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**Report of the  
Crown Law Office  
for the year ended  
30 June 2004**

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*Presented to the House of Representatives  
pursuant to Section 39 of the Public Finance Act 1989.*



# CROWN LAW OFFICE

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# **CROWN LAW OFFICE**

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### **Auditor**

Audit New Zealand  
Wellington  
(on behalf of the Auditor-General)

### **Bankers**

Westpac Banking Corporation  
Wellington

# **CROWN LAW OFFICE**

## **Statement of Purpose**

The Crown Law Office provides legal advice and representation services to the government in matters affecting the executive government, particularly in the areas of criminal, public and administrative law. The services provided include such matters as judicial review of government actions, constitutional questions including Treaty of Waitangi issues, the enforcement of criminal law, and protection of the revenue. The Office administers the prosecution process in the criminal justice system, in particular, trials on indictment before juries.

The Office has two primary purposes in providing these services:

- to ensure that the operations and responsibilities of the executive government are conducted lawfully, and
- to ensure that the government is not prevented, through legal process, from lawfully implementing its chosen policies and discharging its governmental responsibilities.

## **Functions of the Crown Law Office**

The primary function of the Crown Law Office is to provide support to the two Law Officers of the Crown, the Attorney-General and the Solicitor-General, in the performance of their statutory duties and functions. In particular, the Office is responsible for:

- the provision of legal advice and legal representation services to Ministers of the Crown, government departments, and agencies forming part of the government;
- supporting and assisting the Attorney-General and Solicitor-General in the performance of their statutory and other functions as Law Officers of the Crown;
- assisting the Solicitor-General with the conduct of criminal appeals;
- assisting the Solicitor-General in the supervision, direction and performance of regional Crown Solicitors in their prosecution functions including administration of the Crown Solicitor's Regulations 1994; and
- providing advice on the establishment and development of legal service provision within government departments and agencies.

The Office does not have any specific responsibility for policy formation or for the development of legislation but is often called upon to provide comment to the government on proposed developments in the law particularly on Criminal and Bill of Rights related issues.

## CROWN LAW OFFICE

### Key Government Goals

The Crown Law Office contributes to the key government goals which have been established to guide public sector policy and performance. In particular, the Office's functions are directed towards restoring trust in government by building safe communities and through the promotion of a strong and effective public service. Achievement of these goals are assisted by the contribution made by the Office to:

- protecting the Crown's legal interests,
- supporting the responsibilities of the Crown and its agencies,
- the maintenance of law and order, and
- the maintenance of public interest factors in the application of the law.

The appropriations in Vote Attorney-General provide for the purchase of the following services:

- Legal advice and representation services to central government departments and Crown agencies
- A national Crown prosecution service which undertakes criminal trials on indictment, and appeals arising out of summary prosecutions
- Conduct of appeals arising from criminal trials on indictment and from Crown appeals against sentence
- Legal and administrative services for the Attorney-General and Solicitor-General in the exercise of Principal Law Officer functions

The relationship of these services to the key Government goals is set out in the following table:

<b>Output Classes</b> (of Vote Attorney-General)	<b>Key Government Goals</b>
Legal Advice and Representation	Contributes to promoting a strong and effective public service by protecting the legal interests and the responsibilities of the Crown and Crown agencies.
Supervision and Conduct of Crown Prosecutions	Contributes to building safe communities by assisting in the maintenance of law and order.
Conduct of Criminal Appeals	Contributes to building safe communities by assisting in the maintenance of law and order.
The Exercise of Principal Law Officer Functions	Contributes to building safe communities by assisting in the maintenance of law and order and contributing to the maintenance of public interest factors in the application of the law.

The Output Classes referred to above comprise the key result areas for the Office. Progress in these areas is described in more detail in the Financial Statement section of this report under Statement of Objectives and Service Performance.

# CROWN LAW OFFICE

## Chief Executive's Overview

The Crown Law Office has continued to perform its role of providing support to the Attorney-General and Solicitor-General in the discharge of their responsibilities as the Law Officers of the Crown. This role encompasses the provision of legal advice to Ministers, government departments and agencies, often on complex and urgent matters, and the conduct of litigation on behalf of the Crown, generally in the name of the Attorney-General. The matters in which the Office was involved during the year have covered a wide variety of issues and areas of the law. Some of these matters, which demonstrate the nature of work undertaken by the Office, have been summarised below:

### Legal Advice and Representation

#### *KT Partnership v Attorney-General*

Proceedings were commenced by the Central North Island Forest Partnership, the previous owners of Kaingaroa Forest. A declaration was sought that the licensee's right to use improvements such as roads on land held under a Crown Forestry Licence were not restricted once the land had been transferred to a Māori claimant and a termination notice issued. Both the Crown and the licensee had understood that a restriction applied, so that there was no right of access across the various Kaingaroa licences. The Court upheld the Crown's interpretation. The immediate consequence is that part of the Northern Boundary licence is to be transferred to Ngati Awa when its settlement legislation is passed. The licensee will have to negotiate the right to use arterial roads (which it owns) on the licensed land to allow access from Southern Kaingaroa to the Kawerau mill.

#### *Glenharrow Holdings Ltd v Attorney-General and Te Runanga O Ngai Tahu*

This was heard by the Privy Council on 14 and 15 June 2004, with judgment delivered on 22 July. The Privy Council upheld the Court of Appeal's decision that the term of a mining licence was not a condition that could be varied and that the Mining Act 1971 did not provide an automatic right of renewal. The effect of this decision was that Ngai Tahu's ownership and management of pounamu was confirmed once mining licences for "greenstone" had expired, but also that all mining licences granted under the Mining Act could not be renewed or varied to allow them to continue. Instead permits under the Crown Minerals Act could be sought as appropriate.

#### *Director-General of Conservation v Marlborough Sounds District Council*

This appeal from the Environment Court to the High Court related to a proposed 460ha mussel farm in Clifford Bay. Concern about the effect of such a large structure on the rare Hector's dolphin resulted in the Court proposing conditions, including a "condition precedent". This required further study on the use of the area by the Hector's dolphin and, depending on the result of that study, the marine farm would or would not be able to commence. This condition raised a risk that applicants would not undertake detailed assessments of environmental effects before lodging applications. The High Court confirmed that conditions precedent to the coming into force of a resource consent were not possible. The Environment Court and parties are now considering whether other suitable conditions can be formulated or if the consent should be refused.

## **CROWN LAW OFFICE**

### **Chief Executive's Overview - continued**

#### *Christchurch District Licensing Agency Inspector and New Zealand Police v Karara Holdings Limited*

The Court of Appeal decision concerned the interpretation of the enforcement provisions of s132 and s132A of the Sale of Liquor Act 1989. The High Court had held that s132A had primacy so that the powers of suspension of liquor licences in s132 were not available where certain liquor offences, such as sales to minors were involved. A successful criminal prosecution was necessary before s132A could be invoked. The Court of Appeal disagreed with that interpretation and held that there was nothing in s132A which confined the powers of suspension under s132 provided that the grounds were made out. The Court also held that a single instance of sale to a minor was sufficient to show that the premises had been conducted in breach of the provisions of the Act. The appeal by the Police was accordingly allowed.

#### *Operation Allsorts*

The Office has provided advice and assistance in respect of Operation Allsorts, a Police investigation involving large scale land transfer fraud and attempted fraud in the Waikato/Bay of Plenty area. Approximately \$10 million is involved and to date 18 people have been arrested with three of those people being remanded in custody.

#### *Human Rights Issues*

The detention of Ahmed Zaoui under a security risk certificate has resulted in four sets of High Court proceedings. Since October 2003 when Mr Zaoui filed his first High Court proceedings Crown Law has represented variously the Director of Security, the New Zealand Immigration Service, the Superintendent Auckland Central Remand Prison, the Chief Executive of Corrections and the Attorney-General in respect of wider Crown interests including claims for damages under the Bill of Rights Act 1990. The Inspector-General of Intelligence and Security has been separately represented. All proceedings have their genesis in the security risk certificate which the Director of Security issued in March 2003. This was the first occasion a certificate under Part 4A of the Immigration Act 1987 had been issued by the Director of Security.

