

VOTE *Treaty* *Negotiations*

Treaty Negotiations

Overview

Vote Treaty Negotiations contains a multi-year appropriation of \$400 million for the five-year period 2004/05 to 2008/09. 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, and for the payment of claimant funding. The appropriation is included in the 2004/05 Supplementary Estimates.

In addition, annual appropriations sought for Vote Treaty Negotiations in 2005/06 total \$27.757 million. This is intended to be spent as follows:

- \$8.361 million (30% of the Vote) for the purchase of policy advice, negotiation, settlement and implementation of historical Treaty claims from the Office of Treaty Settlements.
- \$2.782 million (10% of the Vote) for the purchase of Crown representation at Waitangi Tribunal hearings of historical claims.
- \$4.571 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 improvements held in the Office of Treaty Settlements landbank.
- \$10.000 million (36% of the Vote) for purchasing of property by the Office of Treaty Settlements for historical Treaty of Waitangi settlement purposes.
- \$1.032 million (4% of the Vote) for the payment of interest on settlement redress for Ngaa Rauru, Te Arawa Lakes and Ngāti Mutunga.
- \$50,000 (1% of the Vote) for advance payments against notionally accrued interest.

The Office of Treaty Settlements expects to collect \$6.709 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

Claimant Funding	A contribution from the Crown to claimant groups towards the costs of negotiating historical Treaty of Waitangi settlements.
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.
Landbank	Surplus Crown property is held by the Office of Treaty Settlements to protect it for possible use in future Treaty of Waitangi settlements.
Protection Mechanism	The criteria applied when determining whether surplus Crown property will be landbanked.
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 the referred table, actual other expenses under the multi-year appropriation for historical Treaty of Waitangi settlements is \$4.937 million in the period 1 July 2004 until 31 March 2005. The amount under the multi-year appropriation for the five-year period 2004/05 to 2008/09 is \$400 million. Details of the multi-year appropriation are in the 2004/05 Supplementary Estimates.

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	\$14.699 million
2002/03	\$53.359 million
2003/04	\$30.308 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

Sector Outcomes and the Ministry's Intermediate Outcomes

The Ministry of Justice is one of the core agencies that make up the justice sector. Other core agencies within the sector include the New Zealand Police, Department of Corrections and Crown Law. Child Youth and Family is considered a core agency for the purposes of addressing youth offending and early intervention issues. The sector's vision is for a safe and fair New Zealand. To focus the sector's contribution to the key government goals, in early 2003, the Ministry led the core sector agencies to develop the sector outcomes of:

- **safer communities**, being communities in which there is reduced crime and in which safety and wellbeing is enhanced through partnerships, and
- **a fairer, more credible and more effective justice system**, being a system in which people's interactions are underpinned by the rule of law and justice services are more equitable, credible and accessible.

These two outcomes are interdependent, as the ability to reduce crime depends on the rule of law and a system of justice to enforce the rule of law.

Following the establishment of the two outcomes, the core sector agencies developed two sets of intermediate outcomes. Each of the core agencies has subsequently adopted and refined those intermediate outcomes that relate to their core business to ensure they are aligned with the shared outcomes.

The Ministry contributes to the following intermediate outcomes under each of the sector outcomes:

Safer communities

- Reduced youth offending.
- Reduced offending by Māori.
- Reduced violence.
- Reduced family violence.
- Reduced burglary.
- Reduced organised crime.
- Reduced theft of and from cars.

A fairer, more credible and more effective justice system

- Improved access to and delivery of court services and child, youth and family services.
- Improved public confidence in the Police, Judiciary and other justice institutions.
- Improved relationships between the Crown and Māori.
- Improved laws governing family relationships and other private dealings.

