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Specific Fiscal Risks

The Statement of Specific Fiscal Risks is required by the Public Finance Act 1989 to set out, to the fullest extent possible, all government decisions and other circumstances known to the Government at the date of the finalisation of the fiscal forecasts that may have a material effect on the fiscal and economic outlook, but are not certain enough in timing or amount to include in the fiscal forecasts. Although the process for disclosure of specific fiscal risks involves a number of parties, including government departments, the Treasury and the Minister of Finance, there remains a possibility that not every risk is identified. Disclosure of known risks is also subject to specific requirements and materiality thresholds, which are described after the Statement of Specific Fiscal Risks.

Overview

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 potential policy decisions and key areas of uncertainty that may have a material effect on the fiscal outlook.

The Government generally sets aside allowances of new funding for future Budgets to manage uncertainty and cost pressures. These allowances are included in the fiscal forecasts. Current fiscal management policy is for future policy decisions affecting expenses or capital expenditure to be met through reprioritisation or from within existing provisions included in the fiscal forecasts. Future policy decisions are risks to the fiscal forecasts only to the extent that they cannot be managed from within:

- existing baselines or Budget allowances for operating expenditure, or
- the existing Crown balance sheet for capital expenditure, including the Future Investment Fund.

Notwithstanding this, known material policy risks are identified as specific fiscal risks, even though the Government has more control in managing such risks through reprioritisation, the existing Crown balance sheet and the Budget allowances. This is done to ensure a prudent approach to the disclosure of risks, improve transparency and not pre-judge future decisions by governments.

The specific fiscal risks are categorised into:

- **Potential policy decisions affecting revenue:** For example, changes to tax policy or ACC levies could reduce or increase government income.
- **Potential policy decisions affecting expenses (expected to be funded from reprioritisation or Budget allowances):** Costs of policy proposals could increase or decrease expenses depending on decisions taken, and they are risks to the fiscal forecasts only to the extent that they cannot be managed within existing baselines or Budget allowances.
- **Potential capital decisions (expected to be funded from the existing Crown balance sheet, including the Future Investment Fund):** Capital investment decisions are risks to the fiscal forecasts only to the extent that they cannot be managed within the existing Crown balance sheet, including the Future Investment Fund.
- **Matters dependent on external factors:** The Crown's liability for costs is sometimes dependent on external factors such as the outcome of negotiations or international obligations.

A range of generic risks to the fiscal forecasts are not recognised as specific fiscal risks:

- The most significant economic risks have been identified in Chapter 3.
- Business risks and volatility in the returns from the Crown's investments relating to the broader economic and commercial environment.
- General cost pressures, such as those associated with demographic changes (eg, an ageing population).
- Potential risks from changes in demand for government services or transfer payments owing to underlying structural factors (such as changes in demand for the Unemployment Benefit).
- The costs of future individual natural disasters, and other major events, as they usually occur infrequently and their occurrence, nature and timing cannot be predicted. Once a disaster does occur, a number of choices arise about how to respond and when potential liabilities are recognised (eg, through setting aside an allocation of funding for the disaster). Specific risks are disclosed at this point based on the range of possible responses.

The final part of the chapter contains a current list of contingent liabilities and contingent assets. Contingent liabilities are costs that the Crown will have to face if a particular event occurs or are present liabilities that are unable to be measured. 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. Contingent assets are possible assets that have arisen from past events but the value of the asset, or whether it will eventuate, will not be confirmed until a particular event occurs.

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 after this Statement. Full descriptions of the risks listed below are set out in the next section. Where quantification is possible, this is included in the description of the risk.