The first High Court challenge raised important questions concerning the nature of the review which the Inspector-General of Intelligence and Security has been asked to undertake and the availability of judicial review in the course of that review process. In April 2004, the Court of Appeal heard the Crown's appeal, and Mr Zaoui's cross appeal, from the High Court decision given in December 2003. The Court of Appeal's decision is awaited. The Inspector-General will be able to complete his review into whether the certificate was properly made or not when the issues have been finally judicially determined.

In the second and third sets of proceedings the Crown successfully defended claims that Mr Zaoui was unlawfully detained and that the Chief Executive of Corrections has improperly withheld permission for Mr Zaoui to give a television interview in the High Court. Both decisions are under appeal.

#### *Employment Law*

During the year the Crown Law Employment Team appeared on behalf of clients before the Mediation Service, the Employment Relations Authority, the Employment Court and the Court of Appeal. In addition advice was provided to clients on a broad range of employment issues, including the implementation of the Holidays Act 2003, and on restructuring and personal grievance strategy.

## CROWN LAW OFFICE

**Chief Executive's Overview - continued**

Noteworthy litigation included an appearance before the Employment Court in *Gilbert v Attorney-General*, to argue the quantum of the compensation due to the applicant for lost remuneration, and a number of appearances before the Employment Court in *Waugh v Commissioner of Police*, including the Employment Court hearings on the applicant's interim reinstatement application, his personal grievance, and claim for remedies.

Counsel also appeared in *NUPE & Ors v New Zealand Customs Service*. This was a decision of the full Court of the Employment Court covering a number of contractual issues, including the application of the legal doctrine of non est factum to employment contracts, and the application of the Contractual Remedies Act 1979 and the availability of relief under that Act.

The Employment Court in *NUPE* also confirmed that the Employment Relations Act 2000 did not contemplate a class of union membership under which the union had no authority to bind its members to a collective agreement.

*Treaty of Waitangi issues*

Following the Court of Appeal's decisions on the foreshore and seabed in the *Marlborough Sounds* case delivered June 2003, the Office represented the Crown at an urgent Waitangi Tribunal hearing held in February (Wai 1071). Advice has since been provided on legal issues relating to government's proposed legislation on foreshore and seabed.

The Office has represented the Crown in ongoing challenges to the Treaty of Waitangi Fisheries Commission's work on the allocation of assets it holds under the Treaty of Waitangi (Fisheries Settlement) Act 1992. Last year applications to the High Court for interim relief were successfully resisted by the Commission and the Crown. This enabled the Commission to report its proposals to the Crown, followed by the introduction of the Māori Fisheries Bill. In May and June this year the Court of Appeal heard the remaining challenges to the Commission's model and declined to order relief. One application for leave to appeal to the Supreme Court was filed in July and has been declined.

As the Office of Treaty Settlements proceeds with the negotiation of Crown/Māori settlements over historical claims of breach of the Treaty, Crown Law, as well as providing advice on the settlement documents, has represented the Crown before the Waitangi Tribunal in a range of urgent inquiries concerning the Crown's acceptance of the mandate of those groups wishing to negotiate. The most recent case was a challenge by certain groups to the recognition by the Crown of the Arawa mandate (Wai 1150). The Tribunal found that the Crown was not in breach of Treaty of Waitangi principles.

The Crown/Māori settlement process has also generated litigation in the High Court. This litigation has included determination of the access rights over roading networks crossing Crown Forest land to be transferred in Crown/Māori settlements, *K T Acquisition Co v Attorney-General*, unreported, Wellington High Court, 30 July 2004, Goddard J. Some of the longest running litigation arises from the 1990 Māori Appellate Court decision which found that Ngai Tahu had sole rights of ownership in lands south of a line drawn in Crown purchases in 1858 and 1860. This became the northern boundary of the Ngai Tahu takiwa for the purposes of its settlement and has been challenged ever since by tribes from the northern part of the South Island. Ngati Rarua and Ngati Apa challenged the Court of Appeal finding. In October 2003 the Court of Appeal found that the 1990 Māori Appellate Court proceeding did not miscarry for breach of the principles of natural justice. The Office is currently dealing with two petitions for special leave to appeal to the Privy Council due for hearing late October this year.

## CROWN LAW OFFICE

### Chief Executive's Overview - continued

#### *Leaky Buildings*

The Building Industry Authority (BIA) has been sued in the High Court, District Court and in the Weathertight Homes Resolution Service for alleged failures to act to prevent weathertightness problems in homes. The claims are of two kinds:

- Claims that the BIA is liable to house-owners for failures to adequately warn about the problem or otherwise adequately carry out its functions under the Building Act 1991 (including an alleged failure to ensure there was an adequate scheme of insurance in place for building certifiers).
- Claims by councils that the BIA failed to raise alleged problems with monolithic cladding systems in the context of reviews of the councils' operations of their functions under the Act.

The first of the High Court claims scheduled to be heard was settled. Others of the cases are progressing through the litigation process, with hearings scheduled for September 2004 and May 2005.

#### *Historic claims against the Crown for alleged abuses in State-run institutions*

A great number of claims have been filed against the Crown for compensatory and exemplary damages by people who allege they suffered abuse (sexual, physical and psychological) while in state care. The claims generally allege that, in breach of a fiduciary duty to the plaintiffs, the Crown did not adequately protect them from abuse, alleged to be either at the hands of Crown officials (staff of institutions, for example) or private individuals (foster homes, for example).

The claims include (but are not limited to) psychiatric institutions run by the Ministry of Health, or relevant Hospital Boards, and children's homes (including privately run foster homes). As at 30 June 2004 approximately 80 claims were filed in the areas of psychiatric institutions and children and young persons' care. The Office understands that there are a great many more claims to be filed.

#### *Immigration*

The Office represented the New Zealand Immigration Service in a number of court challenges to immigration decisions during the year to 30 June 2004.

The High Court decision *Wolf v Minister of Immigration* is of significance for public law generally. Wild J held that a lower test of unreasonableness, or higher level of judicial scrutiny, should be applied in the immigration area, where human rights and natural justice issues are of great importance.

In *Anguo Jiao v Refugee Status Appeals Authority & Attorney General* the Court of Appeal clarified the role of the Refugee Status Appeals Authority (RSAA). It rejected the appellant's suggestion that an applicant for refugee status need not prove the claim and that the RSAA should itself embark on a wide-ranging enquiry into whether the applicant was a refugee. The Court also confirmed that applicants have the responsibility to establish their claims to refugee status. However in the course of the judgment there are observations that the terms "burden", "onus" or "standard" of proof are not necessarily apt in the refugee context, or where administrative tribunals are making a determination in circumstances other than an adversarial contest.

## **CROWN LAW OFFICE**

### **Chief Executive's Overview - continued**

#### *Fisheries*

##### *Cost Recovery*

The Minister of Fisheries imposes levies annually on members of the fishing industry for specified costs relating to fisheries and conservation services. The Office gave advice to the Ministry of Fisheries on the legislative scheme that requires the Minister to look at any under or over recovery of costs when setting each fisheries levy order.

Legislation was enacted to resolve a historical issue relating to under and over recoveries from 1994 to 2001 under fisheries cost recovery levy orders by paying a credit of \$23 million to the fishing industry. The orders from 1994 to 2001 were also validated as part of that legislation.

##### *Scampi fishery*

As reported in the 2002/03 Annual Report, the Office represented the Ministry of Fisheries in two inquiries, the Primary Production Select Committee inquiry and the State Services Commissioner's inquiry under the State Sector Act 1988.

Both inquiries reported in the 2003/04 year. Both found there was no evidence to support the allegations (which were the genesis of the inquiries) of corruption and impropriety in the former Ministry of Agriculture and Fisheries or the Ministry of Fisheries.

Both inquiries found that the administration of permitting in the late 1980s and early 1990s was lacking in that policies were applied inconsistently and that fishers were not treated fairly or evenhandedly.

