

# **VOTE** *Treaty* *Negotiations*

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# *Treaty Negotiations*

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## Overview

Vote Treaty Negotiations contains a multi-year appropriation of \$400 million for the five-year period 2006/07 to 2010/11. This appropriation is for the settlement of historical Treaty of Waitangi claims and provides for the payment of redress through the transfer of assets (cash and property) from the Crown to claimant groups, for the payment of interest on settlement redress and for the payment of claimant funding.

In addition, annual appropriations sought for Vote Treaty Negotiations in 2007/08 total \$28.956 million. This is intended to be spent as follows:

- \$9.962 million (34% of the Vote) for the purchase of policy advice, negotiation, settlement and implementation of historical Treaty claims from the Office of Treaty Settlements.
- \$2.835 million (10% of the Vote) for the purchase of Crown representation at Waitangi Tribunal hearings of historical claims.
- \$4.678 million (16% of the Vote) for purchasing of property management services from the Office of Treaty Settlements.
- \$961,000 (3% of the Vote) for depreciation on assets held in the Office of Treaty Settlements Landbank.
- \$400,000 (1% of the Vote) for advance payment against notionally accrued interest.
- \$120,000 (1% of the Vote) for debt write-off of rentals owing from Landbank properties.
- \$10.000 million (35% of the Vote) for purchasing of property by the Office of Treaty Settlements for historical Treaty of Waitangi settlement purposes.

The Office of Treaty Settlements expects to collect \$5.800 million of revenue on behalf of the Crown from Landbank property operations.

Details of how the appropriations are to be spent appear in Parts B1, C, D and E. Details of Crown revenue appear in Part F.

## Terms and Definitions Used

<b>Claimant Funding</b>	A contribution from the Crown to claimant groups towards the costs of negotiating historical Treaty of Waitangi settlements.
<b>Deed of Settlement</b>	The complete, detailed and formal settlement agreement signed on behalf of the Crown and the claimant group. It is a legal document specifying the terms and conditions of the settlement of the Treaty claims.
<b>Historical Claims</b>	Those claims relating to alleged breaches of the Treaty of Waitangi before 21 September 1992.
<b>Landbank</b>	Surplus Crown property is held by the Office of Treaty Settlements to protect it for possible use in future Treaty of Waitangi settlements.
<b>Protection Mechanism</b>	The criteria applied when determining whether surplus Crown property will be landbanked.
<b>Terms of Negotiation</b>	A written agreement between the Crown and a claimant group setting out the agreed objectives and ground rules for negotiations.

## Footnotes

<b>Note 1</b>	In addition to the amounts shown in the referred table, actual other expenses under the multi-year appropriation for historical Treaty of Waitangi settlements is \$44.866 million in the period 1 July 2006 until 31 March 2007. The amount under the multi-year appropriation for the five-year period 2006/07 to 2010/11 is \$400 million.
	1994/95 - \$165.577 million
	1995/96 - \$11.318 million
	1996/97 - \$45.488 million
	1997/98 - \$123.625 million
	1998/99 - \$9.195 million
	1999/00 - \$9.845 million
	2000/01 - \$56.937 million
	2001/02 - \$14.699 million
	2002/03 - \$53.359 million
	2003/04 - \$30.308 million
	2004/05 - \$8.516 million
	2005/06 - \$30,607 million

## Minister Portfolio Table

74	Minister in Charge of Treaty of Waitangi Negotiations
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# Treaty Negotiations

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ADMINISTERING DEPARTMENT: Ministry of Justice

The Minister of Justice is the Responsible Minister for the Ministry of Justice

## Part A - Statement of Objectives and Trends

### Part A1 - Objectives for Vote

#### *Justice Sector Contribution to Government Priorities*

The Government has set three high level, long-term priorities for the next decade on which the success of the social, economic, political and cultural activities of the nation will be built.

- Economic Transformation - working to progress our economic transformation to a high income, knowledge based market economy, which is both innovative and creative and provides a unique quality of life for all New Zealanders.
- Families - Young and Old - all families, young and old have the support and choices they need to be secure and able to reach their full potential within our knowledge based economy.
- National Identity - all New Zealanders to be able to take pride in who and what we are, through our arts, culture, film, sports and music, our appreciation of our natural environment, our understanding of our history and our stance on international issues.