Specific fiscal risks as at 29 April 2013	**Status**[13]
Potential policy decisions affecting revenue	
ACC – Levies	Unchanged
ACC – Review of Funding Policy	Changed
Revenue – Income-sharing Tax Credits	Unchanged
Services Funded by Third Party Revenue	Unchanged
Potential policy decisions affecting expenses (expected to be funded from reprioritisation or Budget allowances)	
ACC – Work-related Gradual Process Disease and Infection	Unchanged
Canterbury Earthquake Recovery – Christchurch City Council/Crown Cost Sharing	Changed
Canterbury Earthquake Recovery – Christchurch Central Recovery Plan	New
Defence Force – Funding Track Evaluation	New
Government Response to Wai 262	Unchanged
Health – Payment of Family Caregivers	Changed
Housing – Reform of Social Housing	Unchanged
Revenue – KiwiSaver Auto-enrolment	Unchanged
Revenue – Transformation and Technology Renewal	Changed
Social Development – Vulnerable Children White Paper	Unchanged
Social Development – Welfare Reform Costs	Changed
Social Development – Welfare Reform Forecast Benefit Savings	Unchanged
State Sector Employment Agreements	Unchanged
Potential capital decisions (expected to be funded from the existing Crown balance sheet, including the Future Investment Fund)	
Departmental Capital Intentions	Unchanged
Earthquake Strengthening for Crown-owned Buildings	Unchanged
Finance – Crown Overseas Properties	Unchanged
Justice – Christchurch Justice and Emergency Services Precinct	New
Primary Industries – Investment in Water Infrastructure	Changed
Transport – Support for KiwiRail	Changed

13 *Unchanged* – risks that have not materially changed since the previous *Economic and Fiscal Update*.
Changed – risks that have changed substantively from the previous *Economic and Fiscal Update*.
New – risks that have not been disclosed in the previous *Economic and Fiscal Update*.

Specific fiscal risks as at 29 April 2013	Status[13]
Matters dependent on external factors	
ACC – Non-earners' Account	Unchanged
Canterbury Earthquake Recovery – Residential Red Zone	Unchanged
Communications – Potential Impairment in the Value of Broadband Investment	Unchanged
Defence Force – Potential Rationalisation, Revaluation and Disposal of NZDF Assets	Unchanged
Energy – Crown Revenue from Petroleum Royalties	Unchanged
Environment – Post-2012 International Climate Change Obligations	Changed
Finance – EQC	Unchanged
Finance – Goodwill on Acquisition	Unchanged
Finance – Government Commitments to International Finance Institutions	Unchanged
Finance – New Zealand Aluminium Smelters Contract	New
Finance – Sale of Part of the Crown's Shareholding in Certain Companies	Changed
Finance – Solid Energy	New
Finance – Southern Response Earthquake Services Support Package	Unchanged
Health – Litigation in the Disability Support and Aged Care Sectors	New
Housing – Divestment of Housing	Unchanged
Revenue – Cash Held in Tax Pools	Unchanged
Treaty Negotiations – Treaty Settlement Forecast	Unchanged
Treaty Negotiations – Relativity Clause	Unchanged

Potential Policy Decisions Affecting Revenue

ACC – Levies (Unchanged)

Levy rates for the Work, Earners' and Motor Vehicle accounts are set by Cabinet following a public consultation process. Claims experience, ACC performance and economic assumptions (particularly discount rates) can impact insurance expenditure, both in the current year and the estimated future liability. If any of these factors differ from what is forecast the revenue collected may be more or less than required to cover the costs of claims, resulting in unplanned savings or costs that could have a corresponding impact on the operating balance.

ACC – Review of Funding Policy (Changed)

The Government is undertaking a review of ACC's funding policy. An estimate of the cost of adopting a lower funding target band midpoint has been included in the fiscal forecasts. If levy rates differ from those assumed in the forecasts, this would impact Crown revenue and Crown assets, with a flow-on impact to the operating balance.

Revenue – Income-sharing Tax Credits (Unchanged)

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 year once the scheme is fully operational. The Finance and Expenditure Committee has recommended that the significant fiscal cost of the package be addressed before the Bill proceeds further.

Services Funded by Third Party Revenue (Unchanged)

A wide range of government services are funded through third party fees and charges. Demand for these services can vary, leading to a direct effect on revenue received. There is a risk the Government may need to provide additional funding if revenue collected is lower than the total costs of providing the service. There is also a risk that changes will be required to the way government services are delivered, which could result in costs to the Crown.