The Select Committee inquiry recommended that (among other things) the scampi fishery should be introduced into the Quota Management System as at 1 October 2004 and that 6 named fishers should be paid compensation for their grievances in the way in which their scampi permitting applications were dealt with by the former Ministry of Agriculture and Fisheries.

Advice was given to the Ministry of Fisheries in early December 2003 concerning recommendations of the Primary Production Select Committee to pay compensation to 6 individual scampi permit applicants. Following the Government's response to the Committee's recommendation, the Office acted, with the Ministry of Fisheries, to implement the Committee's recommendations by entering negotiations with affected parties. Negotiations are continuing.

The Fisheries Amendment Bill (No 4) was passed in August 2004 and introduced scampi into the Quota Management System with effect from 1 October 2004, on the basis of catch histories from the 1990 and 1991 fishing years.

##### *Agriculture and Forestry*

The Office has provided advice and represented the Ministry of Agriculture and Forestry in respect of its spraying programmes (Auckland and Hamilton) to eradicate the Asian Gypsy Moth and Painted Apple Moth. An application for interim orders to prevent the Hamilton Spray programme was successfully defended.

## **CROWN LAW OFFICE**

### **Chief Executive's Overview - continued**

#### *Court of Appeal*

On 24 February 2003, the Governor-General, acting pursuant to s406(a) of the Crimes Act 1962, referred to the Court of Appeal the question of David Cullen Bain's convictions for the 1994 murders of his five family members in Dunedin. The argument on behalf of David Bain was that substantial fresh evidence had emerged, which both diminished the strength of the Crown case against him, and strengthened the defence contention that his father, Robin Bain, had killed the family and then himself. In a judgment delivered on 15 December 2003 (CA98/03), the Court of Appeal concluded that cumulatively, the Crown case against David Bain was of such cogency that, viewed together with the new evidence, it could only be seen by a reasonable jury as clearly establishing his guilt beyond reasonable doubt. There was no evidence positively implicating Robin Bain on any tenable basis.

#### *Tax disputes and tax avoidance*

The Office continues to provide advice to, and to represent, the Commissioner of Inland Revenue in substantive tax disputes and judicial review. There is a growing trend for substantive tax cases to be more complex and in some instances involve highly sophisticated tax avoidance schemes. For example litigation has recently been commenced involving complex structured finance arrangements. Furthermore, the High Court will hear in August 2004 the largest tax avoidance case to be litigated in New Zealand to date. There are also a steady number of cases involving process. These are often related to the statutory tax disputes process.

### **Crown Prosecution System**

The Solicitor-General is responsible to the Attorney-General for the administration of the Crown Prosecution System from the time of indictment, which is the stage following committal for trial after a preliminary hearing. Crown Solicitors, who are appointed by the Governor-General, have responsibility for prosecutions in those centres where High Court and District Court jury trials are conducted. The Crown Solicitor network continues to be a very important and integral part of the national Crown Prosecution System. The Office works closely with Crown Solicitors to provide Government with the assurance that the systems and processes in place are cost effective and will result in outcomes which meet the expectations of Government and the Community. Providing this assurance presents an ongoing challenge, particularly given the demand driven nature of the activity.

### **Financial Highlights**

The year under review has seen a continuation of high levels of activity from all areas of the Office. The Office recorded an overall surplus of \$1.376 million, against a deficit in the previous year of \$0.281million. The surplus included a deficit of \$10,000 (2003 \$0.134 million surplus) from the provision of legal services to Government department and agencies (Output Class: Legal Advice and Representation).

Expenditure on Crown prosecutions was below the appropriation by \$1.379 million in spite of continued efforts to improve the forecasting of this, largely demand based, expenditure.

# CROWN LAW OFFICE

## Chief Executive's Overview - continued

### The Year Ahead

The Office remains committed to providing responsive, high quality and timely advice and representation services to its clients. The capability of the Office, in terms of people, resources, systems and structures, to achieve this level of service has been set out in the Office's Statement of Intent for 2004/05. The Statement also considers the challenges facing government in the next period by reference to a number of emerging legal issues and associated risks. The Office's base of expertise in public and administrative law will continue to be essential to meeting the demands of servicing the legal business of government in the year to come.

A handwritten signature in black ink, appearing to read 'Terence Arnold', with a stylized flourish to the right.

Terence Arnold  
**Solicitor-General and Chief Executive**

# CROWN LAW OFFICE

## Organisation Information

### Governance Structure

The Crown Law Office is a government department whose primary function is to support the two Law Officers of the Crown: the Attorney-General and the Solicitor-General, in the performance of their statutory duties and functions.

The Attorney-General, who concurrently holds offices as a Minister of the Crown with political responsibilities and as the senior Law Officer of the Crown, has principal responsibility for the government's administration of the law.

The Solicitor-General is Chief Executive of the Crown Law Office, and is the chief legal advisor to the government, subject to any views expressed by the Attorney-General. In this capacity, the Solicitor-General is the government's chief advocate in the courts. In addition, the Solicitor-General is responsible for the conduct of the prosecution of indictable crime. The Solicitor-General also has a number of specific statutory duties and functions to perform.

### Organisation Structure

The Crown Law Office is organised into three practice groups, which are focused on the delivery of specialist legal services to government covering the following core areas of business:

- Constitutional advice and litigation including Treaty of Waitangi work, advice on international human rights obligations, bill of rights, and constitutional conventions
- The conduct of Crown prosecutions and criminal appeals
- Public Law issues which, for example, arise out of the exercise and control of governmental power and public sector governance

The practice group structure is designed to enable better co-ordination of work, to enable improved sharing of resources across teams, and to improve the capacity to serve Ministers and clients. A Deputy Solicitor-General is responsible for the professional leadership and management of each practice group. Within each practice group, there are a number of specialist client service teams. A Crown Counsel, in the role of Team Leader, has responsibility for the development and management of staff in each team and is also the principal contact point for clients of the team. Each team is staffed with further Crown Counsel, Associate Crown Counsel, Assistant Crown Counsel, and Litigation and Secretarial Support staff. The current Group/Team structure comprises:

Practice Group	Legal Teams
Public Law Group	Governmental Business Team Land and Resource Management Team Taxation and Public Revenue Team
Criminal Process Group	Criminal and Crown Solicitors Team
Constitutional Group	Employment Team Human Rights Team Law Officer Team Treaty Issues and International Law Team

# CROWN LAW OFFICE

## Organisation Information - continued

### Management Structure

The Senior Management Group of the Crown Law Office, comprises:

Terence Arnold QC	Solicitor-General
Karen Clark	Deputy Solicitor-General (Public Law)
Nicola Crutchley	Deputy Solicitor-General (Criminal Law) and Team Leader of Criminal and Crown Solicitors Team
Cheryl Gwyn	Deputy Solicitor-General (Constitutional) and Team Leader of Law Officer Team
Carol Leckie	Acting Practice Manager

#### *Other Legal Team Leaders:*

Bronwyn Arthur	Crown Counsel, Natural Resources
James Coleman	Crown Counsel, Taxation and Public Revenue
Peter Gunn	Crown Counsel, Employment
Virginia Hardy	Crown Counsel, Treaty Issues and International Law
Grant Liddell	Crown Counsel, Governmental Business
Val Sim	Crown Counsel, Human Rights

### Human Resource Management

During 2003/04 the overall permanent staffing of the Office increased to reflect the increased demand for services. The number of employees permanently employed at year end were as follows:

	<b>30 June 2004</b>	<b>30 June 2003</b>
Solicitor-General, Deputy Solicitors-General and Practice Manager	5	5
Counsel	67	65
Legal Support	18	15
Secretarial and Word Processing	35	32
Corporate Services Group	19	20
Total Number of Employees*	144	137

(\*Part time and job share arrangements are included in these numbers)

In common with other professional services organisations, the Office's human resource management policies, procedures and systems are aimed at attracting and retaining skilled and experienced staff who have a focus on client service.

