeds.

Risk to Third-Party Revenue (Unchanged, Unquantified)

A wide range of government activities are funded through third-party fees and charges. With a decrease in economic activity, there is a risk that decreases in third-party revenue streams will require changes to service delivery with transitional costs to the Crown. For example, decreases in Customs revenue or in levies on building activity may mean that some activities are temporarily unable to be fully cost-recovered and the Government will need to reduce the level of an activity or temporarily subsidise that activity.

Pending policy decisions affecting expenses

Climate Change – Review of the Emissions Trading Scheme (New, Unquantified)

The ETS is currently under review. Following the review, any changes to the ETS could have significant fiscal implications. The outcome of international negotiations for a post-2012 international climate change agreement may also have a significant impact on the fiscal implications of the ETS post-2012.

Communications – Recovery of Value of Broadband Investment (New, Unquantified)

The Government has committed to spend $1.5 billion on a new broadband network delivering “ultra fast” broadband services. Of this amount, $1.4 billion has already been invested, or is allocated for Crown Fibre Holdings to invest, in broadband initiatives with partners. Given the nature of the investment mechanism, it is likely that the full value of the investment will not be recovered. The fiscal forecasts include a provision for this impairment, but the final amount of the impairment may vary from this provision.

Education – Early Childhood Education Funding (Unchanged, Unquantified)

Demand for Early Childhood Education (ECE) services is continuing to increase more than forecast, raising the costs of subsidies to ECE services. If this continues, the Government will face additional cost pressures.

Education – Inflation Adjustment for School Operating Funding (Unchanged, Unquantified)

The Government has increased school operating grants in Budget 2011 to help meet increased costs associated with inflation. A risk remains in outyears that similar cost pressures will need to be addressed.

Housing – Reform of Social Housing (New, Unquantified)

The Government is considering changes to policy settings for social housing. This includes an intention to grow third party provision of social housing. The strategy remains under development, but it potentially represents a risk to the fiscal forecasts. There may be offsetting financial benefits to the Crown if significant gains in efficiency are achieved.

Justice – Legal Aid (New, Unquantified)

Based on current policy settings, legal aid expenditure will exceed available funding in future years. The Government is currently developing further options for delivering legal aid in a sustainable and affordable way. Options are due to be considered by Cabinet in September 2011 and the fiscal implications should be known subsequent to any Cabinet decisions.

Revenue – Child Support (Unchanged, Unquantified)

A government discussion document has been released which considers changes to the child support regime. The discussion document considers the costs of raising children, potential changes to the child support formula and options to improve compliance with the child support regime. Any changes would have administrative costs for Inland Revenue and could increase fiscal costs from reduced offsets to benefits.

Revenue – Redesigning Business Processes at Inland Revenue (Unchanged, Unquantified)

The Government is investigating options to redesign business processes at Inland Revenue, which could include both policy and administrative options to simplify processes and improve the integrity of the tax system. Any changes could impact on tax revenue collections and/or have material administrative costs to implement.

Revenue – Student Loans Redesign (New, Unquantified)

The Government is making changes to student loans legislation and is modernising the IT system used for collecting student loan repayments, which is part of the tax administration system. The project could be delayed by up to a year, which may reduce forecast increases in student loan repayments. Any delay in implementation could also have an impact on the business process redesign at Inland Revenue, which could have a material impact on the administration costs of the tax system.

Social Development – ServiceLink (Changed, Unquantified)

The Ministry of Social Development is working with Inland Revenue and the Department of Internal Affairs to develop a business case for ServiceLink, which will integrate service delivery across government. ServiceLink is designed to improve service and reduce costs by moving, where appropriate, simple customer transactions online and away from face-to-face and voice channels. Cabinet will consider business cases, including potential costs, in 2011 and 2012.

Social Development – Welfare Working Group Recommendations (Changed, Unquantified)

On 22 February 2011 the Welfare Working Group made 43 recommendations to the Government on options to reduce long-term benefit dependency. Ministers have directed officials to develop advice for consideration. Many of the recommendations would result in large up-front costs if adopted. The Government will respond to the Welfare Working Group's report later in 2011.

State Sector Employment Agreements (Unchanged, Unquantified)

A number of large collective agreements are due to be renegotiated in the short to medium term. As well as direct fiscal implications from any changes to remuneration, the renegotiation of these agreements can have flow-on effects to remuneration in other sectors. The Government has signalled an expectation for restraint given the current economic environment and conditions in the private sector.

Pending capital decisions

Agriculture and Forestry – Investment in Water Infrastructure (New, Quantified)

The Government has established a funding programme to support potential irrigation development projects to an investment-ready stage. The Government is also considering investing up to $400 million of equity in water harvesting, storage and off-farm distribution infrastructure after 2013. Any investment will be made by taking short to medium-term minority equity stakes in order to help attract other investors.

Departmental Capital Intentions (New, Unquantified)

The Government requires 15 capital-intensive agencies to identify their capital spending intentions over the next 10 years based on current policy settings and certain demographic and inflation assumptions. The difference between capital intentions and currently available funding is material but the Government expects that these intentions will be managed back through a range of measures such as prioritisation, changes to asset utilisation, alternative methods of service delivery and changes to policy settings. Departmental capital intentions are risks to the extent that they cannot be managed through these mechanisms or funded through existing funding sources.