Potential Policy Decisions Affecting Expenses (Expected to be Funded from Reprioritisation or Budget Allowances)

ACC – Work-related Gradual Process Disease and Infection (Unchanged)

Under current legislation, the Government incurs an obligation for Work-related Gradual Process Disease and Infection claims when the claim is made, and an expense is recognised at that point. The liability for commercial accident and sickness insurance contracts would usually be recognised when exposure to conditions that will give rise to a claim occurs. An amendment to legislation would be required to recognise claims at the same time as for commercial contracts. There are currently no plans to make such a change. An initial adjustment to the liability, and an expense of about $1 billion would need to be reported if such an amendment was made.

Canterbury Earthquake Recovery – Christchurch City Council/Crown Cost Sharing (Changed)

The Crown is partially funding the recovery of local infrastructure in Canterbury. The extent of funding is dependent on the outcome of cost-sharing negotiations with the Christchurch City Council. The Crown's contribution could differ from that included in the fiscal forecasts.

Canterbury Earthquake Recovery – Christchurch Central Recovery Plan (New)

The Crown is partially funding the construction of Anchor Projects as part of the Christchurch Central Recovery Plan. The extent of funding will vary from project to project, dependent on final project costs and the outcome of cost-sharing negotiations with the Christchurch City Council. Business cases for the development of Anchor Projects are in their early stages. Project costing for construction of the Anchor Projects will become increasingly clear during the business case process and the subsequent procurement phase. The Crown's contribution may differ from that included in the fiscal forecasts.

Defence Force – Funding Track Evaluation (New)

The Government is evaluating different funding tracks for the New Zealand Defence Force (NZDF) to assess the level of military capability and equipment that can be achieved with each track. The results of this work will be considered as an input into the next Defence White Paper. There is a risk that the funding provided to NZDF in the future could differ from that included in the fiscal forecasts.

Government Response to Wai 262 (Unchanged)

The Waitangi Tribunal's report on the Wai 262 claim focuses on the protection of Māori culture and identity, with a particular focus on mātauranga Māori and associated taonga. The Tribunal's recommendations are directed towards a number of government agencies individually, as groups and across sectors. The Government has yet to respond to the Tribunal's report and recommendations.

Health – Payment of Family Caregivers (Changed)

The Government has agreed to change its policy of not allowing payment to certain family carers (mainly parents and spouses of disabled adults) who deliver disability support services, following court rulings that have found this policy to be in breach of section 19 of the New Zealand Bill of Rights Act 1990. The Government has consulted the disability community and wider public on options for a new policy approach to be implemented in late 2013. The potential costs of the new policy are uncertain depending on how tightly payments are targeted and may differ from the level included in the fiscal forecasts.

Housing – Reform of Social Housing (Unchanged)

The Government has decided to change the policy settings for social housing. This includes growing third party providers of social housing, increasing the effectiveness of financial assistance, and Housing New Zealand Corporation focusing on providing social housing to those with the greatest housing need. Some decisions have been announced and included in the fiscal forecasts but other plans for implementation remain under development, but may require reprioritisation or additional funding.

Revenue – KiwiSaver Auto-enrolment (Unchanged)

The Government has announced its intention to consult on the design of a one-off KiwiSaver auto-enrolment exercise to increase the number of KiwiSaver members. The Government will proceed with a one-off KiwiSaver enrolment exercise only when it is confident that such a step poses no significant risks to returning to, and maintaining, an operating surplus. An auto-enrolment exercise is likely to entail a one-off cost for kick-start payments to new members and ongoing additional costs for the Member Tax Credit. Depending on the timing, design features and take-up rate, these costs could be in the order of $350 to $550 million over the first four years after auto-enrolment takes place and are expected to be funded out of the operating allowances.

Revenue – Transformation and Technology Renewal (Changed)

The Government is exploring options that will fundamentally change the way IRD manages its processes and data. Any changes could have material costs to implement (with capital and operating implications) and/or impact tax revenue collections. The Government is currently considering a programme business case and is yet to finalise the scope of the programme.

Social Development – Vulnerable Children White Paper (Unchanged)

The Government is looking to implement proposals to better identify, and provide assistance to, vulnerable children. Costs of the proposals are likely to have impacts on the social development, education, health and justice areas, and are expected to be met through reprioritisation of current expenditure. However, uncertainty around the service costs and volumes as well as the implementation of new initiatives associated with the better identification and support of vulnerable children could mean additional funding is required.