### Equal Employment Opportunities

The Crown Law Office is committed to providing equal employment opportunities for all staff and for prospective employees who seek to join the Office. The responsibilities for being a "good employer" are recognised through the development and implementation of employment policies and procedures which are designed to ensure that staff are able to work in a safe and healthy office environment, participate fully in achieving the goals of the Office, and are presented with opportunities to develop personally and professionally.

## **CROWN LAW OFFICE**

### **Organisation Information - continued**

The Office continues to make steady progress in addressing the actions set out in its Equal Employment Opportunities (EEO) plan. Specific emphasis has been placed upon strategies in the areas of leadership, employment of EEO target groups, organisational culture, work and family issues and the development of EEO statistics for monitoring purposes. This work has included actions taken following the survey of the Office conducted by the State Services Commission (Career Progression and Development Survey, 2000).

### **Crown Solicitor Network**

There are sixteen private law practitioners holding warrants as Crown Solicitors. Together with their partners and staff solicitors from the practice and the local prosecution panels, Crown Solicitors undertake prosecution work in those centres where District Court and High Court jury trials are conducted.

### **Legislative Responsibilities**

The Crown Law Office administers the Crown Solicitors Regulations 1994 which set out the basis upon which the scale of fees is calculated and the process by which fees are claimed and paid to Crown Solicitors for undertaking Crown prosecution work.

The Cabinet Directions for the Conduct of Crown Legal Business 1993 govern the conduct of legal business between the Law Officers of the Crown, the Crown Law Office and government departments and agencies.

### **Information Systems Management**

Effective use is made of information technology and systems to support the legal advice and representation functions of the Office. Much of the focus of this investment is directed towards the production and management of documents, the conduct of legal research, communication with clients and the management of matters on behalf of those clients. Strategies are in place to ensure that technology and systems are reviewed on a regular basis and updated or replaced where justified.

### **Office Accommodation**

The Office is located in Unisys House The Terrace and occupies four floors of office accommodation. The premises are under lease until 30 March 2013, with a further renewal available until 31 March 2019. An agreement has been entered into to sub lease the balance of the current lease on St Paul's Square for the remaining 6 months of the lease.

# CROWN LAW OFFICE

## Statement of Responsibility for the year ended 30 June 2004

In terms of sections 35 and 37 of the Public Finance Act 1989 I am responsible, as Chief Executive of the Crown Law Office, for the preparation of the financial statements and the judgments made in the process of preparing those statements.

I have the responsibility of establishing and maintaining, and I have established and maintained, a system of internal control procedures that provide reasonable assurance as to the integrity and reliability of the financial reporting.

In my opinion, these financial statements fairly reflect the financial position and operations of the Crown Law Office for the year ended 30 June 2004.



Terence Arnold  
**Solicitor-General and Chief Executive**

30 September 2004

Countersigned by:



Chris Walker  
**Acting Finance Manager**

30 September 2004



**AUDIT REPORT**  
**TO THE READERS OF**  
**THE CROWN LAW OFFICE'S**  
**FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2004**

The Auditor-General is the auditor of the Crown Law Office. The Auditor-General has appointed me, Stephen Lucy, using the staff and resources of Audit New Zealand, to carry out the audit of the financial statements of the Crown Law Office, on his behalf, for the year ended 30 June 2004.

**Unqualified opinion**

In our opinion the financial statements of the Crown Law Office on pages 19 to 48:

- comply with generally accepted accounting practice in New Zealand; and
- fairly reflect:
  - the Crown Law Office's financial position as at 30 June 2004;
  - the results of its operations and cash flows for the year ended on that date; and
  - its service performance achievements measured against the performance targets adopted for the year ended on that date.

The audit was completed on 30 September 2004, and is the date at which our opinion is expressed.

The basis of the opinion is explained below. In addition, we outline the responsibilities of the Solicitor-General and the Auditor, and explain our independence.

## **Basis of opinion**

We carried out the audit in accordance with the Auditor-General's Auditing Standards, which incorporate the New Zealand Auditing Standards.

We planned and performed our audit to obtain all the information and explanations we considered necessary in order to obtain reasonable assurance that the financial statements did not have material misstatements, whether caused by fraud or error.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements. If we had found material misstatements that were not corrected, we would have referred to them in the opinion.

Our audit involved performing procedures to test the information presented in the financial statements. We assessed the results of those procedures in forming our opinion.

Audit procedures generally include:

- determining whether significant financial and management controls are working and can be relied on to produce complete and accurate data;
- verifying samples of transactions and account balances;
- performing analyses to identify anomalies in the reported data;
- reviewing significant estimates and judgements made by the Solicitor-General;
- confirming year-end balances;
- determining whether accounting policies are appropriate and consistently applied; and
- determining whether all financial statement disclosures are adequate.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements.

We evaluated the overall adequacy of the presentation of information in the financial statements. We obtained all the information and explanations we required to support the opinion above.

## **Responsibilities of the Solicitor-General and the Auditor**

The Solicitor-General is responsible for preparing financial statements in accordance with generally accepted accounting practice in New Zealand. Those financial statements must fairly reflect the financial position of the Crown Law Office as at 30 June 2004. They must also fairly reflect the results of its operations and cash flows and service performance achievements for the year ended on that date. The Solicitor-General's responsibilities arise from the Public Finance Act 1989.

We are responsible for expressing an independent opinion on the financial statements and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001 and section 38(1) of the Public Finance Act 1989.

## Independence

When carrying out the audit we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the Institute of Chartered Accountants of New Zealand.

Other than the audit, we have no relationship with or interests in the Crown Law Office.



S B Lucy  
Audit New Zealand  
On behalf of the Auditor-General  
Wellington, New Zealand

### **Matters relating to the electronic presentation of the audited financial statements**

This audit report relates to the financial statements of the Crown Law Office for the year ended 30 June 2004 included on the Crown Law Office's website. The Solicitor-General is responsible for the maintenance and integrity of the Crown Law Office's website. We have not been engaged to report on the integrity of the Crown Law Office's website. We accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the website.

We have not been engaged to report on any other electronic versions of the Crown Law Office's financial statements, and accept no responsibility for any changes that may have occurred to electronic versions of the financial statements published on other websites and/or published by other electronic means.

The audit report refers only to the financial statements named above. It does not provide an opinion on any other information which may have been hyperlinked to/from these financial statements. If readers of this report are concerned with the inherent risks arising from electronic data communication they should refer to the published hard copy of the audited financial statements and related audit report dated 30 September 2004 to confirm the information included in the audited financial statements presented on this website.

Legislation in New Zealand governing the preparation and dissemination of financial statements may differ from legislation in other jurisdictions.

## CROWN LAW OFFICE

### Statement of Objectives and Service Performance for the year ended 30 June 2004

#### Output Class: Legal Advice and Representation

##### Objective

To provide legal advice and representation services to central government departments and agencies with special emphasis on constitutional and other matters of public and administrative law, including Treaty of Waitangi and revenue issues.

##### Outcome

Contributes to promoting a strong and effective public service by protecting the legal interests and the responsibilities of the Crown and Crown agencies.

##### Financial Performance

(Figures are GST exclusive)

2003 Actual		2004 Actual	2004 Main Estimates	2004 Supp. Estimates
\$000		\$000	\$000	\$000
13,735	Revenue – Other	14,431	14,235	14,859
13,601	Expenditure	14,441	13,411	14,859
134	Net surplus / (deficit)	(10)	824	-

##### *Explanation of major variations:*

For a number of years this output class has appeared to budget for a surplus. The budgeting of a surplus is inconsistent with the following publications: *Guidelines on Costing and Charging for Public Sector Goods and Services* - Audit Office, May 1989; and *Guidelines for Setting Charges in the Public Sector* – Treasury, 1999. During the year the budget was revised to achieve a breakeven position.

The deficit is due to increasing the provision for Doubtful Debts and Work in Progress to reflect the year end position.