Finance – Crown Overseas Properties (Unchanged, Quantified)

The Government holds New Zealand House in London on a long-term lease from the Crown Estate (UK). Depending on the Government's future intentions for this building, an upgrade may be required. Preliminary cost estimates for this upgrade total $150 million over the period 2012/13 to 2014/15.

Housing – Weathertight Homes (Unchanged, Unquantified)

The Government has agreed to offer a package to assist homeowners to repair homes affected by the weathertightness issues that occurred in the late 1990s and early 2000s. The package includes a 25% government contribution towards agreed repair costs, a 25% contribution from participating territorial authorities and credit support for the remaining repair costs for those who meet the eligibility and lending criteria. There is a risk that the costs of the package will exceed the $1.055 billion provided for in the fiscal forecasts, as uncertainty remains regarding the extent of damage to eligible homes and the level of uptake.

Reviews of the Delivery of Public Services (Changed, Unquantified)

The Government has initiated a series of reviews to improve the effectiveness and efficiency of public services. Reviews may recommend, or result in, changes to service delivery and/or free up resources for reprioritisation within Votes or be returned to the centre to meet pressures in other areas.

Transport – Support for New Zealand Railways Corporation (KiwiRail) (Changed, Unquantified)

The Government has agreed in principle to support a 10-year strategy for KiwiRail to achieve a commercially viable rail network. The overall commitment KiwiRail seeks towards the 10-year plan is $1.2 billion over the period 2010/11 to 2014/15. The Government has indicated it will provide a total of $750 million in capital over three years; $500 million of this was provided in Budgets 2010 and 2011. KiwiRail Group also has $499 million in debt owing to the Crown with $408 million maturing in the forecast period, which may need to be refinanced or restructured.

Matters dependent on external factors

ACC – Non-Earners' Account (Unchanged, Unquantified)

Changes in tax settings, economic factors and ACC's financial performance affect the Crown's liability for claims by non-earners. If ACC's performance is different from what is forecast, the amount required to cover the costs of claims for that year may be more or less than needed, resulting in unplanned savings or costs to the Crown.

Canterbury Earthquake – AMI Support Package (New, Unquantified)

There is a $500 million provision in the forecasts for the AMI support package. The timing and actual impact on the Government's fiscal position will only become known when the full extent of the claims AMI faces for the Canterbury earthquakes becomes more certain. It is possible that the provision will not be needed if AMI is able to pay all claims from its own resources or source alternatives to government funding. It is also possible that the Government may have to commit to more than $500 million if AMI's shortfall for claims payments exceeds $500 million.

Canterbury Earthquake Recovery Fund (New, Unquantified)

The Canterbury earthquakes have had a significant impact on the Government's fiscal position. The current estimate of the cost to the Crown is $8.8 billion. A breakdown of the costs is included in the *Economic and Fiscal Impacts of the Canterbury Earthquakes* section of this document. Around $5.5 billion of funding has been allocated to the Canterbury Earthquake Recovery Fund to cover the Core Crown costs associated with recovery from the earthquakes. The Fund includes estimated costs to cover:

- the Government's share of repairing essential local infrastructure
- repairing State-owned assets
- other policy responses such as welfare support, and
- the AMI support package (see separate risk).

As there is still a high degree of uncertainty around the costs from the earthquakes there is a risk the amounts included in the fiscal forecasts for the Canterbury Earthquake Recovery Fund may differ from the final costs.

Climate Change – Finance for Developing Countries (Changed, Unquantified)

There is an international expectation that developed countries, including New Zealand, contribute finance to developing countries to support adaptation and mitigation. Developed countries have committed to mobilising $US100 billion per year by 2020 to address the needs of developing countries. This would come from a wide variety of sources, both public and private.

Climate Change – Kyoto Protocol Obligations (Changed, Unquantified)

The fiscal impact of the Government's Kyoto Protocol obligations (2008 to 2012) is currently uncertain. An increase in New Zealand's net emissions or the future transfer of emission units offshore could reduce the net Kyoto position significantly. Increased allocation to emitters or increased participation by foresters under the ETS would negatively impact the Government's ETS position. The fiscal impact of any changes is dependent on the carbon price. The Government may also need to purchase emission units to meet its obligations, which would have a corresponding impact on net debt.

Climate Change – Post-2012 International Climate Change Obligations (New, Unquantified)

The Government is currently taking part in international negotiations for a post-2012 international climate change agreement. Currently no rights or obligations are included in the fiscal forecasts for any post-2012 agreement because of the high levels of uncertainty. Any agreement could have significant financial implications, and will need to be recognised at the time.

Defence Force – Future Operationally Deployed Forces Activity (Unchanged, Quantified)

New Zealand Defence Force personnel are deployed overseas on peace support and other operations conducted in support of the United Nations and other relevant multinational agencies. Maintaining existing deployment levels would result in an increased annual operating balance impact of between $10 million and $30 million from 2011/12.