Social Development – Welfare Reform Costs (Changed)

The Government has agreed to a package of changes to the benefit system. The extent of any additional costs of implementing welfare reform, such as providing more employment assistance related interventions to a broader range of clients, remain uncertain.

Social Development – Welfare Reform Forecast Benefit Savings (Unchanged)

A conservative estimate of the likely benefits from Welfare Reform has been included in the fiscal forecasts. The actual impact may differ owing to behavioural factors and the complexity of implementing the reforms, with a corresponding impact on benefit expenditure.

State Sector Employment Agreements (Unchanged)

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 of restraint given the current economic environment and an expectation that agreements will be managed within the current fiscal forecasts.

Potential Capital Decisions (Expected to be Funded from the Existing Crown Balance Sheet, Including the Future Investment Fund)

Departmental Capital Intentions (Unchanged)

The Government requires 16 capital-intensive agencies or sectors to identify their capital spending intentions over the next 10 years based on current policy settings and certain demographic and inflation assumptions. 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 fiscal forecasts only to the extent that they cannot be managed through the existing Crown balance sheet.

Earthquake Strengthening for Crown-owned Buildings (Unchanged)

There is a possibility that the Crown will incur costs for earthquake strengthening some of the buildings that it owns which may not meet modern building standards. The Government is currently undertaking a stock-take of Crown-owned earthquake-prone buildings. The likelihood, timing and fiscal impact of any earthquake strengthening are uncertain.

Finance – Crown Overseas Properties (Unchanged)

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. A rough-order cost estimate for this upgrade is $150 million over the period 2013/14 to 2015/16.

Justice – Christchurch Justice and Emergency Services Precinct (New)

The Government has set aside funding in the fiscal forecasts for the development of a Justice and Emergency Services Precinct in Christchurch. There is a risk that spending profile differs from the amount set aside.

Primary Industries – Investment in Water Infrastructure (Changed)

The Government has set aside an allocation of $80 million in the fiscal forecasts for a Crown-owned company to manage the Crown's investment in irrigation infrastructure for the first year. The Government will consider providing further capital of up to $320 million in future Budgets as schemes reach the "investment-ready" stage.

Transport – Support for KiwiRail (Changed)

KiwiRail has signalled its intention to seek $239 million of additional Crown funding over the next four years to complete the 10-year strategy for KiwiRail to achieve a commercially viable network. The Government has not considered its response to such a request.

Matters Dependent on External Factors

ACC – Non-earners' Account (Unchanged)

Funding for the Non-earners' Account is agreed as part of the annual Budget process. Claims experience, ACC's financial performance and economic assumptions (particularly discount rates) can impact insurance expenditure, both in the current year and the estimated future liability. If any of these factors differ from what is forecast the amount required to cover the costs of non-earners' claims for that year may be more or less than the agreed level of funding, resulting in unplanned savings or costs to the Crown.

Canterbury Earthquake Recovery – Residential Red Zone (Unchanged)

The Crown purchased red zone properties in Canterbury in advance of insurance payments being made to owners. Some recoveries from EQC and private insurers remain outstanding and there is a risk that final recoveries may be less than forecast. In addition, potential costs associated with the future use of residential red zone land are uncertain. The current value of the land was assessed by external valuation as at 30 June 2012. The future value may change depending on any future alternate uses of the land.

Communications – Potential Impairment in Value of Broadband Investment (Unchanged)

The Government is progressively capitalising Crown Fibre Holdings with $1.345 billion so that it can invest with private partners in a new ultra-fast broadband network delivering "ultra-fast" broadband services. Crown Fibre Holdings has entered into contracts with several partners. Given the nature of the investments made, it is possible that the full value of the investments will not be recovered. The fiscal forecasts include a provision for this impairment, but the final amount of the impairment may vary from this.

