

VOTE *Treaty* *Negotiations*

Treaty Negotiations

Overview

Vote Treaty Negotiations contains a multi-year appropriation of \$400.000 million for the five-year period 2001/02 to 2005/06. This appropriation is for the settlement of historical Treaty of Waitangi claims and provides for the transfer of assets (cash and property) from the Crown to claimants.

Annual appropriations sought for Vote Treaty Negotiations in 2002/03 total \$28.044 million. Expenses are forecasted to be incurred as follows:

- \$7.233 million (25.79% of the annual appropriations) for the purchase of policy advice, negotiation, settlement and implementation of historical Treaty claims from the Office of Treaty Settlements.
- \$2.460 million (8.77% of the annual appropriations) for the purchase of Crown representation at Waitangi Tribunal hearings of historical claims from the Office of Treaty Settlements.
- \$4.934 million (17.59% of the annual appropriations) for purchasing of property management services from the Office of Treaty Settlements.
- \$435,000 (1.55% of the annual appropriations) for funding of the Ngāi Tahu Ancillaries Claims Trust.
- \$10.000 million (35.66% of the annual appropriations) for purchasing of land by the Office of Treaty Settlements for historical Treaty of Waitangi settlement purposes.
- \$2.982 million (10.63% of the annual appropriations) for the payment of interest on settlement redress to Ngāti Ruanui and Ngāti Tama.

The Office of Treaty Settlements expects to receive on behalf of the Crown \$3.926 million from landbank property operations and \$156,000 from Waitomo loan interest and capital repayments. Details of how the appropriations are to be spent appear in Parts B1, B2, C, D and E of this Vote. Details of Crown revenue appear in Part F.

Terms and Definitions Used

Crown Negotiating Brief	A Crown Negotiating Brief is a document approved by authorised Ministers before direct negotiations between the Crown and the claimants begin. This Crown Negotiating Brief establishes the Crown’s preliminary position on the nature and extent of the Treaty breaches. It also sets out the parameters within which redress options may be negotiated.
Deed of Mandate	A Deed of Mandate defines the claimant group which is the subject of the claim. It specifies the mandated representatives and explains how that authority was attained from the claimant community. It provides assurances for the Crown that it is dealing with the appropriate representatives of the claimant group and informs those claimants and beneficiaries of the claimant group who are not directly involved in the negotiations process of what is happening.
Deed of Settlement	A Deed of Settlement is a legal document specifying the terms and conditions of settlement of the Treaty claims. Where required to give effect to those terms and conditions, legislation to enact will follow once a Deed of Settlement is ratified and signed by both the Crown and the claimants.
Historical Claims	Historical claims are those relating to alleged breaches of the Treaty of Waitangi before 21 September 1992.
Protection Mechanism	<p>There are three ways the Office of Treaty Settlements purchases surplus Crown land to protect it for possible use in future Treaty of Waitangi settlements. These are:</p> <p>Crown Settlement Portfolio (CSP)</p> <ul style="list-style-type: none"> holds all surplus Crown properties within confiscation (raupatu) boundaries. “Confiscation boundaries” refers to areas of land confiscated under the New Zealand Settlements Act 1863 <p>Claim-specific landbanks</p> <ul style="list-style-type: none"> hold land for a specific claimant group which falls within their claim boundary. The claimant group chooses which properties it wishes to include in the landbank up to the value of the landbank cap Regional landbanks hold land outside CSP and claim-specific areas. This enables the Crown to protect land outside these areas.
Terms of Negotiation	Terms of Negotiation establish the ground rules for the formal talks between the Government and claimant, setting out the agreed terms by which they will negotiate with each other, and specifies the objectives of the negotiations.

Footnotes

Note 1	In addition to the amounts shown in this table, actual Other Expenses under the multi-year appropriation for historical Treaty of Waitangi settlements were \$165.577 million in 1994/95, \$11.318 million in 1995/96, \$45.488 million in 1996/97, \$123.322 million in 1997/98, \$9.195 million in 1998/99, \$11.248 million in 1999 /2000, \$56.937 million in 2000/01 and \$14.576 million in the period 1 July 2001 until 31 March 2002. The amount under the multi-year appropriation for the five-year period 2002/03 to 2006/07 is \$400.000 million.
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Treaty Negotiations

VOTE MINISTER: Minister in Charge of Treaty of Waitangi Negotiations

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 Treaty Negotiations

Outcomes

The Ministry of Justice administers Vote Treaty Negotiations. The Minister in Charge of Treaty of Waitangi Negotiations has agreed to two major outcomes for the Ministry of Justice. Vote Treaty Negotiations contributes to the second of these - *Respect for Rights and the Rule of Law*, through the intermediate outcome of *fair, durable and final settlements that resolve well founded historical grievances relating to the Treaty of Waitangi*.