Defence Force – Sale of Skyhawks and Aermacchi Trainers (Changed, Unquantified)

The A-4 Skyhawk and Aermacchi aircraft are now being disposed of as two separate fleets. The A-4 Skyhawk fleet will largely be gifted to museums with some proceeds expected from the sale of spare parts. The market is currently being tested for interest in the Aermacchi fleet. The net sale proceeds from the fleets are uncertain.

Education, Health, Social Development – Caregiver Employment Conditions (Changed, Unquantified)

The Employment Court and subsequently the Court of Appeal have made judgements in favour of a third-party employed caregiver regarding his sleepover employment conditions. Although the third-party employer is appealing the decision, an unsuccessful result would require consideration of the effect on the Crown. This decision would also have an impact on other service providers in health and other sectors.

Energy – Crown Revenue from Petroleum Royalties (Changed, Unquantified)

The Crown revenue from petroleum royalties is very dependent upon the US dollar value per barrel and the exchange rate. Movements up or down in either of these variables could result in a significant decrease or increase in Crown revenue. In addition, the Government is currently reviewing the regulatory, royalty and taxation arrangements for petroleum as part of the Petroleum Action Plan. Although the outcomes of this review are still uncertain, any changes to policies in this area could have a significant impact on future revenue from petroleum royalties.

Finance – Entities in Receivership under Crown Retail Deposit Guarantee Schemes (Changed, Unquantified)

Eight entities that were guaranteed under the original Deposit Guarantee Scheme and one that was guaranteed under the extended scheme are now in receivership. The Crown recognises its obligations under the schemes as liabilities and its rights of recovery from the receivers as assets. While the reported assets represent the receivers' best prudent estimates of likely recoveries from the receiverships the eventual return to the Crown is uncertain and dependent upon the value that can be realised from these entities' assets.

Finance – Extended Crown Retail Deposit Guarantee Scheme (Changed, Unquantified)

There are four financial institutions participating in the extended Retail Deposit Guarantee Scheme**.** These entities have deposits totalling $1.9 billion covered by the guarantee and are listed on the Treasury website. This is the maximum exposure and does not include any offset resulting from the recovery of the remaining assets of financial institutions in the event the guarantee is called upon. The entities participating in the extended scheme are currently assessed to be unlikely to default and therefore no provision is considered necessary in relation to the amount guaranteed by the Crown under the extended guarantee. While this represents a best estimate of the expected outcome, a range of outcomes is possible if entities default, including eventual loss to the Crown.

Finance – Government Commitments to International Financial Institutions (Unchanged, Unquantified)

The forecast level of government commitments to international financial institutions is subject to change, depending on the Government's response to any modified financial plans on the part of these institutions.

Health – Payment of Family Caregivers (Changed, Unquantified)

The Human Rights Review Tribunal has declared that the Ministry of Health's policy of not employing family members to provide care to disabled relatives is in breach of s19 of the New Zealand Bill of Rights Act. The High Court has also found in favour of the family caregivers. Leave has been granted to appeal to the Court of Appeal.

Revenue – Cash Held in Tax Pools (Unchanged, Unquantified)

Funds held in tax pools are recognised as an asset of the Crown. There is a risk that funds held in these pools, over and above a customer's provisional tax liability, may be withdrawn, resulting in an unquantified loss to the Crown.

State Services – KiwiSaver Contribution (Unchanged, Unquantified)

The forecast of the costs of KiwiSaver policies for State sector employees is dependent on a number of assumptions and projections, such as uptake and contribution rates, all of which may change through time. In the current economic environment, factors such as reduced automatic enrolment, financial market disruption and low consumer confidence increase forecast uncertainty.

Treaty of Waitangi Negotiations – Treaty Settlement Forecast (New, Unquantified)

The fiscal forecasts include provision for the cost of future Treaty settlements. There is a risk that the timing and amount of the settlements could be different from what is forecast. It is not possible to reliably estimate the value of this difference.

Treaty Negotiations – Treaty of Waitangi Claims – Settlement Relativity Payments (Unchanged, Unquantified)

The Deeds of Settlement negotiated with Waikato-Tainui and Ngāi 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 Ngāi 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 Ngāi Tahu. There is a risk that the timing and the amount of the expense for the relativity payments may differ from that included in the fiscal forecasts.

Risks Removed Since the 2010 HYEFU

The following risks have been removed since the *Half Year Update*:

Expired risks	**Reason**
Canterbury Earthquake – Land	Superseded by “Canterbury Earthquake Recovery Fund” risk
Canterbury Earthquake – Local Authorities	Superseded by “Canterbury Earthquake Recovery Fund” risk
Communications – Broadband Investment Initiative	Funded in Budget 2011
Corrections – Community Probation Services Capacity	No longer material
Corrections – Prison Capacity	Incorporated into “Departmental Capital Intentions” risk
Education – Broadband Investment: Schools	Incorporated into “Departmental Capital Intentions” risk
Education – Operating Funding for New Schools	Funded in Budget 2011
Education – Repairing Leaky Schools	Incorporated into “Departmental Capital Intentions” risk
Education – School Property	Incorporated into “Departmental Capital Intentions” risk
Finance – Electricity Reforms	Virtual asset swaps complete, remainder no longer material
Housing – Housing Shareholders' Advisory Group	Superseded by “Reform of Social Housing” risk
Justice – Auckland Region Property Strategy	Funded from Baselines
Justice – Review of the Legal Aid System	Superseded by “Legal Aid” risk
Police – Digital Radio Network	Incorporated into “Departmental Capital Intentions” risk

Criteria and Rules for Inclusion in the Fiscal Forecasts or Disclosure as Specific Fiscal Risks

The Public Finance Act requires that the Statement of Specific Fiscal Risks sets out all government decisions, contingent liabilities or contractual obligations known to the Government and subject to specific requirements that may have a material effect on the economic or fiscal outlook[8].