Defence Force – Potential Rationalisation, Revaluation and Disposal of NZDF Assets (Unchanged)

The Government is considering the potential to dispose of a number of NZDF assets, including the Seasprite helicopters, Unimog trucks and light armoured vehicles. Depending on market conditions, the timing of disposal and sale price received could have an impact on the operating balance. The NZDF is also completing an analysis of inventory that is surplus to requirements and is over and above the existing provision for obsolescence. The existing provision is also being reviewed to ensure that all items comprising the provision are still relevant. In addition, the revaluation of NZDF assets on 30 June 2013 could see a change in asset values across NZDF.

Energy – Crown Revenue from Petroleum Royalties (Unchanged)

Crown revenue from petroleum royalties is very dependent upon extraction rates, the USD value per barrel and the USD/NZD exchange rate. Movements up or down in any of these variables could result in a significant decrease or increase in Crown revenue. The overall impact for the Crown could be negative or positive.

Environment – Post-2012 International Climate Change Obligations (Changed)

The Government is actively considering the responsibility target New Zealand will commit to post-2012 and taking part in international negotiations for a post-2020 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 New Zealand climate change commitments post-2012 could have significant financial implications, which will need to be recognised when the commitment is considered binding.

Finance – EQC (Unchanged)

The net financial position of EQC, and the size of any requirement for additional Crown funding, is extremely uncertain. The key drivers of this uncertainly are:

- EQC’s outstanding claims liability – the actuarial estimate of EQC’s outstanding claims liability is highly uncertain and sensitive to assumptions; for example, cost apportionment across events, construction demand surge, land damage estimates, legal challenges, reinsurance recoveries, and the profile of claims settlement. The magnitude of the net outstanding claims cost is large, so small percentage changes in the liability can have a material impact on the fiscal forecasts.
- Reinsurance market conditions – forecast reinsurance prices are very uncertain. The price of reinsurance comprises a substantial component of EQC’s annual expenses.
- EQC review and policy decisions – outcomes from the review of EQC or other policy decisions (eg, reinsurance purchases) may be implemented during the forecast period. Any significant decisions could have a material impact on the fiscal forecasts.

Finance – Goodwill on Acquisition (Unchanged)

As at 30 June 2012, the Government had goodwill on acquisition of a number of sub-entities totalling $746 million. Under New Zealand accounting standards (NZ IAS 36), such goodwill items are required to be assessed annually for impairment. If there is any indication that the goodwill may be impaired, the recoverable amount of the cash generating units to which the goodwill is allocated is required to be estimated. If the recoverable amount is less than the carrying amount of those units, the units and the goodwill allocated to them are regarded as impaired and the Government is required to recognise impairment losses in the operating statement. Such assessments will be conducted at the end of the financial year and the fiscal forecasts currently make no allowance for such impairment losses.

Finance – Government Commitments to International Financial Institutions (Unchanged)

The forecast level of government commitments to international financial institutions is subject to change, depending on the Government's response to any changed financial plans on the part of these institutions. The risk of government commitments to the IMF being called increased as a result of ongoing global financial uncertainty.

Finance – New Zealand Aluminium Smelters Contract (New)

New Zealand Aluminium Smelters and its parent company Pacific Aluminium have approached Meridian Energy to renegotiate a "contract for difference" relating to the pricing of electricity supplied to the aluminium smelter at Tiwai Point. Any significant change in the terms of this contract could have an impact on the operating balance.

Finance – Sale of Part of the Crown's Shareholding in Certain Companies (Changed)

The Government has agreed to sell part of the Crown's shareholding in Mighty River Power and Meridian Energy. It is also proposing to sell part of the Crown's shareholding in Genesis Energy, Air New Zealand and Solid Energy. The fiscal forecasts include an estimate of the cash proceeds from the sale of part of the Crown's shareholding in these companies, the dividends and profits from these companies that will be paid or are attributable to minority shareholders rather than to the Crown, and the estimated finance cost savings. However, the final amount and timing of any cash proceeds, forgone profits, the flow-on effects for the Crown and any implementation costs are uncertain, and may differ from what has been assumed in the fiscal forecasts.

Finance – Solid Energy (New)

The Solid Energy board is working with advisors, banks and the Treasury on restructuring options to return the company to a sustainable financial position. The outcome of this process could have an impact on the operating balance or the Crown's balance sheet.