## CROWN LAW OFFICE

### Statement of Objectives and Service Performance for the year ended 30 June 2004

#### Output Class: Legal Advice and Representation - continued

#### Service Performance

#### *Quantity*

2003 Actual	Measures	2004 Actual	2004 Forecast
538	Number of new instructions for legal advice.	520	485:510
802	Average number of requests for legal advice in progress during the year.	875	780:820
592	Number of new instructions in respect of litigation matters.	707	570:600
2,084	Average number of litigation matters in hand.	2,279	1,950:2,050

#### *Explanation of major variations:*

The number of new instructions for legal advice and litigation can be difficult to estimate given the demand based nature of this activity.

#### *Quality and Timeliness*

Measures	Performance
Legal advice, including opinions, and representation services to be provided in accordance with the Office's Professional Standards: Crown Law Advice and Conduct of Litigation, respectively.	Quality assurance review processes have been implemented to ensure compliance with the standards established for legal advice and representation services.
Client satisfaction survey to be conducted among clients seeking feedback on performance in respect of matters selected at random. The survey questions cover a range of service level criteria designed to assess the timeliness and accessibility of advice, quality of advice, and cost effectiveness of advice.	The methodology, targets and results of the client satisfaction survey process for the year ended 30 June 2004 are set out below.

## CROWN LAW OFFICE

### Statement of Objectives and Service Performance for the year ended 30 June 2004

#### Output Class: Legal Advice and Representation - continued

#### Service Performance

#### *Quality and Timeliness - continued*

#### *Client Satisfaction Survey Methodology:*

The Client Satisfaction Survey for the year ended 30 June 2004 asked clients to assess the performance of the Office, on particular matters selected at random, against ten specific service level criteria. The service level criteria included acknowledgement of instructions, responsiveness in meeting instructions and providing reports on progress, achievement of deadlines, extent of client involvement in the matter, the quality and cost effectiveness of advice, and the overall management of the case or matter.

Clients were provided with a pre-determined scale of performance ratings ranging from "exceeding expectations" to "falling short of expectations" in order to make their assessment of performance on a particular matter. To enable comparison with the target levels of performance rating, the scale approximates the following percentile ranges:

"performance has exceeded my needs"	81 to 100%
"performance has fully met my needs"	61 to 80%
"performance has mostly met my needs"	41 to 60%
"performance has only somewhat met my needs"	21 to 40%
"performance has fallen short of my needs"	0 to 20%

#### *Client Satisfaction Survey Results:*

<b>2003</b>		<b>2004</b>	<b>2004</b>
<b>Actual</b>		<b>Actual</b>	<b>Forecast</b>
73	Questionnaires issued	73	40:80
40	Questionnaires returned	45	N/A
81%	Overall satisfaction rating.	79%	80%:90%

## CROWN LAW OFFICE

### Statement of Objectives and Service Performance for the year ended 30 June 2004

#### Output Class: Supervision and Conduct of Crown Prosecutions

##### Objective

To provide a national Crown prosecution service to undertake criminal trials on indictment, and appeals against convictions and sentences arising out of summary prosecutions.

This output class is comprised of three outputs:

- *Crown Prosecution Services* – The provision of a national Crown prosecution service to undertake criminal trials on indictment and related appeals.
- *Supervision of the Crown Solicitor Network* – The supervision of Crown Solicitors responsible for delivering prosecution services in centres throughout New Zealand where District Court and High Court jury trials are conducted.
- *Criminal Law Advice and Services* - The provision of advice on criminal law matters to other government agencies and Crown Solicitors. This includes work in the following areas: proceeds of crime, mutual assistance, blood sampling for DNA, request for Crown appeals arising out of summary prosecutions, consent to prosecute, applications for stays and immunity from prosecution.

##### Outcome

Contributes to building safe communities by assisting in the maintenance of law and order.

##### Financial Performance

(Figures are GST exclusive)

<b>2003</b>		<b>2004</b>	<b>2004</b>	<b>2004</b>
<b>Actual</b>		<b>Actual</b>	<b>Main</b>	<b>Supp.</b>
<b>\$000</b>		<b>\$000</b>	<b>Estimates</b>	<b>Estimates</b>
			<b>\$000</b>	<b>\$000</b>
23,052	Revenue – Crown	26,228	22,861	26,228
23,402	Expenditure	24,849	22,861	26,228
(350)	Net surplus / (deficit)	1,379	-	-

##### Explanation of major variations:

The appropriation for this output class was increased by an amount of \$3.367 million in the Supplementary Estimates. This increase was required to meet the forecasted increase in Crown prosecution services expenditure arising from an increases in volume, case complexity and procedural changes as the result of revised or new Practice Notes.

## CROWN LAW OFFICE

### Statement of Objectives and Service Performance for the year ended 30 June 2004

#### Output Class: Supervision and Conduct of Crown Prosecutions - continued

#### Service Performance – Output: Crown Prosecution Services

##### *Quantity*

2003 Actual	Measures	2004 Actual	2004 Forecast
	Number of trials for indictable crime:		
1,362	• District Court	1,292	1,200:1,300
123	• High Court	117	170:185
	Number of trials for indictable crime (Cost greater than \$10,000 per trial):		
133	• District Court	176	125:135
101	• High Court	122	120:130
	Number of other criminal matters dealt with by the Crown Solicitors:		
989	• Bail Applications and Appeals	1,248	1,100:1,200
2,462	• Guilty Pleas / Lower Band and Middle Band Sentencing	2,601	2,000:2,200
698	• Appeals relating to Summary Prosecutions	627	700:800

##### *Explanation of major variations:*

There has been a small increase in the number of trials completed during the year. However there has been a significant increase in the number of trials where the cost has been greater than \$10,000 per trial. This increase in cost has mainly been in trials where there are multiple accused or large number of charges.

##### *Quality and Timeliness*

Measures	Performance
Prosecution services to be provided in accordance with prosecution guidelines and case management practices developed by the Solicitor-General and judiciary, respectively.	A description of the review methodology, targets and results of the reviews conducted in the year ended 30 June 2004 is set out below under: Service Performance - Supervision of Crown Solicitor Network.

## CROWN LAW OFFICE

### Statement of Objectives and Service Performance for the year ended 30 June 2004

#### Output Class: Supervision and Conduct of Crown Prosecutions - continued

#### Service Performance – Output: Supervision of Crown Solicitor Network

##### *Quantity*

2003 Actual	2004 Actual	2004 Forecast	
1	Number of Crown Solicitors practices to be reviewed.	0	2:4
244	Number of applications from Crown Solicitors for special fees, classification of counsel and approval of additional counsel.	328	350:370

##### *Explanation of significant variances:*

Following the completion of the 2003 practice review and the limited resources available to conduct further reviews it was decided not to undertake any further reviews during the year ended 30 June 2004, and to reevaluate the review process.

##### *Quality and Timeliness*

Measures	Performance
Applications by Crown Solicitors for special fees, reclassification of counsel and approval of additional counsel to be considered in accordance with the Crown Solicitors Regulations 1994 and the Office's protocols which support the application of the regulations. The protocols describe the processes to be followed, the quality standards relating to the process, content, justification for requests.	All applications made by Crown Solicitors were approved in accordance with the Crown Solicitors Regulations 1994, and the Office's protocols, which support the application of the regulations. Notification of approval and feedback on the application was formally advised to the Crown Solicitor within the agreed timeframe.