The criteria and rules set out below are used to determine if government decisions or other circumstances should be incorporated into the fiscal forecasts, disclosed as specific fiscal risks or, in some circumstances, excluded from disclosure.

8 The Statement of Specific Fiscal Risks is a requirement set out in sections 26Q and 26U of the Public Finance Act 1989.

Criteria for Including Matters in the Fiscal Forecasts

Matters are incorporated into the fiscal forecasts provided they meet all of the following criteria:

- The quantum is more than $100 million over five years.
- The matter can be quantified for particular years with reasonable certainty.
- A decision has been taken; or a decision has not yet been taken, but it is reasonably probable[9] the matter will be approved, or it is reasonably probable the situation will occur.

Additionally, any other matters may be incorporated into the forecasts if the Secretary to the Treasury considers, using their best professional judgement, that the matters may have a material effect on the fiscal and economic outlook and are certain enough to include in the fiscal forecasts.

Rules for the Disclosure of Specific Fiscal Risks

Matters are disclosed as specific fiscal risks if:

- the likely cost is more than $100 million over five years, and either
- a decision has not yet been taken, but it is reasonably possible[10] (but not probable) that the matter will be approved or the situation will occur, or
- it is reasonably probable that the matter will be approved or the situation will occur, but the matter cannot be quantified or assigned to particular years with reasonable certainty.

Additionally, any other matters may be disclosed as specific fiscal risks if the Secretary to the Treasury considers, using their best professional judgement, that the matters may have a material effect (more than $100 million over five years) on the fiscal and economic outlook, but are not certain enough to include in the fiscal forecasts.

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9 For these purposes "reasonably probable" is taken to mean that the matter is more likely than not to be approved within the forecast period (by considering, for example, whether there is a better than 50% chance of the matter occurring or being approved).

10 For these purposes "reasonably possible" is taken to mean that the matter might be approved within the forecast period (by considering, for example, whether there is a 20% to 50% chance of the matter occurring or being approved).

Exclusions from Disclosure

Matters are excluded from disclosure as specific fiscal risks if they fail to meet the materiality criterion (ie, are less than $100 million over five years), or if they are unlikely[11] to be approved or occur within the forecasting period.

Additionally, the Minister of Finance may determine that an item included in the fiscal forecasts or a specific fiscal risk not be disclosed, if such disclosure would be likely to:

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

Furthermore, 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 forecast item or fiscal risk without reference to its fiscal implications.

[11] For these purposes "unlikely" is taken to mean that the matter will probably not be approved within the forecast period (by considering, for example, whether there is a less than 20% chance of the matter occurring or being approved).

Contingent Liabilities and Contingent Assets

Contingent liabilities are costs that 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 increase net debt. However, in the case of contingencies for uncalled capital, the negative impact would be restricted to net 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 amount of any award against the Crown.

Contingent assets are possible assets that may arise if a particular event occurs.

Only contingent liabilities and contingent assets involving amounts of over $100 million are separately disclosed. Contingent liabilities below $100 million are included in the “other quantifiable contingent liabilities” total.

Contingent liabilities and contingent assets have been stated as at 31 March 2011, being the latest set of contingent liabilities reported.

Quantifiable Contingent Liabilities

Summary table

	Status[12]	$million
Guarantees and indemnities		
Other guarantees and indemnities	Changed	102
Uncalled capital		
Asian Development Bank	Changed	3,220
International Bank for Reconstruction and Development	Changed	1,076
Other uncalled capital	Changed	44
Legal proceedings and disputes		
Tax in dispute	Changed	297
Other legal proceedings and disputes	Changed	104
Other quantifiable contingent liabilities		
International finance organisations	Changed	1,369
Kyoto Protocol	Changed	1,541
New Zealand Export Credit Office	Changed	142
Other quantifiable contingent liabilities	Changed	309
Total quantifiable contingent liabilities		**8,204**