Finance – Southern Response Earthquake Services Support Package (Unchanged)

AMI's earthquake claims liability and the associated financial assets, reinsurance receivables and the Crown Support Package have been retained in a new Crown company named Southern Response Earthquake Services Ltd. The ultimate cost to the Crown of settling earthquake claims remains subject to significant uncertainty. Out-year forecasts assume that the actual cost to settle claims will align with the actuary's central estimate of the claims provision. There is a risk that the actual cost could vary from this estimate.

Health – Litigation in the Disability Support and Aged Care Sectors (New)

Several related legal cases and funding claims in the disability support and aged care sectors may involve significant costs to the Crown.

Housing – Divestment of Housing (Unchanged)

The Government may undertake divestment or redevelopment of some housing property. Property sales are subject to market conditions and therefore there is an inherent level of uncertainty about the return to the Crown associated with any divestment and/or development.

Revenue – Cash Held in Tax Pools (Unchanged)

Taxpayers' provisional tax payments held in pools are recognised as a Crown asset. There is a risk that funds held in these pools, over and above a taxpayer's provisional tax liability, may be withdrawn, resulting in a reduction in the Crown's available cash reserves.

Treaty Negotiations – Treaty Settlement Forecast (Unchanged)

The fiscal forecasts include provision for the cost of future Treaty settlements. Settlements are finalised through negotiations and there is a risk that the timing and amount of the settlements could be different from what is forecast.

Treaty Negotiations – Relativity Clause (Unchanged)

The Deeds of Settlement negotiated with Waikato-Tainui and Ngāi Tahu include a relativity mechanism. Now that the total redress amount for all historical Treaty settlements exceeds $1 billion in 1994 present-value terms, the mechanism provides that 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. There is also uncertainty on how various disputes concerning the interpretation of the mechanism will be resolved.

Risks Removed Since the 2012 Half Year Update

The following risks have been removed since the 2012 Half Year Update:

Expired risks	Reason
Canterbury Earthquake Recovery – Crown Christchurch Investment	Included in fiscal forecasts
Communications – Radio Spectrum Income Following the Digital Switchover	No longer material
Education – Early Childhood Education Funding	Some decisions taken and included in fiscal forecasts, remaining risk not material
Environment – Kyoto Protocol Obligations	No longer material
Finance – Investment into NZ Post Group (Kiwibank)	Unlikely to occur
Social Development – Disability Allowance Savings	Included in fiscal forecasts

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

The Public Finance Act 1989 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.[14]

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.

Criteria for Including Matters in the Fiscal Forecasts

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

- 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[15] 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.

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

[15] 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).

Rules for the Disclosure of Specific Fiscal Risks

Matters are disclosed as specific fiscal risks if:

- the likely impact is more than $100 million over five years, and either
- a decision has not yet been taken but it is reasonably possible[16] (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.

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[17] to be approved or occur within the forecasting period.

Additionally, the Minister of Finance may determine that a matter be 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
- result in a material loss of value to the Crown.

If possible, the Minister of Finance should avoid withholding the matter either by making a decision on it before the forecasts are finalised, or by disclosing it without quantifying the risk.

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16 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).

17 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 assets are costs that the Crown will have to face if a particular event occurs, or present liabilities that are unable to be measured with sufficient reliability to be recorded in the financial statements (unquantifiable liabilities).

Typically, contingent liabilities consist of guarantees and indemnities, uncalled capital and legal disputes and claims. 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, or the amount becomes sufficiently reliable to record as a liability, it would reduce the operating balance and net worth and increase net debt. In the case of contingencies for uncalled capital, the negative impact would be restricted to net debt because the cost would be offset by the acquisition of capital.

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 have arisen from past events but the amount of the asset, or whether it will eventuate, will not be confirmed until a particular event occurs.

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

Some contingencies of the Crown are not able to be quantified. We have disclosed all unquantifiable contingent liabilities and contingent assets that are not expected to be remote.

Contingent liabilities have been stated as at 31 March 2013, being the latest set of reported contingent liabilities.

