

VOTE *Treaty* *Negotiations*

Treaty Negotiations

Overview

Vote Treaty Negotiations contains a multi-year appropriation of \$400 million for the five-year period 2002/03 to 2006/07. 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 2003/04 total \$30.748 million. The appropriations are intended to be spent as follows:

- \$8.128 million (26% of the annual appropriations) for the purchase of policy advice, negotiation, settlement and implementation of historical Treaty claims from the Office of Treaty Settlements
- \$2.780 million (9% 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 (16% of the annual appropriations) for purchasing of property management services from the Office of Treaty Settlements
- \$481,000 (2% of the annual appropriations) for funding of the Ngāi Tahu Ancillary Claims Trust
- \$10.000 million (33% of the annual appropriations) for purchasing of property by the Office of Treaty Settlements for historical Treaty of Waitangi settlement purposes
- \$4.425 million (14% of the annual appropriations) for the payment of interest on settlement redress to Ngāti Tama, Ngāti Awa, Ngaa Rauru and Waikato-Tainui.

The Office of Treaty Settlements expects to collect \$5.906 million revenue on behalf of the Crown from landbank property operations and Waitomo loan 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

Agreement in Principle	An agreement between the Crown and a claimant group marked by an exchange of letters between the claimant group and the Minister in Charge of Treaty of Waitangi Negotiations. The letters describe the broad outline of a settlement package. An Agreement in Principle is an alternative to the more detailed Heads of Agreement.
Deed of Mandate	A formal statement prepared by a claimant group stating who is appointed to represent them in negotiations with the Crown, and how the mandate was approved by the claimant group. It provides assurances for the Crown that it is dealing with the appropriate representatives of the claimant group.
Deed of Settlement	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.
Historical Claims	Those claims 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 property 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 property 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 <p>Regional Landbanks</p> <ul style="list-style-type: none"> hold property outside CSP and claim-specific areas. This enables the Crown to protect land outside these areas.
Terms of Negotiation	A written agreement between the Crown and a claimant group setting out the agreed objectives and ground rules for 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 is \$43.049 million in the period 1 July 2002 until 31 March 2003. The amount under the multi-year appropriation for the five-year period 2003/04 to 2007/08 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
	1999/2000 \$9.845 million
	2000/01 \$56.937 million
	2001/02 \$14.584 million

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 - *A fairer, more credible and effective justice system*, through the intermediate outcome of *fair and durable settlements that resolve 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 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 unconditional 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 settlement purposes.

Links between the Departmental Output Classes and Outcomes

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

Departmental Output Class	Outputs:
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 • 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 • advising on ratification processes for settlement and the form of governance entities to receive settlement assets • coordinating, and advising on, the Crown’s compliance with the terms and conditions of all unconditional Deeds of Settlement, including: <ul style="list-style-type: none"> – the preparation of settlement legislation and advising the select committee and Minister during its passage through the House – property transfers and capital payments – 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	Outputs:
Property Portfolio Management	<ul style="list-style-type: none"> • ensuring that the Crown operates as a “good landowner” in respect of the properties acquired and held for potential use in Treaty settlements • ensuring that the properties held are maintained in at least the same condition as when acquired for the property portfolio • ensuring that the annual revenue forecast for the property portfolio is met and expenditure is within budget • using the protection mechanism to ensure Crown Land can be retained for use in settlements.

Part A2 - Trends in Vote Treaty Negotiations

Departmental 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.

In 2002/03 the appropriation for output class D1 Policy Advice - Treaty Negotiations increased by \$450,000 to allow for the establishment of the Claims Development Unit. Output class D2 Representation - Waitangi Tribunal also received additional funding of \$180,000 to allow for increased cost of Crown representation at the Waitangi Tribunal. Funding for output class D3 - Property Portfolio Management increased by \$568,000 to fund maintenance costs on an increasing property portfolio. In summary, major achievements during 2002/03 to 31 March included:

Policy Advice - Treaty Negotiations

A number of claimant groups progressed through the pre-negotiation stages of the Treaty settlement process. The following groups have achieved Crown recognition of their mandates: Ngāti Whatua o Orakei, Te Awa Tupua for Whanganui River and Te Rūnanga Iwi o Ngāti Kahu. Terms of negotiation were signed with Te Rarawa and Te Awa Tupua.