The justice sector supports Economic Transformation by providing effective civil courts and tribunals that enable national and international business transactions to be conducted with security and confidence. By protecting the safety and security of individuals and communities, and ensuring that people can enjoy their civil and political rights, the justice sector supports Families - Young and Old. The sector also contributes to core elements of New Zealand's National Identity by providing services that support the maintenance of effective constitutional arrangements.

The sector's overall outcome is a 'Safe and Just Society' for New Zealand. For this outcome to be achieved, communities need to be safe and individuals need to feel secure and that they live in a society where civil and democratic rights and obligations can be enjoyed. Each justice sector agency has a role to play in delivering on this outcome, and in many instances agencies need to work together if we are to deliver core services effectively and maximise our contribution to outcomes.

#### *Role and Contribution of the Ministry*

The Ministry provides a range of services on behalf of the Government and supports the following Ministers:

- The Minister of Justice.
- The Minister Responsible for the Law Commission.
- The Minister in Charge of Treaty of Waitangi Negotiations.
- The Minister for Courts.
- The Attorney-General.

- The Associate Minister of Justice.
- The Associate Minister in Charge of Treaty of Waitangi Negotiations.

The Ministry is responsible for three core functions: the delivery of operational services including court and tribunal-related services, collections, electoral services and negotiations for settling historical Treaty of Waitangi claims; the provision of policy advice; and leadership of the justice sector. The Ministry administers these functions in three Votes: Justice; Treaty Negotiations; and Courts.

### *Output Appropriations*

The Ministry of Justice administers Vote Treaty Negotiations and the output appropriations in this Vote fund a range of activities that contribute to the sector outcomes:

- Policy advice - Treaty negotiations.
- Representation - Waitangi Tribunal.
- Property portfolio management.

### *Links between Departmental Output Expenses and Outcomes*

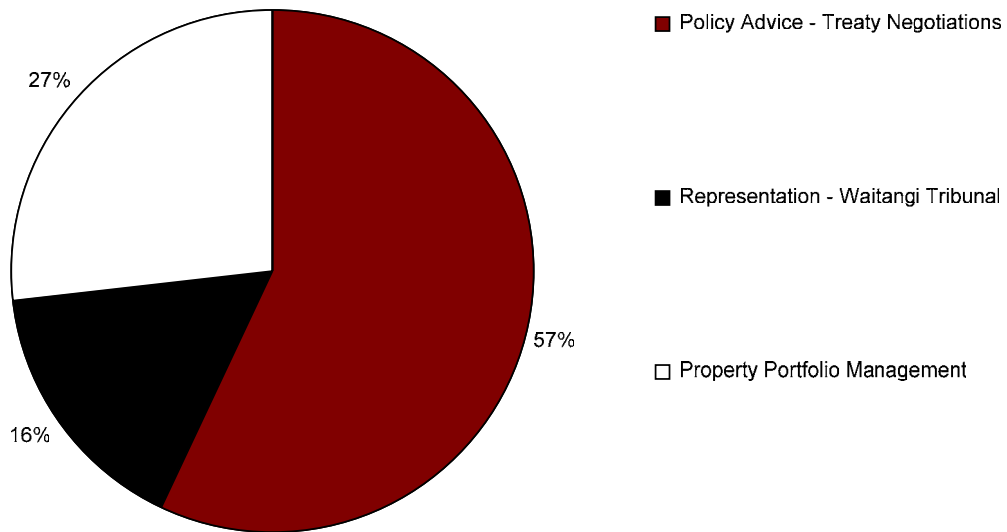
The links between the outputs to be purchased and the particular outcomes for the Ministry of Justice are set out below:

Departmental Output Expense	Outcomes
Policy advice - Treaty negotiations Representation - Waitangi Tribunal Property portfolio management	<ul style="list-style-type: none"> <li>• Ensuring civil and democratic rights and obligations are enjoyed.</li> </ul>

### *Vote Structure*

The chart below displays the composition of Vote Treaty Negotiations in terms of the proportion of each output expense to the total departmental appropriation of \$17.475 million for Departmental Output Expenses.