Quantifiable Contingent Liabilities and Contingent Assets

Contingent liabilities		
	Status[18]	**($ millions)**
Guarantees and indemnities		
Other guarantees and indemnities	Unchanged	183
		183
Uncalled capital		
Asian Development Bank	Unchanged	2,772
International Bank for Reconstruction and Development	Unchanged	981
International Monetary Fund – arrangements to borrow	Unchanged	978
International Monetary Fund – promissory notes	Unchanged	1,089
Other uncalled capital	Unchanged	44
		5,864
Legal proceedings and disputes		
Tax disputes	Unchanged	363
Other legal proceedings and disputes	Unchanged	47
		410
Other quantifiable contingent liabilities		
Unclaimed monies administered by IRD	Unchanged	
		103
Other quantifiable contingent liabilities	Unchanged	289
		392
Total quantifiable contingent liabilities		**6,849**
Contingent assets		
Tax disputes	Unchanged	283
Other quantifiable contingent assets	Unchanged	84
Total quantifiable contingent assets		**367**

[18] Relative to reporting in the *Half Year Economic and Fiscal Update* published on 18 December 2012.

Unquantifiable Contingent Liabilities and Contingent Assets

Contingent liabilities	
Guarantees and indemnities:	**Status**
Air New Zealand	Unchanged
Airways Corporation of New Zealand	Unchanged
AsureQuality Limited	Unchanged
Contact Energy Limited	Unchanged
Earthquake Commission (EQC)	Unchanged
Housing New Zealand Corporation	Unchanged
Justices of the Peace, Community Magistrates and Disputes Tribunal Referees	Unchanged
Maui Mining Companies	Unchanged
Maui Partners	Unchanged
Mighty River Power Initial Public Offering	New
National Provident Fund	Unchanged
New Zealand Aluminium Smelter and Comalco	Unchanged
New Zealand Local Authorities	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
Westpac New Zealand Limited	Unchanged
Legal claims and proceedings:	
Accident Compensation Corporation (ACC) litigations	Unchanged
Air New Zealand litigation	Unchanged
Television New Zealand	Unchanged
Treaty of Waitangi claims	Unchanged
Other unquantifiable contingent liabilities:	
Criminal Proceeds (Recovery) Act	Unchanged
Environmental liabilities	Unchanged
Landcorp Farming Limited	Unchanged

Description of Contingent Liabilities

Quantifiable contingent liabilities over $100 million

Uncalled capital

As part of the Crown's commitment to a multilateral approach to ensure global financial and economic stability, New Zealand, as a member country of the organisations listed below, contributes capital by subscribing to shares in certain institutions.

The capital (when called) is typically used to raise additional funding for loans to member countries, or in the case of the quota contributions, to directly finance lending to members. For New Zealand and other donor countries, capital contributions comprise both "paid in" capital and "callable capital or promissory notes."

The Crown's uncalled capital subscriptions are as follows:

Asian Development Bank

$2,772 million at 31 March 2013 ($2,988 million at 30 June 2012)

International Bank for Reconstruction and Development

$981 million at 31 March 2013 ($1,039 million at 30 June 2012)

International Monetary Fund – arrangements to borrow

$978 million at 31 March 2013 ($1,081 million at 30 June 2012)

International Monetary Fund – promissory notes

$1,089 million at 31 March 2013 ($1,174 million at 30 June 2012)

Legal proceedings and disputes

Tax in dispute

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. The contingent liability represents the outstanding debt of tax assessments raised against which an objection has been lodged and legal action is proceeding.

$363 million at 31 March 2013 ($365 million at 30 June 2012)

Other quantifiable contingent liabilities

Unclaimed monies

Administered by IRD under the Unclaimed Money Act 1971.

$103 million at 31 March 2013 ($79 million at 30 June 2012)

Unquantifiable contingent liabilities

This part of the Statement provides details of those contingent liabilities of the Crown that cannot be quantified (contingent liabilities that are considered remote are excluded).

Guarantees and indemnities

Air New Zealand

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.

Airways Corporation of New Zealand

The Crown has indemnified Airways Corporation of New Zealand Limited as contained in Airways' contract with NZDF 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 for Primary Industries, or its sub-contractor.