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 these outcomes:

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

Links between Departmental Output Expenses and Outcomes

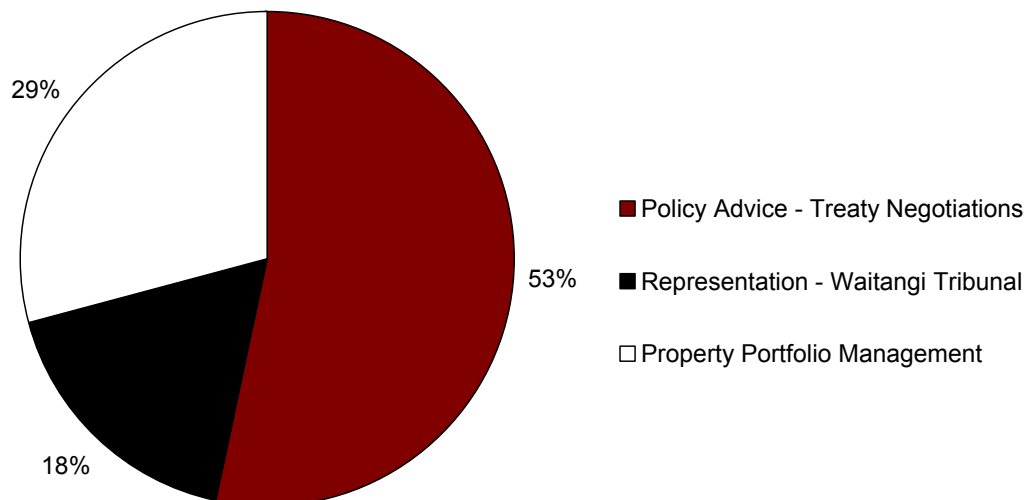
The links between the outputs to be purchased and the particular outcomes for the Ministry of Justice are set out below:

Departmental Output Expense	Outcomes
Policy Advice - Treaty negotiations	<ul style="list-style-type: none"> • A fairer, more credible and more effective justice system • Improved relationships between the Crown and Māori.
Representation - Waitangi Tribunal	<ul style="list-style-type: none"> • A fairer, more credible and more effective justice system • Improved relationships between the Crown and Māori.
Property portfolio management	<ul style="list-style-type: none"> • A fairer, more credible and more effective justice system • Improved relationships between the Crown and Māori.

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 \$15.714 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 Treaty Negotiations

Overview

The Ministry of Justice was established on 1 October 2003 as a result of the merger of the previous Ministry of Justice and the Department for Courts. The Ministry now administers three Votes. They are Vote Justice, Vote Treaty Negotiations and Vote Courts.

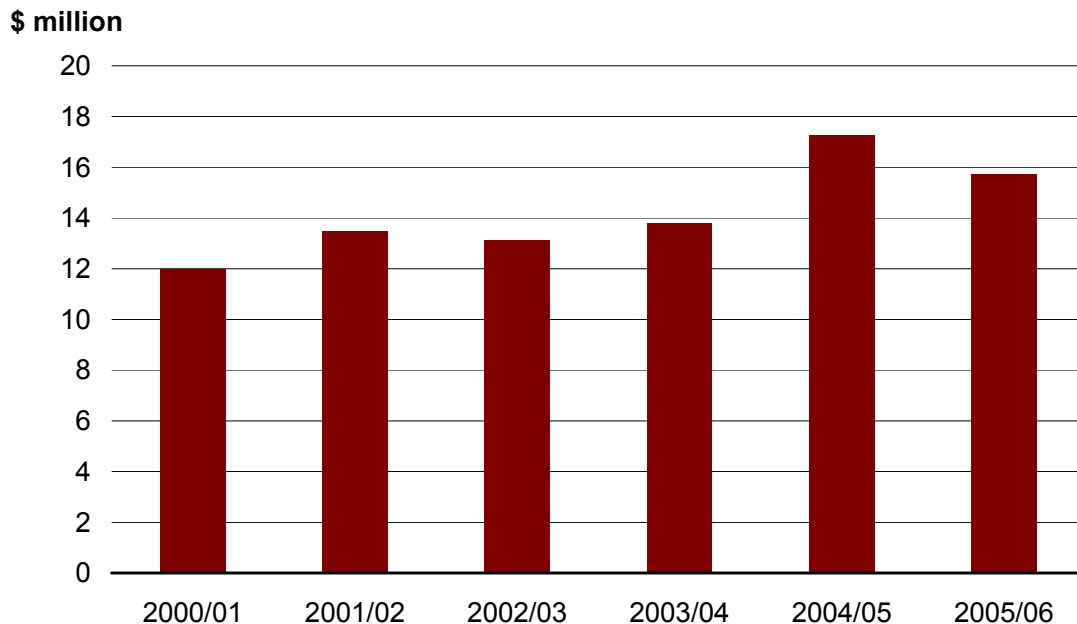
The Ministry's functions in relation to Vote Treaty Negotiations are:

- Policy Advice - including Ministerial services, advice on generic historical Treaty issues, claim development and pre-negotiation, negotiating the settlement of historical Treaty claims and implementing Treaty settlements.
- Representation (Waitangi Tribunal) - including services to the Minister in Charge of Treaty of Waitangi Negotiations to ensure the Crown is provided with research into historic Treaty grievances and is represented at Waitangi Tribunal hearings with well prepared documentation and evidence.
- Property Portfolio Management - including advising the Minister on Māori interests in property subject to historical Treaty of Waitangi claims, acquiring and managing landbank properties for potential use in Treaty Settlements and the transfer or disposal of those properties as required.

Departmental Output Trends

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

Figure 2 - Departmental appropriations 2000/02 - 2005/06



Source: Ministry of Justice

The Ministry's output expenses appropriation for Vote Treaty Negotiations has decreased by \$1.532 million for 2005/06. The appropriation is \$15.714 million compared with the 2004/05 appropriation of \$17.246 million.

The funding for Policy Advice (Treaty Negotiations) increased in the 2004/05 financial year and outyears to provide for increased negotiation activity. Funding for property portfolio management also increased in 2004/05, for deferred maintenance on properties being held for potential use in Treaty settlements. The increased funding was partially offset by the increase in revenue from landbank properties.

The relative drop in appropriation for 2005/06 reflects the one-off funding for deferred maintenance in the previous financial year. This results in the property portfolio management appropriation decreasing from \$6.121 million to \$4.571 million.

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:

- an annual appropriation for interest accruing on claims settlements
- an annual appropriation for the advance payment against notionally accrued interest
- an annual appropriation for cash in advance of settlement
- 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.

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 is signed until it is paid following the passage of enabling legislation.

The appropriation for the advance payment of accrued interest payable allows a portion of interest earned to be paid prior to Settlement date in certain circumstances. This requires the approval of the Minister in Charge of Treaty of Waitangi Negotiations and Minister of Finance and subsequent consideration by cabinet. It is available on an exception only basis and key principles have to be met when considering requests for cash advances.

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.

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.

Trends in Vote Treaty Negotiations - Summary of Financial Activity (see Note 1)

	2000/01	2001/02	2002/03	2003/04	2004/05		2005/06 Appropriations to be Used				2006/07	2007/08	2008/09	
	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				
Appropriations														
Output Expenses	11,963	13,461	13,124	13,800	17,246	17,246	15,714	-	-	-	15,714	15,714	15,714	15,714
Benefits and Other Unrequited Expenses	-	-	-	-	-	-	N/A	N/A	-	-	-	-	-	-
Borrowing Expenses	-	-	-	-	-	-	N/A	N/A	-	-	-	-	-	-
Other Expenses	4,422	4,791	4,983	5,604	6,342	6,342	-	-	1,993	-	1,993	1,128	1,128	961
Capital Expenditure	10,981	8,294	9,138	4,533	11,215	11,215	-	-	10,050	-	10,050	10,000	10,000	10,000
Intelligence and Security Department Expenses and Capital Expenditure	-	-	-	-	-	-	-	-	N/A	N/A	-	-	-	-
Total Appropriations	27,366	26,546	27,245	23,937	34,803	34,803	15,714	-	12,043	-	27,757	26,842	26,842	26,675
Crown Revenue and Receipts														
Tax Revenue	-	-	-	-	-	-	N/A	N/A	N/A	N/A	-	-	-	-
Non-Tax Revenue	6,077	6,585	6,146	7,327	6,826	6,709	N/A	N/A	N/A	N/A	6,709	6,879	7,049	7,049
Capital Receipts	8,150	1,342	5,582	4,963	31	31	N/A	N/A	N/A	N/A	-	-	-	-
Total Crown Revenue and Receipts	14,227	7,927	11,728	12,290	6,857	6,740	N/A	N/A	N/A	N/A	6,709	6,879	7,049	7,049