Significant progress was made in negotiations with Ngāa Rauru. A Deed of Settlement was initialled with Ngāti Tuwharetoa (Bay of Plenty) and a Deed of Settlement was signed with Ngāti Awa. The Te Uri o Hau settlement legislation was passed, the Ngāti Ruanui settlement legislation awaits final stages and Ngāti Tama legislation is awaiting introduction.

Implementation of settlements commenced for Te Uri o Hau and continued for Waikato Tainui, Ngāi Tahu, Pouakani and Ngāti Turangitukua.

Representation - Waitangi Tribunal

The Crown Law Office represented the Crown in hearings in the Waitangi Tribunal's historical district inquiries including claims relating to Hauraki and Te Tau Ihu. There were also judicial conferences for Whanganui, Wairarapa, Te Tau Ihu and Rotorua.

Property Portfolio Management

Over 774 properties worth \$129 million were managed as part of the regional landbanks, the Crown Settlement Portfolio or claim-specific landbanks.

Analysis by Appropriation Type: 2002/03 and 2003/04 Compared

The funding for Output D1: Policy Advice - Treaty Negotiations will increase by \$895,000 in the 2003/04 financial year and subsequent years to provide for increased negotiations activity. Funding for Output D2 Representation - Waitangi Tribunal will increase by \$320,000 in 2003/04 and \$500,000 in subsequent years for increased volumes of work requiring Crown Representation at the Waitangi Tribunal. In summary, during 2003/04, it is aimed 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 four 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 three Agreements in Principle or Heads of Agreement will be signed. Negotiations are expected to result in least two deeds of settlement.

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 achieved.

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 810 landbanked properties will be managed and it is likely that up to 60 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 interest accruing on claims settlements
- an annual appropriation to fund the Ngāi Tahu Ancillary 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.

Once a deed of settlement is signed the Crown is liable for interest on the outstanding settlement amount. Interest accrues from the date the deed is signed until it is paid following the passage of enabling legislation.

The Ngāi 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. The appropriation for 2002/03 was \$435,000. In 2002/03 funding was not required by the Trust and was carried forward to 2003/04. The appropriation for 2003/04 is \$481,000. This Trust is funded from a separate appropriation.

The multi-year appropriation for the settlement of historical Treaty of Waitangi claims was recalculated in 2000/01 to \$400 million over a five-year period. 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 property 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 from other Crown agencies 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.

Reconciliation of New Initiatives to Appropriations

Initiative	Appropriations as shown in Part B	\$000 increase/(decrease)				
		2002/03	2003/04	2004/05	2005/06	2006/07
Increased Negotiations Activity	Departmental Output Class - Policy Advice	-	895	895	895	895
Crown Representation at Waitangi Tribunal	Departmental Output Class - Representation Waitangi Tribunal	180	320	500	500	500
Total Initiatives		180	1,215	1,395	1,395	1,395

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

Types of Appropriation	1998/99	1999/2000	2000/01	2001/02	2002/03		2003/04 Appropriations to be Used				2004/05	2005/06	2006/07	
	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	13,517	13,436	13,474	15,115	14,807	14,807	15,842	-	-	-	15,842	16,022	16,022	16,022
Benefits and Other Unrequited Expenses	-	-	-	-	-	-	N/A	N/A	-	-	-	-	-	-
Borrowing Expenses	-	-	-	-	-	-	N/A	N/A	-	-	-	-	-	-
Other Expenses	9,237	8,961	3,481	3,830	7,683	7,683	-	-	4,906	-	4,906	2,100	-	-
Capital Flows														
Capital Contributions	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Purchase or Development of Capital Assets	36,031	37,669	10,981	8,294	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	58,785	60,066	27,936	27,239	32,490	32,490	15,842	-	14,906	-	30,748	28,122	26,022	26,022
Total Crown Revenue and Receipts	20,887	18,038	14,227	7,927	5,656	5,656	N/A	N/A	N/A	N/A	5,906	5,906	5,906	5,906