Output Classes

The appropriations will fund activities including the following:

Policy Advice – Treaty Negotiations - including

- Ministerial services, which includes replies to ministerial correspondence, Official Information Act requests and parliamentary questions on issues that impact on Treaty of Waitangi settlement negotiations.
- Advice on generic Treaty issues, including overall strategies for settling historical Treaty claims and the development of generic approaches to policy issues which affect the settlement of more than one claim.
- Claim development and pre-negotiation, including advice and assistance to claimant groups to ensure a future supply of well-mandated, large natural groups ready to enter negotiations, and advice to the Minister on specific historical Treaty claims, up to and including advice on the Terms of Negotiation.
- Negotiating the settlement of historical Treaty claims from signed Terms of Negotiation to ratification by both parties of Deeds of Settlement, including property valuation, disclosure, preparation and execution of legal documents, and overseeing the preparation of settlement legislation and advising the select committee and Minister during its passage through the House.
- Implementation of Treaty settlements, including co-ordination and advice relating to the Crown's compliance with the terms and conditions of all ratified Deeds of Settlement.

Representation - Waitangi Tribunal – ensuring that the Crown undertakes research into historical Treaty grievances and has its position represented with well prepared documentation and evidence at Waitangi Tribunal hearings.

Property Portfolio Management – advice on the Protection Mechanism, acquisition, management, transfer and disposal of Crown-owned property for Treaty claim purposes.

Links Between the Output Classes and the Government's Outcomes

The links between the classes of outputs being purchased and Government's desired outcome of achieving the fair, durable and affordable settlement of historical Treaty of Waitangi claims are shown below:

Departmental Output Class	These Outputs are Provided with the Specific Goal of:
Policy Advice - Treaty Negotiations	<ul style="list-style-type: none"> • advising on, and ensuring, the adequacy of the Crown's policy and operational framework for the direct negotiation and durable settlement of well founded historical Treaty claims • developing, and advising on, a Crown position on the nature and extent of Treaty breaches arising from historical claims • for specific claims, advising on claimant representation to negotiate the settlement of well-founded claims and resolution of cross-claims • negotiating the settlement of specific Treaty claims, in accordance with the Crown's settlement priorities and within approved parameters • advice on ratification processes for settlement and the form of governance entities to receive settlement assets • coordinating, and advising on, the Crown's compliance with, and the implementation of, the terms and conditions of all ratified Deeds of Settlement, including: <ul style="list-style-type: none"> – overseeing the preparation of settlement legislation and advising the select committee and Minister during its passage through the House – property transfers and capital payments – agreed non-commercial redress and other arrangements • providing strategic advice to the Crown on its historical Treaty claim litigation.
Representation - Waitangi Tribunal	<ul style="list-style-type: none"> • ensuring that the Crown undertakes research into historical Treaty grievances and is represented with well-prepared documentation and evidence at Waitangi Tribunal hearings.

Departmental Output Class – cont'd	These Outputs are Provided with the Specific Goal of:
Property Portfolio Management	<ul style="list-style-type: none"> • ensuring that the Crown operates as a “good landowner” in respect of the lands and properties acquired and held for potential use in Treaty settlements • ensuring that the lands and properties held are maintained in at least the same condition as when acquired for the land portfolio • ensuring that the annual revenue forecast for the land portfolio is met and expenditure is within budget.

Part A2 - Trends in Vote Treaty Negotiations

Output Trends

Vote Treaty Negotiations came into existence on 1 July 1994. Output class appropriations are divided into; D1 Policy Advice - Treaty Negotiations; D2 Representation - Waitangi Tribunal; and D3 Property Portfolio Management.