12 Relative to reporting in the *Budget Policy Statement 2011* published on 14 December 2010.

Unquantifiable Contingent Liabilities

Summary table

	Status
Guarantees and indemnities	
Airways Corporation of New Zealand Limited	Unchanged
AsureQuality Limited	Unchanged
At Work Insurance Limited	Unchanged
Bona Vacantia property	Unchanged
Building Industry Authority	Unchanged
Contact Energy Limited	Unchanged
Deposit Guarantee Schemes	Changed
Earthquake Commission (EQC)	Unchanged
Electricity Corporation of New Zealand Limited (ECNZ)	Unchanged
Genesis Energy Limited – Kupe offshore platform	New
Genesis Energy Limited – Financial guarantees	Unchanged
Genesis Energy Limited – Letters of credit and performance bonds	Unchanged
Housing New Zealand Corporation (HNZC)	Unchanged
Indemnities against acts of war and terrorism	Unchanged
Justices of the Peace, Community Magistrates and Disputes Tribunal Referees	Unchanged
Landcorp Farming Limited	Unchanged
Maui Partners	Unchanged
Meridian Energy Limited – Letters of credit and performance bonds	Unchanged
National Provident Fund (NPF)	Unchanged
New Zealand Railways Corporation	Unchanged
Persons exercising investigating powers	Unchanged
Public Trust	Unchanged
Reserve Bank of New Zealand	Unchanged
Synfuels-Waitara outfall indemnity	Unchanged
Tainui Corporation	Unchanged

Unquantifiable Contingent Liabilities (continued)

Summary table

Other unquantifiable contingent liabilities	
Abuse claims	Unchanged
Accident Compensation Corporation (ACC) litigations	Changed
Air New Zealand litigation	Changed
Caregiver employment conditions	Unchanged
Environmental liabilities	Unchanged
Kordia Group Limited	Unchanged
Maui contracts	Unchanged
Rugby World Cup 2011	Unchanged
Television New Zealand	Unchanged
Treaty of Waitangi claims	Unchanged
Westpac New Zealand Limited	Unchanged

A contingent liability in relation to the indemnification of the Stadel Museum's touring exhibition has been removed since the *Half Year Update*.

Summary table

Contingent assets	
Legal proceedings and tax disputes	Changed

The Foreshore and Seabed Act was repealed on 31 March 2011 and has therefore been removed as a contingent asset.

Description of Contingent Liabilities

Quantified contingent liabilities over $100 million

Tax in dispute

Tax in dispute represents the outstanding debt of those tax assessments raised, against which an objection has been lodged and legal action is proceeding. When a taxpayer disagrees with an assessment issued following the dispute process, the taxpayer may challenge that decision by filing proceedings with the Taxation Review Authority or the High Court.

$297 million at 31 March 2011 ($301 million at 31 October 2010)

Other quantifiable contingent liabilities

International finance organisations

The Crown has lodged promissory notes with the International Monetary Fund. Payment of the notes depends upon the operation of the rules of the organisation.

$1,369 million at 31 March 2011 ($1,501 million at 31 October 2010)

Kyoto Protocol

During the first commitment period (2008-2012), the Ministry for the Environment estimates that 89.3 million tonnes of credits will be generated by carbon removals via forests. To the extent that these forests are harvested (in subsequent commitment periods) and a future international agreement is negotiated, there will be an associated liability generated that will need to be repaid.

The New Zealand Emissions Trading Scheme transfers a portion of the potential future liability to forest owners. As at 31 March 2011, approximately 13.5 million tonnes has been transferred to forest owners in the form of New Zealand Units. The Crown's contingent liability is calculated as the remaining credits the Crown is potentially liable for (75.8 million tonnes) multiplied by the carbon price of NZ$20.33 as at 31 March 2011.

$1,541 million at 31 March 2011 ($1,665 million at 31 October 2010)

New Zealand Export Credit Office

The New Zealand Export Credit Office (NZECO) provides a range of guarantee products to assist New Zealand exporters. These NZECO guarantees are recorded by the Crown as contingent liabilities.

$142 million at 31 March 2011 ($105 million at 31 October 2010)

Unquantifiable contingent liabilities

Accounting standard *NZ IAS 37 Provisions, Contingent Liabilities and Contingent Assets* requires that contingent liabilities be disclosed unless the possibility of an outflow of resources embodying economic benefits is remote. Disclosure of remote contingent liabilities is only required if knowledge of the transaction or event is necessary to achieve the objectives of general purpose financial reporting. This part of the Statement provides details of those contingent liabilities of the Crown which cannot be quantified (remote contingent liabilities are excluded).

Guarantees and indemnities

Airways Corporation of New Zealand Limited

The Crown has indemnified Airways Corporation of New Zealand Limited as contained in Airways' contract with New Zealand Defence Force for the provision of air traffic control services. The indemnity relates to any claim brought against Airways by third parties arising from military flight operations undertaken by the Royal New Zealand Air Force.

AsureQuality Limited

The Crown has indemnified the directors of AsureQuality Limited in the event that they incur any personal liability for redundancies arising from any agreement by international trading partners that allows post-mortem meat inspection by parties other than the Ministry of Agriculture and Forestry, or its sub contractor.

At Work Insurance Limited

The Crown has indemnified the liquidators of At Work Insurance Limited (Deloitte Touche Tohmatsu) against various employment-related claims.

Bona Vacantia property

P&O NZ Ltd sought a declaratory judgement that property disclaimed by a liquidator is bona vacantia. A settlement has been reached, which includes a Crown indemnity in favour of New Zealand Aluminium Smelters and Comalco in relation to aluminium dross disposed of in their landfill, for costs that may be incurred in removing the dross and disposing of it at another site if they are required to do so by an appropriate authority. The Minister of Finance signed the indemnity on 24 November 2003. In February 2004, a similar indemnity was signed in respect of aluminium dross currently stored at another site in Invercargill.