Part B - Statement of Appropriations

Part B1 - Details of Appropriations

	2004/05				2005/06		
	Budget		Estimated Actual		Vote		
Appropriations	Annual \$000	Other \$000	Annual \$000	Other \$000	Annual \$000	Other \$000	Scope of 2005/06 Appropriations
Departmental Output Expenses (General)							
Policy Advice - Treaty Negotiations	8,356	-	8,356	-	8,361	-	- 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.
Representation - Waitangi Tribunal	2,769	-	2,769	-	2,782	-	- 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.
Property Portfolio Management	6,121	-	6,121	-	4,571	-	- Management, transfer and disposal of Crown-owned property for Treaty settlement purposes.
Total Appropriations for Departmental Output Expenses (General)	17,246	-	17,246	-	15,714	-	
Other Expenses to be Incurred by the Crown							
Depreciation	961	-	961	-	961	-	- Depreciation on improvements held in the Office of Treaty Settlements landbank for Treaty Settlements.
Ngāi Tahu Ancillary Claims Trust	318	-	318	-	-	-	- The 2004/05 appropriation to Ngāi Tahu Ancillary Claims Trust was for the return of particular properties to identified beneficiaries. This was completed and no appropriation is required for 2005/06.

Interest Payments on Settlements	5,063	-	5,063	-	1,032	-	Interest payable on the outstanding value of redress for signed Deeds of Settlement. The 2005/06 appropriation allows for interest payable on the Ngaa Rauru, Te Arawa Lakes and Ngāti Mutunga settlements. Ngāti Mutunga have agreed to a Crown Settlement offer but have yet to sign a Deed of Settlement.
Total Appropriations for Other Expenses to be Incurred by the Crown	6,342	-	6,342	-	1,993	-	
Capital Expenditure							
Advance Payment Against Notionally Accrued Interest	1,090	-	1,090	-	50	-	Advance payment of accrued interest payable on the outstanding value of redress for Ngaa Rauru. The remaining appropriation for 2005/06 is for the final milestone requirement under the Deed of Settlement.
Cash in Advance of Settlement	125	-	125	-	-	-	Advance payment of settlement redress as part of the negotiations with Tuwharetoa ki Kawerau. As the settlement date is in 2004/05 an appropriation is not required in 2005/06.
Land, Stock, Plant Purchases	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.
Total Appropriations for Capital Expenditure	11,215	-	11,215	-	10,050	-	
Total Appropriations	34,803	-	34,803	-	27,757	-	

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 generic historical Treaty settlement issues, including overall strategies for settling historical Treaty claims and developing generic approaches to policy issues that affect the settlement of more than one claim.
- Developing claims and pre-negotiation, including advising and helping claimant groups to ensure well-mandated groups are ready to enter negotiations; and advising the Minister on specific historical Treaty claims and the Terms of Negotiation.
- Negotiating the settlement of historical Treaty claims from signed Terms of Negotiation to ratified Deeds of Settlement, including property valuation, and 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.
- Preparation of ministerial correspondence, Parliamentary questions, and Official Information requests for Vote Treaty Negotiations.

Representation - Waitangi Tribunal

This output covers 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 covers:

- 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 (property management work is contracted out).
- Subsequent transfer to a relevant 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.

Part E - Explanation of Capital Flows

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 or Crown Research Institutes 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 Receipts

	2004/05		2005/06	Description of 2005/06 Crown Revenue
	Budgeted \$000	Estimated Actual \$000	Budget \$000	
Current Revenue				
Non-Tax Revenue				
Landbank Properties	6,826	6,709	6,709	Revenue arising from landbanked properties.
Total Non-Tax Revenue	6,826	6,709	6,709	
Total Current Revenue	6,826	6,709	6,709	
Capital Receipts				
Waitomo Loan Repayments	31	31	-	Repayments of the principal of a loan for the Treaty of Waitangi Waitomo Settlement in 1990.
Total Capital Receipts	31	31	-	
Total Crown Revenue and Receipts	6,857	6,740	6,709	