## CROWN LAW OFFICE

### Statement of Objectives and Service Performance for the year ended 30 June 2004

#### Output Class: Supervision and Conduct of Crown Prosecutions - continued

#### Service Performance – Output: Supervision of Crown Solicitor Network

#### *Quality and Timeliness - continued*

Measures	Performance
<p>The provision of prosecution services by Crown Solicitors is to be reviewed by an independent review panel with reference to a range of quality standards which include:</p> <ul style="list-style-type: none"> <li>• compliance with professional standards of conduct.</li> <li>• application of the Solicitor-General's prosecution guidelines.</li> <li>• compliance with court procedures and the requirements of the judiciary and clients in the management of cases.</li> <li>• compliance with the Crown Solicitors Regulations 1994 and, in particular, the charging for services rendered.</li> <li>• compliance with protocols and financial guidelines developed by the Office to support the application of the above Regulations.</li> </ul>	<p>The Review Panel, which comprised a senior representative of the Office, and an independent adviser, performed a review of one Crown Solicitor practice in this period. The review addressed compliance with the performance measures covering:</p> <ul style="list-style-type: none"> <li>• case processing efficiency and effectiveness.</li> <li>• practice management case allocation, good employer responsibilities, financial reporting on cases and compliance with the Regulations and the supporting protocols.</li> </ul> <p>(A report remains to be prepared for the Solicitor-General by the Review Panel containing documentary evidence of the review process with assessments and conclusions)</p>

#### *Crown Solicitor Practice Review Process:*

The Crown Solicitor Practice Review process has been established to ensure that Crown Solicitors meet certain quality standards in undertaking Crown prosecutions. These standards are described in the above table. It is aimed to review all Crown Solicitor practices at least once in each four to five year period. The number of reviews undertaken in any year will depend upon the size of the practice to be reviewed, the resources available to undertake the reviews and the operational efficiencies derived from reviewing practices in close geographic proximity.

#### *Crown Solicitor Appointment Process:*

The Solicitor-General is responsible for the process of appointment of Crown Solicitors. The process, which includes extensive consultation and inquiry to determine the suitability of candidates to undertake the role of Crown Solicitor, results in a recommendation to the Attorney-General and, in turn, to the Governor-General for the issuing of the Crown Solicitor warrant. No new Crown Solicitor appointment was made in the financial year under review (2003: One - Napier).

## CROWN LAW OFFICE

### Statement of Objectives and Service Performance for the year ended 30 June 2004

#### Output Class: Supervision and Conduct of Crown Prosecutions - continued

#### Service Performance – Output: Criminal Law Advice and Services

##### Quantity

2003 Actual	Measures	2004 Actual	2004 Forecast
389	Number of new requests for legal advice or determination of applications received in relation to criminal law issues.	456	340:360
441	Average number of requests for legal advice or determination of applications in relation to criminal law in process during the year.	533	380:400
37	Number of new ministerials and parliamentary questions received.	52	35:50

##### Explanation of major variations:

The number of new requests for legal advice has unexpectedly increased, and reflects the difficulty of accurately estimating this demand based activity. This level of demand has flowed through into an increase in the average numbers of requests in process during the year.

##### Quality and Timeliness

Measures	Performance
Legal advice, including opinions, and representation services to be provided in accordance with the Office's Professional Standards: Crown Law Advice and Conduct of Litigation, respectively.	Quality assurance review processes have been implemented to ensure compliance with the standards established for legal advice and representation services.
Ministerial correspondence and parliamentary questions to be responded to within the following time frames: <ul style="list-style-type: none"> <li>Replies to <i>ministerial correspondence</i> will be completed within 20 working days of receipt in 90% of cases.</li> <li>All responses to <i>parliamentary questions</i> will be provided within the required deadlines.</li> </ul>	<ul style="list-style-type: none"> <li>Replies to ministerial correspondence were provided within the required timeframe in 75% of cases. (2003: 86%)</li> <li>No parliamentary questions were received. (2003: No parliamentary questions were received)</li> </ul>

## CROWN LAW OFFICE

### Statement of Objectives and Service Performance for the year ended 30 June 2004

#### Output Class: Conduct of Criminal Appeals

##### Objective

To determine whether Crown appeals against sentence are lodged and to appear or arrange representation at the hearing of appeals whether brought by the Crown or by offenders following trials on indictment.

##### Outcome

Contributes to building safe communities by assisting in the maintenance of law and order.

##### Financial Performance

(Figures are GST exclusive)

2003 Actual \$000		2004 Actual \$000	2004 Main Estimates \$000	2004 Supp. Estimates \$000
1,324	Revenue – Crown	1,676	1,284	1,676
1,404	Expenditure	1,674	1,284	1,676
(80)	Net surplus / (deficit)	2	-	-

##### Explanation of major variations:

The appropriation for this output class was increased by a net amount of \$392,000 in the Supplementary Estimates to reflect the increase in the number of requests for appeal and the number of appeals taken by the offenders with an accompanying increase in matter related expenditure.

##### Quantity

2003 Actual	Measures	2004 Actual	2004 Forecast
	Number of appeals heard in the Court of Appeal arising out of criminal trials on indictment, brought by:		
10	• the Crown	10	20:30
288	• offenders	N/A	340:370
	Decisions made on requests for the Solicitor-General to take Crown appeals in relation to:		
24	• sentence	44	40:50
6	• case stated or other appeals.	23	25:30

## CROWN LAW OFFICE

### Statement of Objectives and Service Performance for the year ended 30 June 2004

#### Output Class: Conduct of Criminal Appeals - continued

#### Service Performance

##### *Quantity - continued*

##### *Explanation of Variances:*

The number of appeals heard in the Court of Appeal brought by the offenders is not available. However this number does not represent the number of appeals that have been filed or the number of submissions that the Office has prepared in response. Some offenders abandon their appeals, before the appeal has been heard, and these abandoned appeals are not counted. During the year the Office responded to 508 appeals that were filed in the Court of Appeal and 7 requests for Leave to Appeal to the Supreme Court.

##### *Quality and Timeliness*

Measures	Performance
Success rate for appeals brought by the Solicitor-General to be not less than 60%.	The success rate for appeals brought by the Solicitor-General was 50% (2003: 70%). Judgement is yet to be given on 14 appeals (2003; two)
Compliance with court procedures and requirements of the judiciary, as specified in the 'Court of Appeal Practice Note – Criminal Appeals', to ensure no complaints are received for non-compliance.	No complaints have been received by the Office for non-compliance with court procedures and practice notes.
The hearing of appeals to be undertaken in accordance with the schedule of sitting days which is agreed by the court one month in advance, and resulting in no requests for adjournment being sought by the Crown.	The hearing of appeals was undertaken in accordance with the timetable set by the court.
Written submissions to be filed within the time frame stipulated in the 'Court of Appeal Practice Note – Criminal Appeals' (which states that submissions are to be filed by the Crown by the required date, or within three days of receipt of the appellant's submissions, or if that time frame is not available then prior to the appeal hearing).	The Crown filed written submissions within the timeframe stipulated in the Court of Appeal practice note – Criminal Appeals.

## CROWN LAW OFFICE

### Statement of Objectives and Service Performance for the year ended 30 June 2004

#### Output Class: The Exercise of Principal Law Officer Functions

##### Objective

To provide legal and administrative services to the Attorney-General and the Solicitor-General to assist them in the exercise of the principal Law Officer functions. The functions include monitoring the enforcement and application of the law, supervision of charities, representation of the public interest, relator proceedings, and the exercise of a variety of powers, duties and authorities arising from various statutory requirements and constitutional conventions.

##### Outcome

Contributes to building safe communities by assisting in the maintenance of law and order and contributing to the maintenance of public interest factors in the application of the law.