Part B - Statement of Appropriations

Part B1 - Details of Appropriations

	2002/03				2003/04		Description of 2003/04 Appropriations
	Vote		Estimated Actual		Vote		
Appropriations	Annual \$000	Other \$000	Annual \$000	Other \$000	Annual \$000	Other \$000	
Departmental Output Classes (Mode B Gross)							
D1 Policy Advice - Treaty Negotiations	7,233	-	7,233	-	8,128	-	- 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.
D2 Representation - Waitangi Tribunal	2,640	-	2,640	-	2,780	-	- Ensures the Crown undertakes research into historical Treaty grievances and is represented with well prepared documentation and evidence at Waitangi Tribunal hearings.
D3 Property Portfolio Management	4,934	-	4,934	-	4,934	-	- Acquisition, management, transfer and disposal of Crown-owned property for Treaty settlement purposes.
Total Appropriations for Departmental Output Classes (Mode B Gross)	14,807	-	14,807	-	15,842	-	
Other Expenses to be Incurred by the Crown							
Waikato-Tainui Interest	85	-	85	-	67	-	- Interest payable as part of the Waikato-Tainui settlement on the diminishing balance of the value of the redress.
Ngāi Tahu Ancillary Claims Trust	-	-	-	-	481	-	- Funding of the Ngāi Tahu Ancillary Claims Trust to return particular properties to identified beneficiaries.

Part B1 - Details of Appropriations (continued)

	2002/03				2003/04		Description of 2003/04 Appropriations
	Vote		Estimated Actual		Vote		
Appropriations	Annual \$000	Other \$000	Annual \$000	Other \$000	Annual \$000	Other \$000	
Other Expenses to be Incurred by the Crown - cont'd							
Interest Payments on Settlements	7,598	-	7,598	-	4,358	-	Interest payable on the outstanding value of redress for signed Deeds of Settlement.
Total Appropriations for Other Expenses to be Incurred by the Crown	7,683	-	7,683	-	4,906	-	
Purchase or Development of Capital Assets by the Crown							
Land, Stock, Plant Purchases	10,000	-	10,000	-	10,000	-	Surplus Crown property is purchased for Treaty settlement 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	32,490	-	32,490	-	30,748	-	

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 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	43,049	
Total Appropriation	400,000	
Actual to date (March)	43,049	
Remaining	400,000	

Part C - Explanation of Appropriations for Output Classes

Part C1 – Departmental Output Classes

Output Class D1 – Policy Advice - Treaty Negotiations

This output class includes services provided to the Minister in Charge of Treaty of Waitangi Negotiations relating to:

- 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 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 unconditional 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 to ensure that the Crown undertakes research into historical Treaty grievances and is represented at Waitangi Tribunal hearings 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 Māori interests in property subject to the Protection Mechanism.
- Acquisition 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 or disposal on the open market.

- Management of property acquired 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 landowner.
- 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 deeds of settlement.

Part F - Crown Revenue and Receipts

Part F1 - Current and Capital Revenue and Receipts

	2002/03		2003/04	Description of 2003/04 Crown Revenue
	Budgeted \$000	Estimated Actual \$000	Budget \$000	
Current Revenue				
Non-Tax Revenue				
Landbank Properties	5,500	5,500	5,750	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	5,533	5,533	5,783	
Total Current Revenue	5,533	5,533	5,783	
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	5,656	5,656	5,906	