The appropriation for output classes D1 Policy Advice - Treaty Negotiations and D2 Representation – Waitangi Tribunal remained at the same level as 2000/01. An additional appropriation to output class D3 – Property Portfolio Management resulted in an increase of \$1.288m. In summary, major achievements during 2001/02 included:

Policy Advice - Treaty Negotiations

A number of claimant groups progressed through the pre-negotiation stages of the Treaty settlement process. Deeds of Mandate were published for Te Rūnanga o Te Rarawa and Te Rūnanga Iwi o Ngāti Kahu. A conditional mandate was recognised for Ngāti Kahu ki Whangaroa and a final mandate recognised for Te Runanga o Te Rarawa. Revised terms of negotiation were signed with Te Arawa for Lakes claim.

Significant progress was made in negotiations with Ngāti Awa, Tuwharetoa ki Kawerau, Nga Rauru, Ngāti Tama, and Te Aupouri. Most significantly, a comprehensive Deed of Settlement was signed by the Crown and Ngāti Tama.

The Te Uri o Hau settlement legislation was introduced and the Ngāti Ruanui settlement legislation awaits introduction.

Implementation of settlements continued for Tainui, Ngāi Tahu, Pouakani, and Ngati Turangitukua.

Representation - Waitangi Tribunal

Crown Law represented the Crown in hearings in the Waitangi Tribunal’s historical inquiries including claims relating to Kaipara, Hauraki, Te Tau Ihu, Tauranga and Gisborne regions, and the Tarawera Forest. There were also judicial conferences for the Central North Island and Wairarapa.

Property Portfolio Management

Over 700 properties worth \$132 million were managed as part of the regional landbanks, the Crown Settlement Portfolio or claim-specific landbanks. Disposal occurred of most of the remaining properties in the area covered by the Ngai Tahu settlement.

The funding for Output D1: Policy Advice - Treaty Negotiations will increase by \$450,000 in the 2002/03 financial year and subsequent outyears to provide for additional outputs relating to claim development. Funding for Output D3: Property Portfolio Management will be increased by \$0.568m to meet management costs associated with holding additional properties.

In summary, during 2002/03, OTS will aim to achieve the following:

Policy Advice - Treaty Negotiations

Claim development and pre-negotiation, which includes advice and assistance to claimant groups seeking to enter negotiations, will be an important focus. It is expected that at least two Deeds of Mandate will be recognised by the Crown, and that at least two Terms of Negotiation will be signed.

Negotiations will continue with a number of claimants. It is expected that at least two Agreements in Principle or Heads of Agreement will be signed. Negotiations towards Deeds of Settlement with groups already having Heads of Agreement, and other mandated claims groups, are expected to result in the signing of at least two Deeds.

At least two Settlement Bills are expected to be drafted for introduction and settlement legislation for conditional settlements is expected to be introduced.

Settlement implementation will be progressed in accordance with the Deeds of Settlement, and in particular remaining aspects of the Pouakani and Te Uri o Hau Deed of Settlement will be implemented.

Representation - Waitangi Tribunal

Research will be completed on historical Treaty claims and the Crown will be represented at Waitangi Tribunal hearings of claim, based on priorities resulting from Tribunal Hearing schedules or urgent hearings as they arise.

Property Portfolio Management

An estimated average of 700 landbanked properties will be managed and it is likely that up to 50 new properties, at an estimated value of \$10 million, will be added to the landbank. Disposal of properties will occur in areas where settlements, not affected by cross claims, are implemented.

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.

Crown expenditure consists of:

- annual appropriations for claims settlement interest.
- an annual appropriation to fund the Ngai Tahu Ancillaries Claims Trust.

- a multi-year appropriation for historical Treaty of Waitangi settlements.
- an annual appropriation to purchase surplus Crown land for landbanking and for direct transfer to a claimant group.

On the signing of a Deed of Settlement, the Crown has to date paid interest on the outstanding settlement amount. Interest accrues from the date the Deed is signed until redress is paid following the passage of enabling legislation.

The Ngai Tahu Ancillary Claims Trust was established in 1998/99 with a budget of \$134,000 for 1998/99, \$473,000 for 1999/2000, \$1.650 million in 2000/01 and \$824,000 for 2001/02. In 2001/02 funding was not required by the Trust, the saving being used to fund some of the additional requirements in Property Portfolio Management). This Trust is funded from a separate appropriation. The appropriation for 2002/03 is \$435,000.

The multi-year appropriation for the settlement of historical Treaty of Waitangi claims was recalculated in 2000/01 to \$400.000 million over 2001/02 to 2005/06. The multi-year appropriation is reassessed every year to ensure that it remains reasonable and sufficient for the following five-year period .