Building Industry Authority

The Building Industry Authority (BIA) is a joint defendant in a number of claims before the courts and the Weathertight Homes Resolution Service relating to the BIA's previous role as regulator of the building industry. The BIA has been disestablished and absorbed into the Department of Building and Housing. To prevent conflicts of interest, the Treasury was given responsibility for managing weathertight claims against the BIA on behalf of the Crown from 1 July 2005.

Contact Energy Limited

The Crown and Contact signed a number of documents to settle in full Contact's outstanding land rights and geothermal asset rights at Wairakei. Those documents contained two reciprocal indemnities between the Crown and Contact to address the risk of certain losses to the respective parties' assets arising from the negligence or fault of the other party.

Deposit Guarantee Schemes

The Crown operates an extended Retail Deposit Guarantee Scheme. The objective of this scheme was to ensure ongoing retail depositor confidence in New Zealand's financial system. As at 31 March 2011 four entities remained in the extended scheme with deposits totalling $1.9 billion under guarantee. This is the maximum exposure and does not include any offset resulting from the recovery of the remaining assets of financial institutions in the event the guarantee is called upon. The fiscal risk with respect to the Extended Crown Retail Deposit Guarantee Scheme is detailed in the Specific Fiscal Risks section of this chapter.

The Crown operated an opt-in Wholesale funding guarantee facility operated from November 2008 to May 2010. The objective was to facilitate access to international financial markets by New Zealand financial institutions, in a global environment where international investors were highly risk averse and where many other governments had offered guarantees on their banks' wholesale debt. At the time of closing the scheme, the Crown had issued 24 guarantee certificates; the benefit of those guarantees will remain in place for the underlying securities until the scheduled maturity of those securities. The terms of these securities range from two to five years. Over time, the value of securities issued with the benefit of Crown guarantees will reduce, with the last guarantee certificate expiring in October 2014. As at 31 March 2011, the value of wholesale securities guaranteed was $9.7 billion.

Earthquake Commission (EQC)

The Crown is liable to meet any deficiency in EQC's assets in meeting the Commission's financial liabilities (section 16 of the Earthquake Commission Act 1993). In the event of a major natural disaster the Crown may be called upon to meet any financial shortfall incurred by the Commission.

Further discussion on the recent Canterbury earthquakes can be found in the *Economic and Fiscal Impacts of the Canterbury Earthquakes* section of this document.

Electricity Corporation of New Zealand Limited (ECNZ)

The ECNZ Sale and Purchase Agreement provides for compensation to ECNZ for any tax, levy or royalty 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 it from ECNZ. 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 (Transpower) 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 of ECNZ's pre-split liabilities, including:

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

Genesis Energy Limited – Kupe offshore platform

The Kupe joint venture has had a failure on the power cable running through the umbilical line to the Kupe offshore platform. The Kupe operator has lodged a warranty claim in respect of the cable failure. In addition, an insurance claim for $95 million has been lodged relating to the cable failure. The cable failure has not had any impact on production from the Kupe field.

Genesis Energy Limited – Financial guarantees

Genesis has issued financial guarantees to the alliance contractor and other agents of the Kupe joint venture for the full and faithful performance of its subsidiaries in their capacities as joint venture partners, to the extent of their several liabilities under the development agreement.

Genesis issued a financial guarantee to Energy Clearing House Limited for the full and faithful performance of its subsidiary Energy Online Limited, to the extent of its liabilities for its retail electricity purchases.

These guarantees may give rise to liabilities in the company if the subsidiaries do not meet their obligations under the terms of the respective arrangements.

Genesis Energy Limited – Letters of credit and performance bonds

Genesis, as a participant in the electricity market, issued letters of credit to the Energy Clearing House Limited under the markets' security requirements. These letters of credit are issued as part of normal trading conditions and are to ensure there is no significant credit risk exposure to any one market participant.

Genesis has also issued letters of credit and performance bonds to certain suppliers and services providers under normal trading conditions. The liabilities covered by these arrangements are already provided for in the statement of financial position, and therefore not expected to create any adverse effects on the financial results presented. These are not material to the financial statements.

Housing New Zealand Corporation (HNZC)

HNZC is liable to the owners (ANZ National Bank Limited, Ichthus Limited and Westpac Banking Corporation) of mortgages sold by HNZC during 1992 to 1999 for credit losses they may incur from specified limited aspects of their ownership of those mortgages with the Crown standing behind this obligation.

The Crown has provided a warranty in respect of title to the assets transferred to Housing New Zealand Limited (HNZL) (HNZL was incorporated into the HNZC group as a subsidiary in 2001 as part of a legislated consolidation of government housing functions) and has indemnified HNZL against any breach of this warranty. In addition, the Crown has indemnified HNZL against any third-party claims that are a result of acts or omissions prior to 1 November 1992. It has also indemnified the directors and officers of HNZL against any liability consequent upon the assets not complying with statutory requirements, provided it is 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$1 billion in respect of any one claim.