**Figure 1** - Departmental output expenses



Source: Ministry of Justice

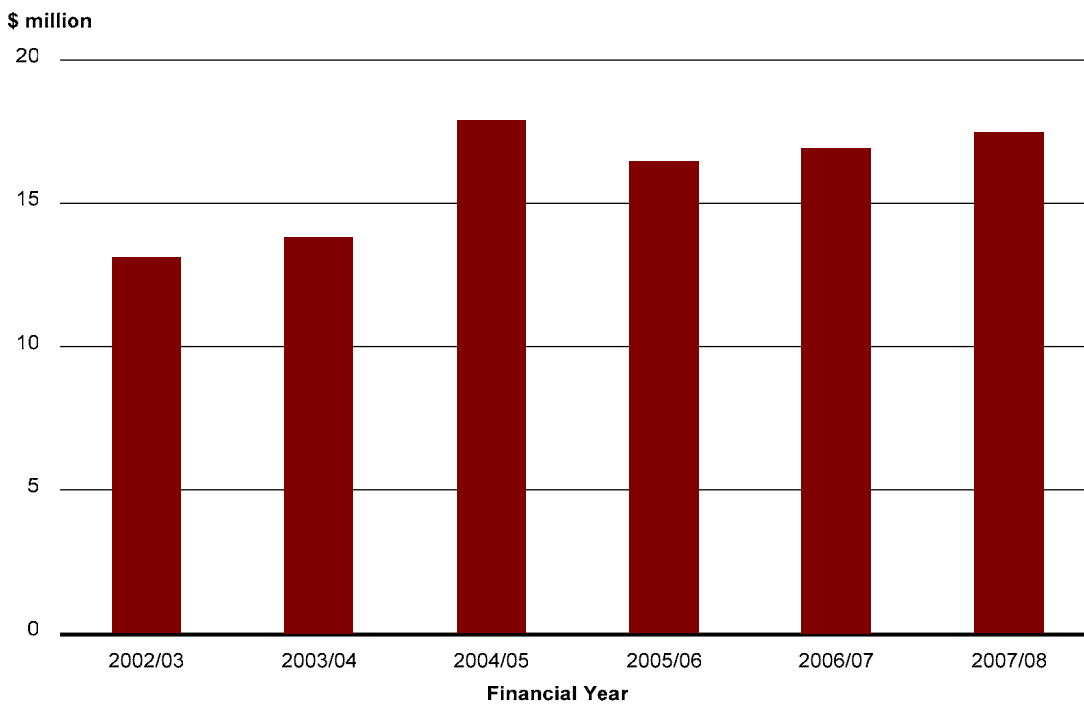
A more detailed breakdown is provided in Part B, Statement of Appropriations.

**Part A2 - Trends in Vote**

*Departmental Output Trends*

The chart below shows the trend in total departmental appropriations over time.

**Figure 2** - Departmental appropriations 2002/03 to 2007/08



Source: Ministry of Justice

The appropriation trend for Vote Treaty Negotiations generally shows steady increases in outputs purchased from 2002/03 to 2005/06 and then a levelling out in the last three years. The trend in Vote Treaty Negotiations is largely influenced by the increased negotiation activity with claimant groups.

Appropriations increased significantly in 2004/05 to provide for increased negotiation activity and a one-off appropriation for deferred maintenance for properties held in the landbank. In 2006/07, the budget initiative to increase the Office of Treaty Settlements negotiation capacity was approved to support the Government's policy target to settle all historical Treaty claims by the year 2020.

### *Crown Expenditure and Revenue Trends*

The Office of Treaty Settlements administers Crown expenditure and revenue associated with the settlement of historical Treaty of Waitangi claims.

The multi-year appropriation for the settlement of historical Treaty of Waitangi claims was recalculated in 2006/07 to \$400 million over a five-year period (see Note 1). The multi-year appropriation is reassessed every year to ensure that it remains reasonable and sufficient for the following five-year period.