Contact Energy Limited

The Crown and Contact Energy Limited 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.

Earthquake Commission (EQC)

The Crown is liable to meet any deficiency in EQC's assets that may be needed to cover 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.

EQC expects to have the necessary financing to meet its liabilities as they fall due over the next 12 months, hence a call on its Crown guarantee is not expected for the coming year. In the event that EQC cannot meet its obligations, however, the Crown would need to finance any shortfall and the Crown's net debt position would increase as a result. This support arrangement is discussed earlier in this chapter as a specific fiscal risk.

Housing New Zealand Corporation

The Crown has provided a warranty in respect of title to the assets transferred to Housing New Zealand Limited (HNZL) 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. The Crown 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.

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.

Maui Mining Companies

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.

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.

Mighty River Power Initial Public Offering

The Crown has indemnified Mighty River Power's directors and a number of external advisors against losses they may suffer as a result of any claims brought against them in relation to the Mighty River Power partial share sale.

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).

New Zealand Aluminium Smelter and Comalco

The indemnity relates to costs incurred in removing aluminium dross and disposing of it at another site if 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.

New Zealand Local Authorities

The Guide to the National Civil Defence Emergency Management Plan ('the Guide') states that the Government will reimburse local authorities, in whole or in part, for certain types of response and recovery costs incurred as a result of a local or national emergency. The Guide is issued by the Director of Civil Defence Emergency

Management (CDEM) under Section 9 of the Civil Defence Emergency Management Act 2002.

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.

Following the restructuring of KiwiRail Group, the New Zealand Railways Corporation Restructuring Act 1990 provides a statutory indemnity for the New Zealand Railways Corporation for the amount of the net equity lost in the vesting of assets and liabilities in KiwiRail Holdings Limited.

Persons exercising investigating powers

Section 63 of the Corporations (Investigation and Management) Act 1989 indemnifies the Financial Markets Authority (formerly 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

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.

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.
- 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 IRD 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).

Legal claims and proceedings

There are numerous legal actions that have been brought against the Crown. However, in the majority of these actions it is only considered a remote possibility that the Crown would lose the case, or if the Crown were to lose it would be unlikely to have greater than a $10 million impact. Based on these factors, not all legal actions are individually disclosed. The claims that are disclosed individually, while they cannot be quantified, have the potential to exceed $10 million in penalties.

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. Given the stage of proceedings and uncertainty as to outcomes of the cases, no estimate of the financial effect can be made.

Air New Zealand litigation

Air New Zealand has been named in five class actions. 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. One class action (in the United States) alleges that Air New Zealand, together with many other airlines, conspired in respect of fares and surcharges on trans-Pacific routes. The likelihood of any liability in the other two cases is considered remote, so these are not disclosed.

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 third-party damages under the laws of the relevant jurisdictions.

Television New Zealand

The Company is subject to one legal claim before the courts. Given the stage of proceedings and uncertainty as to outcomes of the case, 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 an SOE 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 actions against the Crown, one being heard in the Court of Appeal and another action being heard in the High Court. Failure to successfully defend such actions may result in liability for historical Treaty grievances in excess of that currently anticipated.

Other unquantifiable contingent liabilities

Criminal Proceeds (Recovery) Act 2009

The Ministry of Justice is responsible for administering the Criminal Proceeds (Recovery) Act 2009. The Act requires the Crown to give an undertaking as to damages or costs in relation to asset restraining orders. In the event that the Crown is found liable, payment may be required.

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 costs can be reliably measured have been included in the statement of financial position as provisions.

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 profits attributed to a Protected Land property 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, the amount of any outstanding equity payments on the initial value of the property.

Description of Contingent Assets

Quantifiable contingent assets over $100 million

Tax disputes

A contingent asset is recognised when IRD has advised, or was about to advise, a taxpayer of a proposed adjustment to their tax assessment. The taxpayer has the right to dispute this adjustment and a disputes resolution process can be entered into. The contingent asset is based on the likely outcome of the disputes process based on experience and similar prior cases.

$283 million at 31 March 2013 ($150 million at 30 June 2012)