Justices of the Peace, Community Magistrates and Disputes Tribunal Referees

Section 197 of the Summary Proceedings Act 1957 requires the Crown to indemnify Justices of the Peace and Community Magistrates against damages or costs awarded against them as a result of them exceeding their jurisdiction, provided a High Court Judge certifies that they have exceeded their jurisdiction in good faith and ought to be indemnified. Section 58 of the Disputes Tribunal Act 1988 confers a similar indemnity on Disputes Tribunal Referees.

Landcorp Farming Limited

The Protected Land Agreement provides that the Crown will pay Landcorp any accumulated capital costs and accumulated losses or Landcorp will pay the Crown any accumulated profit, attributed to a Protected Land property that is required to be transferred to the Crown or that the Crown releases for sale. The Crown will also be liable to pay Landcorp, at the time of sale or transfer of any property deemed to be Protected Land, the amount of any outstanding equity payments on the initial value of the property.

Maui Partners

The Crown has entered into confidentiality agreements with the Maui Partners in relation to the provision of gas reserves information. The deed contains an indemnity against any losses arising from a breach of the deed.

Meridian Energy Limited – Letters of credit and performance bonds

In addition to its borrowings, Meridian has entered into a number of letters of credit and performance guarantee arrangements which provide credit support to support the collateral requirements of Meridian's trading business.

National Provident Fund (NPF)

NPF has been indemnified for certain potential tax liabilities. Under the NPF Restructuring Act 1990, the Crown guarantees:

- the benefits payable by all NPF schemes (section 60)
- investments and interest thereon deposited with the NPF Board prior to 1 April 1991 (section 61), and
- payment to certain NPF defined contribution schemes where application of the 4% minimum earnings rate causes any deficiency or increased deficiencies in reserves to arise (section 72).

A provision has been made in these financial statements in respect of the actuarially assessed deficit in the DBP Annuitants' Scheme.

New Zealand Railways Corporation

The Crown has indemnified the directors of New Zealand Railways Corporation against any liability arising from the surrender of the licence and lease of the Auckland rail corridor.

The Crown has further indemnified the directors of New Zealand Railways Corporation against all liabilities in connection with the Corporation taking ownership and/or responsibility for the national rail network and any associated assets and liabilities on 1 September 2004.

Section 10 of the Finance Act 1990 guarantees all loan and swap obligations of the New Zealand Railways Corporation.

Persons exercising investigating powers

The Crown, under section 63 of the Corporations (Investigation and Management) Act 1989, indemnifies the Securities Commission, the Registrar and Deputy Registrar of Companies, members of an advisory committee, every statutory manager of a corporation and persons appointed pursuant to sections 17 and 19 of the Act in respect of any liability arising as a result of exercising the investigating powers conferred under the Act. The indemnity does not apply where the investigating powers have been exercised in bad faith.

Public Trust

Section 52 of the Public Trust Act 2001 provides for the Crown to meet any deficiency in the Public Trust's Common Fund in meeting lawful claims on the Fund. This is a permanent (legislated) liability. On 12 October 2010 the Minister of Finance guaranteed interest payable on estates whose money constitutes the Common Fund. The guarantee continues until the earlier of the date the Public Trust Act 2001 is amended to provide that the guarantee in section 52 of that Act applies to both capital and accrued interest, or the date that the Minister of Finance revokes the guarantee.

Reserve Bank of New Zealand

Section 21(2) of the Reserve Bank of New Zealand Act 1989 requires the Crown to pay the Reserve Bank the amount of any exchange losses incurred by the Bank as a result of dealing in foreign exchange under sections 17 and 18 of the Act. This is a permanent (legislated) liability.

Synfuels-Waitara outfall indemnity

As part of the 1990 sale of the Synfuels plant and operations to New Zealand Liquid Fuels Investment Limited (NZLFI), the Crown transferred to NZLFI the benefit and obligation of a Deed of Indemnity between the Crown and Borthwick-CWS Limited (and subsequent owners) in respect of the Waitara effluent transfer line which was laid across the Waitara meat processing plant site.

The Crown has the benefit of a counter indemnity from NZLFI which has since been transferred to Methanex Motunui Limited.

Tainui Corporation

Several leases of Tainui land at Huntly and Meremere have been transferred from ECNZ to Genesis Power. The Crown has provided guarantees to Tainui Corporation relating to Genesis Power's obligations under the lease agreements.

Other unquantifiable contingent liabilities

Abuse Claims

There is ongoing legal action against the Crown in relation to historical abuse claims. At this stage the number of claimants and outcome of these cases are uncertain.

Accident Compensation Corporation (ACC) litigations

There are several legal actions against ACC in existence, arising in the main from challenges to operational decisions made by ACC. ACC will be defending these claims.

Air New Zealand litigation

Air New Zealand has been named in five class actions. One, in Australia, claims travel agents' commission on fuel surcharges and two (one in Australia and the other in the United States) make allegations against more than 30 airlines, of anti-competitive conduct in relation to pricing in the air cargo business. The other two class actions (in the United States and in Canada) allege that Air New Zealand together with many other airlines conspired in respect of fares and surcharges on trans-Pacific routes. All class actions are being defended.