Crown Revenue consists of non-tax revenue derived from the commercial operation of properties held in the Landbank.

Capital receipts for sale of property are wholly dependent on the land held in the Landbank relative to each claim and the timing of the relevant claim settlement. Neither the amount of land actually held at a future point nor the timing of future settlements can be forecast with any precision.

## Part B - Statement of Appropriations

### Summary of Financial Activity

	2002/03	2003/04	2004/05	2005/06	2006/07		2007/08 Appropriations to be Used				2008/09	2009/10	2010/11	
	Actual \$000	Actual \$000	Actual \$000	Actual \$000	Budget \$000	Estimated Actual \$000	By the Department Administering the Vote		For Non-Departmental Transactions		Total \$000	Estimated \$000	Estimated \$000	Estimated \$000
							Annual \$000	Other \$000	Annual \$000	Other \$000				
<b>Appropriations</b>														
Output Expenses	13,124	13,800	17,898	16,235	17,422	17,422	17,475	-	-	-	17,475	18,311	18,311	18,311
Benefits and Other Unrequited Expenses	-	-	-	-	-	-	N/A	N/A	-	-	-	-	-	-
Borrowing Expenses	-	-	-	-	-	-	N/A	N/A	-	-	-	-	-	-
Other Expenses	4,983	5,604	5,523	961	1,461	1,461	-	-	1,081	-	1,081	1,081	1,081	1,081
Capital Expenditure	9,138	4,533	4,321	2,308	11,400	11,400	N/A	N/A	10,400	-	10,400	10,000	10,000	10,000
Intelligence and Security Department Expenses and Capital Expenditure	-	-	-	-	-	-	-	-	N/A	N/A	-	-	-	-
<b>Total Appropriations</b>	<b>27,245</b>	<b>23,937</b>	<b>27,742</b>	<b>19,504</b>	<b>30,283</b>	<b>30,283</b>	<b>17,475</b>	<b>-</b>	<b>11,481</b>	<b>-</b>	<b>28,956</b>	<b>29,392</b>	<b>29,392</b>	<b>29,392</b>
<b>Crown Revenue and Receipts</b>														
Tax Revenue	-	-	-	-	-	-	N/A	N/A	N/A	N/A	-	-	-	-
Non-Tax Revenue	6,146	7,327	6,625	6,022	6,593	6,593	N/A	N/A	N/A	N/A	5,800	5,800	5,800	5,800
Capital Receipts	5,582	4,963	31	-	-	-	N/A	N/A	N/A	N/A	-	-	-	-
<b>Total Crown Revenue and Receipts</b>	<b>11,728</b>	<b>12,290</b>	<b>6,656</b>	<b>6,022</b>	<b>6,593</b>	<b>6,593</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>5,800</b>	<b>5,800</b>	<b>5,800</b>	<b>5,800</b>



## Part B1 - Details of Appropriations

Appropriations	2006/07				2007/08		Scope of 2007/08 Appropriations
	Budget		Estimated Actual		Vote		
	Annual \$000	Other \$000	Annual \$000	Other \$000	Annual \$000	Other \$000	
<b>Departmental Output Expenses (General)</b>							
Policy Advice - Treaty Negotiations (M74)	9,004	-	9,004	-	9,962	-	- Advice on generic Treaty issues and specific historical Treaty claims. Negotiation of historical Treaty claims. Where appropriate, the preparation of settlement legislation, property valuation, disclosure and preparation and execution of legal documentation required to enable the transfer of settlement assets to claimants.  Reason for Change: To reflect the forecast out-turn and corporate overhead allocation and an increase in the new initiative funding approved in the 2006 Budget.
Property Portfolio Management (M74)	5,745	-	5,745	-	4,678	-	- Management, transfer and disposal of Crown-owned property for Treaty settlement purposes.  Reason for Change: The appropriation for 2006/07 was increased for the provision of security at Stony Creek Station, one of the Landbank properties currently under dispute, and to reflect the forecast out-turn and corporate overhead allocation.
Representation - Waitangi Tribunal (M74)	2,673	-	2,673	-	2,835	-	- Allows the Crown to undertake research into historical Treaty grievances and ensures the Crown is represented with well prepared documentation and evidence at Waitangi Tribunal hearings.  Reason for Change: To reflect the forecast out-turn.
<b>Total Departmental Output Expenses (General)</b>	17,422	-	17,422	-	17,475	-	
<b>Other Expenses to be Incurred by the Crown</b>							
Crown Contribution to Te Arawa (non-lakes) Waitangi Tribunal Costs (M74)	380	-	380	-	-	-	- One-off ex gratia payment to the Nga Kaihau o Te Arawa Executive Council as a contribution to Te Arawa (non-lakes) Waitangi Tribunal costs associated with mandating issues.
Debt Write-offs (M74)	120	-	120	-	120	-	- Write-off of Bad Debts from Landbank rental properties.
Depreciation (M74)	961	-	961	-	961	-	- Depreciation on assets held in the Office of Treaty Settlements Landbank for Treaty settlements.
<b>Total Other Expenses to be Incurred by the Crown</b>	1,461	-	1,461	-	1,081	-	