##### Financial Performance

(Figures are GST exclusive)

<b>2003 Actual</b>		<b>2004 Actual</b>	<b>2004 Main Estimates</b>	<b>2004 Supp. Estimates</b>
<b>\$000</b>		<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
1,137	Revenue - Crown	1,237	1,237	1,237
12	- Other	4	-	-
1,149		1,241	1,237	1,237
1,134	Expenditure	1,236	1,237	1,237
15	Net surplus	5	-	-

## CROWN LAW OFFICE

### Statement of Objectives and Service Performance for the year ended 30 June 2004

#### Output Class: The Exercise of Principal Law Officer Functions - continued

#### Service Performance

#### *Quantity*

2003 Actual	Measures	2004 Actual	2004 Forecast
136	Number of new applications or requests for legal advice	114	120:130
294	Average number of applications or requests for legal advice in process during the year	294	320:335
274	Number of new ministerials and parliamentary questions received.	220	240:260

#### *Explanation of major variations:*

#### *Quality and Timeliness*

Measures	Performance
Legal advice, including opinions, and legal representation services will be provided in accordance with the Office's Professional Standards: Crown Law Advice and Conduct of Litigation, respectively.	Quality assurance review processes have been implemented to ensure compliance with the standards established for legal advice and legal representation services.
<p>Ministerial correspondence and parliamentary questions to be responded to within the following time frames:</p> <ul style="list-style-type: none"> <li>Replies to <i>ministerial correspondence</i> will be completed within 20 working days of receipt in 90% of cases.</li> <li>All responses to <i>parliamentary questions</i> will be provided within the required deadlines.</li> </ul>	<ul style="list-style-type: none"> <li>Replies to ministerial correspondence were provided within the required timeframe in 82% of cases. (2003: 84%)</li> <li>Replies to parliamentary questions were provided within the required timeframe in 100% of cases. (2003: 100%)</li> </ul>

## CROWN LAW OFFICE

### Statement of Objectives and Service Performance for the year ended 30 June 2004

#### Output Class: The Exercise of Principal Law Officer Functions - continued

#### Service Performance

#### *Quality and Timeliness - continued*

Measures	Performance
Brief the Attorney-General in a timely and relevant way on significant legal matters affecting the Crown.	A report is provided each week to the Attorney-General advising on significant matters involving the Crown.
Client satisfaction survey to be conducted among clients seeking feedback on performance in respect of matters selected at random. The survey questions cover a range of service level criteria designed to assess the timeliness and accessibility of advice, quality of advice, and effectiveness of advice.	The methodology of the client satisfaction survey process was described under Output Class: Legal Advice and Representation - Service Performance – <i>Quality and Timeliness</i> . The targets and results of the client satisfaction survey process for the year ended 30 June 2004 are set out below.

#### *Client Satisfaction Survey Results:*

2003 Actual		2004 Actual	2004 Forecast
0	Questionnaires issued	0	15:20
0	Questionnaires returned	0	N/A
Not available	Overall satisfaction rating	Not available	80%:90%

#### *Explanation of major variations:*

Given the nature of the work performed in this output class and the difficulty of identifying a 'client' for many matters, it was not possible to achieve the estimated target for the issuing of questionnaires.

## **CROWN LAW OFFICE**

### **Statement of Accounting Policies for the year ended 30 June 2004**

#### **Reporting Entity**

The Crown Law Office is a government department as defined by section 2 of the Public Finance Act 1989. These are the financial statements of the Crown Law Office prepared pursuant to section 35 of the Public Finance Act 1989. In addition, the Office has reported on the trust monies, which it administers.

#### **Measurement System**

The financial statements have been prepared on an historical cost basis modified by the revaluation of the Library asset.

#### **Accounting Policies**

The following particular accounting policies which materially affect the measurement of financial results and financial position have been applied.

#### **Budget Figures**

The Budget figures are those presented in the Budget Night Estimates (Main Estimates) and those amended by the Supplementary Estimates (Supplementary Estimates) and any transfer made by Order in Council under S5 of the Public Finance Act 1989.

#### **Revenue**

The Office derives revenue through the provision of outputs to the Crown and for services to third parties. Such revenue is recognised when earned and is reported in the financial period to which it relates.

#### **Cost Allocation**

The Office has determined the cost of outputs using a cost allocation system that is outlined below.

##### *Cost Allocation Policy*

Direct costs are charged directly to significant activities. Indirect costs are charged to significant activities based on cost drivers and related activity/usage information.

##### *Direct and Indirect Cost Assignment to Outputs*

Direct costs are charged directly to outputs. Personnel costs are charged to outputs on the basis of actual time incurred. For the year ended 30 June 2004, direct costs accounted for 88% of the Office's costs (2003: 87%).

Indirect costs are the costs of corporate management and support services, including depreciation and the capital charge, and are assigned to outputs based on the proportion of direct staff costs for each output. For the year ended 30 June 2004, indirect costs accounted for 12% of the Office's costs (2003: 13%).

#### **Work-in-Progress**

Work-in-progress is determined as unbilled time plus disbursements that can be recovered from clients, and has been valued at the lower of cost or expected realisable value.

# CROWN LAW OFFICE

## Statement of Accounting Policies for the year ended 30 June 2004

### Accounting Policies - continued

#### Debtors and Receivables

Receivables are recorded at estimated realisable value, after providing for doubtful and uncollectable debts.

#### Operating Leases

Operating lease payments, where the lessors effectively retain substantially all the risks and benefits of ownership of the leased item, are charged as expenses in the periods in which they are incurred.

#### Fixed Assets

All other fixed assets, costing more than \$1,000, are capitalised and recorded at historical cost.

#### Depreciation

Depreciation of fixed assets is provided on a straight line basis at rates that will write off the cost of the assets, less their estimated residual values, over their estimated useful lives. The useful lives of the major classes of assets have been estimated as follows:

• Computer equipment	3 years	(33.3%)
• Office equipment	5 years	(20%)
• Furniture and fittings	5 years	(20%)
• Leasehold improvements	9 years	(11.1%)
• Library	10 years	(10%)

The cost of leasehold improvements is capitalised and amortised over the unexpired period of the lease or the estimated remaining useful lives of the improvements, whichever is shorter.

#### Employee Entitlements

The liability for entitlements by staff to annual leave, long service leave and retirement leave have been provided for as follows:

- Existing entitlements to annual leave and long service leave have been calculated on an actual entitlement basis at current rates of pay.
- Future entitlements to long service leave and retirement leave have been calculated on an actuarial basis based on the present value of expected future entitlements.

#### Foreign Currency

Foreign currency transactions are converted at the New Zealand dollar exchange rate at the date of the transaction. No forward exchange contracts are entered into.

## **CROWN LAW OFFICE**

### **Statement of Accounting Policies for the year ended 30 June 2004**

#### **Accounting Policies - continued**

##### **Financial instruments**

The Office is party to financial transactions as part of its normal operations. These financial instruments, which include bank accounts, debtors and creditors, are recognised in the Statement of Financial Position and all revenues and expenses in relation to financial instruments are recognised in the Statement of Financial Performance. Except for those items covered by a separate accounting policy, all financial instruments are shown at their estimated fair value.

##### **Goods and Services Tax (GST)**

The Statement of Unappropriated Expenditure and the Statements of Departmental and Non-Departmental Expenditure and Appropriations are inclusive of GST. The Statement of Financial Position is exclusive of GST, except for Trade Debtors and Receivables and Creditors and Payables, which are GST inclusive. All other statements are GST exclusive. The amount of GST owing to the Inland Revenue Department at balance date, being the difference between Output GST and Input GST, is included in Creditors and Payables.

##### **Taxation**

Government departments are exempt from the payment of income tax in terms of the Income Tax Act 1994. Accordingly, no charge for income tax has been provided for.

##### **Commitments**

Future expenses and liabilities to be incurred on contracts that have been entered into at balance date are disclosed as commitments to the extent that there are equally unperformed obligations.

##### **Contingent Liabilities**

Contingent liabilities are disclosed at the point at which the contingency is evident.

##### **Taxpayers' Funds**

This is the Crown's net investment in the Office.

##### **Changes in Accounting Policies**

The Office has changed its valuation method for the library collection from fair value to historical cost. This decision, which is consistent FRS-3: Accounting for Property, Plant and Equipment has been made as the cost of the valuation exceeds the benefit of the updated valuation.

Other than the change in library valuation, all policies have been applied on a basis consistent with the previous year.