The allegations made in relation to the air cargo business are, and in the case of the European Union were, also the subject of investigations or proceedings by regulators in New Zealand, Australia, and the United States and the European Union. On 15 December 2008 the New Zealand Commerce Commission filed proceedings against 13 airlines including Air New Zealand alleging breaches of the Commerce Act 1986. On 17 May 2010 the Australian Competition and Consumer Commission filed proceedings alleging breaches of the (Australian) Trade Practices Act 1974.

A formal Statement of Objections relating to alleged conduct in the air cargo business was issued by the European Commission in 2007 to 25 airlines including Air New Zealand. Air New Zealand responded to this Statement of Objections and on 9 November 2010 the European Commission advised that it had closed its file in relation to Air New Zealand, following consideration of the responses.

Air New Zealand is defending each of these proceedings. In the event that a court determined, or it was agreed with a regulator, that Air New Zealand had breached relevant laws, the company would have potential liability for pecuniary penalties and to third-party damages under the laws of the relevant jurisdictions.

Caregiver employment conditions

In October 2010, the Court of Appeal heard an appeal against an Employment Court decision relating to minimum wage requirements for employees of disability support services providers currently paid sleepover allowances. If the employer's appeal is unsuccessful, consideration will need to be given to the repercussions for the Crown.

Environmental liabilities

Under common law and various statutes, the Crown may have responsibility to remedy adverse effects on the environment arising from Crown activities.

Departments managing significant Crown properties have implemented systems to identify, monitor and assess potential contaminated sites.

In accordance with *NZ IAS 37: Provisions, Contingent Liabilities and Contingent Assets*, any contaminated sites for which the Crown has accepted liability and for which costs can be reliably measured have been included as a provision.

Kordia Group Limited

As part of its contractual obligations with clients, Kordia Group Limited has an undertaking to provide services at a certain level and should this not be achieved, Kordia Group Limited may be liable for contract penalties. It is not possible to quantify what these may be until an event has occurred. The company does not expect any liabilities to occur as a result of these contractual obligations.

Maui contracts

Contracts in respect of which the Crown purchases gas from Maui mining companies and sells gas downstream to Contact Energy Limited, Vector Gas Limited and Methanex Waitara Valley Limited provide for invoices to be re-opened in certain circumstances within two years of their issue date as a result of revisions to indices. These revisions may result in the Crown refunding monies or receiving monies from those parties.

Rugby World Cup 2011

The Crown has agreed in joint venture arrangements with the New Zealand Rugby Union (NZRU) to an uncapped underwrite of the costs of hosting the 2011 Rugby World Cup, on a loss sharing basis (Crown 67%, NZRU 33%). A provision for the forecast losses has been made in the Government's financial statements.

The Crown has agreed to reimburse New Zealand income tax that might be incurred by the joint venture entity (Rugby New Zealand 2011 Limited) or NZRU in relation to the joint venture entity, and has also agreed to reimburse NZRU for New Zealand withholding tax that might be incurred on certain payments made in relation to the tournament.

Television New Zealand

Television New Zealand is subject to a number of legal claims. Given the stage of proceedings and uncertainty as to outcomes of the cases, no estimate of the financial effect can be made and no provision for any potential liability has been made in the financial statements.

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 a State-owned enterprise or tertiary institution, or is subject to the Crown Forest Assets Act 1989.

On occasion, Māori claimants pursue the resolution of particular claims against the Crown through higher courts. There are currently two such actions against the Crown – one awaiting a decision on an application at the Supreme Court and one to be heard at the High Court. Failure to successfully defend such actions may result in liability for historical Treaty grievances in excess of that currently anticipated. The fiscal risk with respect to settlement relativity payments is detailed in the Specific Fiscal Risks section of this chapter.

Westpac New Zealand Limited

Under the Domestic Transaction Banking Services Master Agreement with Westpac Banking Corporation (Westpac's rights and obligations under this agreement were vested in Westpac New Zealand Limited under the Westpac New Zealand Act 2006), dated 30 November 2004, the Crown has indemnified Westpac:

- in relation to letters of credit issued on behalf of the Crown, and
- for costs and expenses incurred by reason of third-party claims against Westpac relating to indirect instructions, direct debits, third-party cheques, departmental credit card merchant agreements, use of online banking products and Inland Revenue processing arrangements.

Under the Supplier Payments Service – New Zealand Government Master Agreement dated 23 June 2010, the Crown indemnified Westpac New Zealand Limited against certain costs, damages and losses to third parties resulting from unauthorised, forged or fraudulent payment instructions (excluding costs, damages and losses arising from Westpac's wilful default, negligence or breach of the agreement or other applicable legal obligation).

Contingent Assets

Legal proceedings and tax disputes

Legal proceedings and tax disputes are contingent assets in relation to Inland Revenue pending assessments or Inland Revenue initiated assessments. They are net of any losses brought forward. Contingent assets arise where Inland Revenue has advised or is about to advise a taxpayer of a proposed adjustment to their tax assessment. There has been no amended assessment issued at this point or revenue recognised so these are recorded as legal proceedings and disputes – non-assessed. The taxpayer has the right to dispute this adjustment and a disputes resolution process is entered into. Inland Revenue quantifies a contingent asset based on the likely outcome of the disputes process based on experience and similar prior cases.

$637 million at 31 March 2011 ($568 million at 31 October 2010)