	2006/07				2007/08		
	Budget		Estimated Actual		Vote		
Appropriations	Annual \$000	Other \$000	Annual \$000	Other \$000	Annual \$000	Other \$000	Scope of 2007/08 Appropriations
<b>Capital Expenditure</b>							
Advance Payment Against Notionally Accrued Interest (M74)	1,400	-	1,400	-	400	-	- Payment of interest notionally accrued on Treaty Settlements after a Deed of Settlement has been signed and prior to settlement date, as agreed to through negotiations.  Reason for Change: In accordance with the schedule of advances agreed to in the Te Arawa (non-lakes) Settlement Deed.
Land, Stock, Plant Purchases (M74)	10,000	-	10,000	-	10,000	-	- The purchase of surplus Crown property is held in the Office of Treaty Settlements Landbank to protect it for possible use in future Treaty of Waitangi settlements.
<b>Total Capital Expenditure</b>	11,400	-	11,400	-	10,400	-	
<b>Total Appropriations</b>	30,283	-	30,283	-	28,956	-	

## Part B2 - Details of Multi-Year Appropriations

Appropriations	Current Appropriation \$000	Scope of Appropriations
<b>Other Expenses to be Incurred by the Crown</b>		
<b>Historical Treaty of Waitangi Settlements (M74)</b>		
Original Appropriation	400,000	Settlement of historical Treaty of Waitangi claims, including redress through the transfer of assets (cash and property) from the Crown to claimant groups, any simple interest payable on settlements between signing of the Deed of Settlement and the Settlement Date, and payment of claimant funding.
Commences	1 July 2006	
Expires	30 June 2011	Reason for Change: This MYA is repealed and replaced annually. For details of previous years' Treaty settlement expenditure see Note 1.
Adjustments 2006/07	-	
Appropriation	400,000	
Estimated Actual to 2006/07 Year End	92,361	
Estimated Actual to 2007/08 Year End	152,838	

## Part C - Explanation of Appropriations for Output Expenses

### Part C1 - Departmental Output Expenses

#### *Policy Advice - Treaty Negotiations*

This output covers services to the Minister in Charge of Treaty of Waitangi Negotiations, including:

- Advising on historical Treaty settlement issues, including overall strategies for settling historical Treaty claims and developing approaches to settlement policy issues.
- Claim development and pre-negotiation: advising the Minister on specific historical Treaty claims; advising and helping claimant groups to ensure well-mandated groups are ready to enter negotiations; and agreeing Terms of Negotiations.
- Negotiating the settlement of historical Treaty claims from signed Terms of Negotiation to ratified Deeds of Settlement. This process includes: property valuation; disclosure, preparation and execution of legal documents; and overseeing the preparation of settlement legislation and advising the select committee and the Minister.
- Implementing Treaty settlements, including co-ordination and advice relating to the Crown's compliance with the terms and conditions of all unconditional Deeds of Settlement.