The appropriation for the Purchase or Development of Capital Assets meets the costs of purchasing properties for landbanking. Surplus Crown land is purchased for potential use in the future settlement of historical Treaty of Waitangi claims. Since 1994/95 landbank acquisitions have increased under the broadened parameters for protecting surplus Crown land but have now stabilised. This appropriation is also used to purchase property for direct transfer to claimants.

Non-tax revenue is derived from the commercial operation of properties held in the landbanks.

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.

Trends in Vote Treaty Negotiations - Summary of Appropriations and Crown Revenue

Types of Appropriation	1997/98	1998/99	1999/2000	2000/01	2001/02		2002/03 Appropriations to be Used				2003/04	2004/05	2005/06	
	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				
Operating Flows														
Classes of Outputs to be Supplied	14,601	13,517	13,436	13,474	14,897	14,897	14,627	-	-	-	14,627	14,627	14,627	14,627
Benefits and Other Unrequited Expenses	-	-	-	-	-	-	N/A	N/A	-	-	-	-	-	-
Borrowing Expenses	-	-	-	-	-	-	N/A	N/A	-	-	-	-	-	-
Other Expenses	28,806	9,237	8,961	3,481	3,686	3,686	-	-	3,417	-	3,417	46	-	-
Capital Flows														
Capital Contributions	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Purchase or Development of Capital Assets	58,382	36,031	37,669	10,981	10,000	10,000	N/A	N/A	10,000	-	10,000	10,000	10,000	10,000
Repayment of Debt	-	-	-	-	-	-	N/A	N/A	-	-	-	-	-	-
Total Appropriations	101,789	58,785	60,066	27,936	28,583	28,583	14,627	-	13,417	-	28,044	24,673	24,627	24,627
Total Crown Revenue and Receipts	11,516	20,887	18,038	14,227	6,256	6,256	N/A	N/A	N/A	N/A	4,082	4,082	4,082	4,082

Part B – Statement of Appropriations

Part B1 - Details of Appropriations

Appropriations	2001/02				2002/03		Description of 2002/03 Appropriations
	Vote		Estimated Actual		Vote		
	Annual \$000	Other \$000	Annual \$000	Other \$000	Annual \$000	Other \$000	
Departmental Output Classes (Mode B Gross)							
D1 Policy Advice - Treaty Negotiations	6,783	-	6,783	-	7,233	-	Advice on generic Treaty issues and specific historical Treaty claims. Negotiation of historical Treaty claims. Where appropriate, the preparation of settlement legislation, and the valuation, disclosure and preparation and execution of legal documentation required to enable the transfer of settlement assets to claimants.
D2 Representation - Waitangi Tribunal	2,460	-	2,460	-	2,460	-	Ensuring that the Crown undertakes research into historical Treaty grievances and has its position represented with well prepared documentation and evidence at Waitangi Tribunal hearings.
D3 Land Portfolio Management	5,654	-	5,654	-	4,934	-	Acquisition, management, transfer and disposal of Crown-owned land for Treaty claim purposes.
Total Appropriations for Departmental Output Classes (Mode B Gross)	14,897	-	14,897	-	14,627	-	
Other Expenses to be Incurred by the Crown							
Waikato-Tainui Interest	286	-	286	-	-	-	Interest payable as part of the Waikato-Tainui settlement on the diminishing balance of the value of the redress.
Ngai Tahu Ancillary Claims Trust	-	-	-	-	435	-	Funding of the Ngai Tahu Ancillary Claims Trust to return particular properties to identified beneficiaries.

Interest Payments on Settlements	3,400	-	3,400	-	2,982	-	Interest payable on the outstanding value of redress for signed Deeds of Settlement. Provision for Te Ariki should a deed of Settlement be signed.
Total Appropriations for Other Expenses to be Incurred by the Crown	3,686	-	3,686	-	3,417	-	
Purchase or Development of Capital Assets by the Crown							
Land, Stock, Plant Purchases	10,000	-	10,000	-	10,000	-	Surplus Crown land is purchased for Treaty claim purposes from Crown agencies and departments, for claim-specific and regional landbanks, the Crown Settlement Portfolio, and specific Settlements.
Total Appropriations for Purchase or Development of Capital Assets by the Crown	10,000	-	10,000	-	10,000	-	
Total Appropriations	28,583	-	28,583	-	28,044	-	

Part B2 - Details of Multi-Year Appropriation (see note 1)