#### *Representation - Waitangi Tribunal*

This output includes services to the Minister in Charge of Treaty of Waitangi Negotiations to ensure the Crown is provided with research into historic Treaty grievances and represented at Waitangi Tribunal hearings with well-prepared documentation and evidence. The Crown Law Office represents the Crown on behalf of the Office of Treaty Settlements.

#### *Property Portfolio Management*

This output includes:

- Advising the Minister in Charge of Treaty of Waitangi Negotiations on Māori interests in property subject to historical Treaty of Waitangi Claims, according to the terms and conditions of the Protection Mechanism.
- Managing property acquired for potential use in Treaty settlements, including managing tenancies, collecting revenue, paying expenses, maintaining properties to agreed standards and complying with the legal requirements as landowner.
- Subsequent transfer to an appropriate claimant group as part of a Treaty settlement, or disposal on the open market.

## Part D - Explanation of Appropriations for Other Operating Flows

### Part D3 - Other Expenses

#### *Historical Treaty of Waitangi Settlements*

The multi-year appropriation is used for the payment of redress arising from Deeds settling historical Treaty of Waitangi claims. The appropriation allows the Government to commit expenditure up to four years in advance and was first used in the 1994/95 financial year.

Claimant funding is also paid from the multi-year appropriation. Claimant funding provides a contribution from the Crown, through the Office of Treaty Settlements, to claimant groups towards:

- the costs of pre-negotiations, including obtaining a mandate (payable once the Crown recognises the mandate), agreeing Terms of Negotiation and starting formal negotiations
- the costs of negotiations, including reaching a draft Deed of Settlement and setting up an appropriate post-settlement governance entity to hold and manage the settlement assets
- the costs of ratification, which is the cost of confirming acceptance of a settlement package and the post-settlement governance entity by all members of a claimant group.

Interest accruing on claims settlements is also paid from the multi-year appropriation. As part of a negotiated settlement the Crown may agree to pay interest on the outstanding settlement amount. Interest accrues from the date the Deed of Settlement is signed until it is paid following the passage of enabling legislation.

#### *Depreciation and Write-off of Bad Debts*

Crown expenditure also consists of:

- an annual appropriation for depreciation on landbank properties
- an annual appropriation for the write-off of bad debts from landbank rental properties.

## Part E - Explanation of Capital Flows

### Part E1 - Explanation of Movements in Departmental Net Asset Schedules

Details of Net Asset Schedule for Ministry of Justice - OTS	Estimated Actual 2006/07 \$000	Projected 2007/08 \$000	Explanation of Projected Movements in 2007/08
Opening Balance	208	208	
Capital Injections	-	-	
Capital Withdrawals	-	-	
Surplus to be Retained (Deficit Incurred)	-	-	
Other Movements	-	-	
Closing Balance	208	208	

### Part E3 - Explanation of Appropriations for Capital Expenditure

#### *Advance Against Notionally Accrued Interest*

This appropriation allows for the early release of interest accrued to a claimant group from the date the Deed of Settlement is signed and is treated as a loan. The appropriation is to assist in the progress of the claim and facilitates the costs of negotiations. The total interest paid in advance is deducted from the interest payable at settlement date.

#### *Land, Stock, Plant Purchases*

The Crown, through the Office of Treaty Settlements, consults with claimants when government departments, District Health Boards, Crown Research Institutes or Crown Entities (as agreed to by Cabinet on a case by case basis) wish to sell surplus land. If the land is subject to an historical Treaty of Waitangi claim and Māori express an interest in the land, the Office of Treaty Settlements will, if the Crown agrees, purchase the property and hold it for potential use in a future Treaty settlement.

## Part F - Crown Revenue and Receipts

### Part F1 - Current and Capital Revenue and Capital Receipts

	2006/07		2007/08	Description of 2007/08 Crown Revenue
	Budgeted \$000	Estimated Actual \$000	Budget \$000	
<b>Non-Tax Revenue</b>				
Landbank Properties	6,593	6,593	5,800	Revenue arising from landbanked properties.
<b>Total Non-Tax Revenue</b>	6,593	6,593	5,800	
<b>Total Crown Revenue and Receipts</b>	6,593	6,593	5,800	