Appropriations	Current Appropriation \$000	Description of Appropriations
Other Expenses to be Incurred by the Crown		
Historical Treaty of Waitangi Settlements		
Term	2002/03 to 2006/07	The multi-year appropriation reflects the Crown's commitment to settling historical Treaty of Waitangi claims and the uncertain timing of achieving settlement for each claim. The multi year appropriation of \$400.000 million covers a five year period, and the amount is reviewed annually to ensure that it is sufficient and reasonable to meet claims for this period.
Original Appropriation	400,000	
Adjustments	14,495	
Total Appropriation	400,000	
Actual to date (March)	14,495	
Remaining	400,000	

Part C - Explanation of Appropriations for Output Classes

Part C1 – Departmental Output Classes

Output Class D1 – Policy Advice - Treaty Negotiations

Under this output class the Minister in Charge of Treaty of Waitangi Negotiations will purchase the following services:

- Ministerial services, which includes replies to ministerial correspondence, Official Information Act requests and parliamentary questions on issues that impact on Treaty of Waitangi settlement negotiations.
- Advice on generic Treaty issues, including overall strategies for settling historical Treaty claims and the development of generic approaches to policy issues which affect the settlement of more than one claim.
- Claim development and pre-negotiation, including advice and assistance to claimant groups to ensure a future supply of well-mandated, large natural groups ready to enter negotiations, and advice to the Minister on specific historical Treaty claims, up to and including advice on the Terms of Negotiation.
- Negotiating the settlement of historical Treaty claims from signed Terms of Negotiation to ratification by both parties of Deeds of Settlement, including property valuation, disclosure, preparation and execution of legal documents, and overseeing the preparation of settlement legislation and advising the select committee and Minister during its passage through the House.
- Implementation of Treaty settlements, including co-ordination and advice relating to the Crown's compliance with the terms and conditions of all ratified Deeds of Settlement.

Output Class D2 – Representation - Waitangi Tribunal

This output class includes services provided to the Minister in Charge of Treaty of Waitangi Negotiations relating to ensuring that the Crown undertakes research into historical Treaty grievances and has its position represented with well prepared documentation and evidence at Waitangi Tribunal hearings.

Output Class D3 –Property Portfolio Management

This output class includes providing the following services to the Minister in Charge of Treaty of Waitangi Negotiations:

- Advice on Maori interests in property subject to the Protection Mechanism.
- Acquisition or resumption of property for regional landbanks, the Crown Settlement Portfolio or claim-specific landbanks and subsequent transfer to a relevant claimant group as part of a Treaty Settlement.

- Management of property acquired or resumed for potential use in Treaty settlements. This includes managing tenancies, collecting revenues, paying outgoings, maintaining properties to agreed standards and complying with legislative requirements on the Crown as land owner.
- Transfer and disposal of property including transferring property to claimants as part of a settlement, or as part of the return of Category A sites (Wahi Tapu) landbanked under the previous Protection Mechanism policy and the disposing of landbanked property that claimants no longer require for settlement purposes.

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.

Part E - Explanation of Appropriations for Capital Flows

Net Worth of Entities Owned

The taxpayers' funds of the Office of Treaty Settlements are included in the Statement of Financial Position of the Ministry of Justice.

Part E2 - Purchase or Development of Capital Assets by the Crown

Land, Stock, Plant Purchases

Further detail is provided in the Terms and Definitions section under Protection Mechanism.

This appropriation also covers properties purchased under the Deeds of Settlement.

Part F - Crown Revenue and Receipts

Part F1 - Current and Capital Revenue and Receipts

	2001/02		2002/03	Description of 2002/03 Crown Revenue
	Budgeted \$000	Estimated Actual \$000	Budget \$000	
Current Revenue				
Non-Tax Revenue				
Landbank Properties	6,100	6,100	3,926	Expected revenue arising from landbanked properties.
Waitomo Loan Interest	33	33	33	Interest received from a loan for the Treaty of Waitangi Waitomo Settlement in 1990.
Total Non-Tax Revenue	6,133	6,133	3,959	
Total Current Revenue	6,133	6,133	3,959	
Capital Receipts				
Waitomo Loan Repayments	123	123	123	Repayments of the principal of a loan for the Treaty of Waitangi Waitomo Settlement in 1990.
Total Capital Receipts	123	123	123	
Total Crown Revenue and Receipts	6,256	6,256	4,082	