## CROWN LAW OFFICE

### Statement of Financial Performance for the year ended 30 June 2004

2003 Actual		Note	2004 Actual	2004 Main Estimates	2004 Supp. Estimates
\$000			\$000	\$000	\$000
<b>REVENUE</b>					
25,513	Crown		29,141	25,382	29,141
13,747	Other	2	14,435	14,235	14,859
39,260	<b>Total Operating Revenue</b>		43,576	39,617	44,000
<b>EXPENSES</b>					
10,951	Personnel Costs	3	11,981	10,850	11,578
28,040	Operating Costs	4	29,743	27,421	31,877
362	Depreciation	5	388	335	380
188	Capital Charge	6	88	187	165
39,541	<b>Total Expenses</b>		42,200	38,793	44,000
(281)	<b>Net surplus / (deficit)</b>		1,376	824	-

The accompanying accounting policies and notes form part of these financial statements.  
For information on major variances refer to Note 1

## CROWN LAW OFFICE

### Statement of Movements in Taxpayers' Funds for the year ended 30 June 2004

2003 Actual	Note	2004 Actual	2004 Main Estimates	2004 Supp. Estimates
\$000		\$000	\$000	\$000
2,217	Taxpayers' funds as at 1 July	1,936	2,217	1,936
(281)	Net surplus / (deficit)	1,376	824	0
(281)	<b><i>Total recognised revenues and expenses for the year</i></b>	1,376	824	0
-	Provision for repayment of surplus to the Crown	(1,376)	(824)	0
1,936	<b>Taxpayers' funds as at 30 June</b>	1,936	2,217	1,936

The accompanying accounting policies and notes form part of these financial statements.

# CROWN LAW OFFICE

## Statement of Financial Position as at 30 June 2004

2003 Actual		Note	2004 Actual	2004 Main Estimates	2004 Supp. Estimates
\$000			\$000	\$000	\$000
<b>ASSETS</b>					
<b>Current Assets</b>					
3,950	Cash		3,403	3,579	28
2,822	Debtors and receivables	8	2,683	2,393	2,393
6,772	<b>Total current assets</b>		6,086	5,972	2,421
<b>Non-current assets</b>					
1,141	Fixed assets	9	4,431	1,132	4,578
7,913	<b>Total assets</b>		10,517	7,104	6,999
<b>LIABILITIES</b>					
<b>Current liabilities</b>					
5,187	Creditors and payables	10	6,270	3,374	4,374
-	Provision for repayment of surplus	11	1,376	824	-
591	Provision for employee entitlements	12	705	555	555
5,778	<b>Total current liabilities</b>		8,351	4,753	4,929
<b>Non-current liabilities</b>					
199	Provision for employee entitlements	12	230	134	134
5,977	<b>Total liabilities</b>		8,581	4,887	5,063
<b>TAXPAYERS' FUNDS</b>					
1,640	General Funds		1,640	1,921	1,640
296	Revaluation reserve	7	296	296	296
1,936	<b>Total taxpayers' funds</b>		1,936	2,217	1,936
7,913	<b>Total liabilities and taxpayers' funds</b>		10,517	7,104	6,999

The accompanying accounting policies and notes form part of these financial statements.  
For information on major variances against budget refer to Note 1

## CROWN LAW OFFICE

### Statement of Cash Flows for the year ended 30 June 2004

2003 Actual		2004 Actual	2004 Main Estimates	2004 Supp. Estimates
\$000		\$000	\$000	\$000
<b>CASH FLOWS – OPERATING ACTIVITIES</b>				
<i>Cash was provided from: Supply of outputs to</i>				
25,513	- Crown	29,141	25,382	29,141
14,217	- Government departments and related agencies	14,526	14,235	14,859
39,730		43,667	39,617	44,000
<i>Cash was applied to: Produce outputs</i>				
26,550	- Operating	28,343	25,921	32,727
10,434	- Personnel	11,673	10,850	10,713
1,402	- Net GST paid	1,291	1,500	1,500
188	- Capital charge	88	187	165
38,574		41,395	38,458	45,105
1,156	<b>Net cash flows from operating activities</b>	2,272	1,159	(1,105)
<b>CASH FLOWS – INVESTING ACTIVITIES</b>				
<i>Cash was provided from:</i>				
	Sale of fixed assets	-	-	-
<i>Cash disbursed for:</i>				
406	Purchase of fixed assets	2,819	300	2,817
(406)	<b>Net cash flows from investing activities</b>	(2,819)	(300)	(2,817)
<b>CASH FLOWS – FINANCING ACTIVITIES</b>				
<i>Cash disbursed for:</i>				
1,116	Repayment of net surplus to Crown	-	824	-
(1,116)	<b>Net cash flows from financing activities</b>	-	824	-
(366)	Net Increase/(Decrease) in cash held	(547)	35	(3,922)
4,316	Add opening cash	3,950	3,544	3,950
3,950	<b>Closing cash</b>	3,403	3,579	28

The accompanying accounting policies and notes form part of the financial statements.  
For information on major variances against budget refer to Note 1

## CROWN LAW OFFICE

### Reconciliation of Net Surplus to Net Cash Flow from Operating Activities for the year ended 30 June 2004

2003 Actual  \$000		2004 Actual  \$000	2004 Main Estimates \$000	2004 Supp. Estimates \$000
(281)	<b>Net (deficit)/surplus</b>	1,376	824	-
	Adjustment for items which do not impact cash flow:			
362	- Depreciation	388	335	380
35	- Increase/(decrease) in non current employee entitlements	31	-	-
397	<b>Total non-cash items</b>	419	335	380
	Adjustment for movements in working capital items:			
497	- (Increase)/decrease in debtors and receivables	139	-	429
535	- Increase/(decrease) in creditors and payables	224	-	(1,813)
8	- Increase/(decrease) in current employee entitlements	114	-	(101)
1,040	<b>Working capital movements – net</b>	477	-	(1,485)
	Add/(less) investing activity items:			
-	- Net loss/(gain) on sale of fixed assets	-	-	-
-	<b>Total investing activity items</b>	-	-	-
1,156	<b>Net cash inflow from operating activities</b>	2,272	1,159	(1,105)

The accompanying accounting policies and notes form part of the financial statements.

## CROWN LAW OFFICE

### Statement of Commitments as at 30 June 2004

The Office leased new premises in Wellington as from 1 April 2004. The term of the lease is for an initial period of 9 years expiring on 31 March 2013. The lease on the former premises expired on 31 December 2001 and was renewed until 31 December 2004, the remainder of this period (1 July 2004 to 31 December 2004) was assigned to The Government Communication Security Bureau on 1 July 2004. The amounts disclosed below as future commitments are based on the current lease rental rates.

Operating leases include lease payments for premises, car parks and photocopiers.

<b>2003</b>		<b>2004</b>
<b>Actual</b>		<b>Actual</b>
<b>\$000</b>		<b>\$000</b>
<i>Operating lease commitments</i>		
941	- less than one year	1,795
539	- one to two years	1,374
-	- two to five years	4,014
-	- over five years	4,957
1,480	Total operating lease commitments	12,140
1,480	<b>Total Commitments</b>	12,140

No significant commitments were outstanding for the purchase of goods and services as at 30 June 2004.

### Statement of Contingent Liabilities as at 30 June 2004

There were no contingent liabilities as at 30 June 2004 (2003: Nil)

The accompanying accounting policies and notes form part of these financial statements.

## CROWN LAW OFFICE

### Statement of Unappropriated Expenditure for the year ended 30 June 2004

2003 Unappropriated Expenditure \$000	(Figures are GST inclusive where applicable)	2004 Actual \$000	2004 Appropriation \$000	2004 Unappropriated Expenditure \$000
<b>Vote: Attorney-General</b>				
128	Output Class - Legal Advice and Representation	14,431	14,859	-
351	Output Class - Supervision and Conduct of Crown Prosecutions	24,849	26,228	-
80	Output Class - Conduct of Criminal Appeals	1,674	1,676	-

### Statement of Departmental Expenditure and Appropriations for the year ended 30 June 2004

(Figures are GST inclusive where applicable)	2004 Actual Expenditure \$000	2004 Appropriation Voted* \$000
<b>Vote: Attorney General</b>		
<i>Appropriations for classes of outputs</i>		
Legal Advice and Representation	16,245	16,716
Supervision and Conduct of Crown Prosecutions	28,128	29,506
Conduct of Criminal Appeals	1,884	1,885
The Exercise of Principal Law Officer Functions	1,391	1,392
<b>Total appropriations</b>	<b>47,648</b>	<b>49,499</b>

\*The Appropriation Voted includes adjustments made in the Supplementary Estimates.

## CROWN LAW OFFICE

### Statement of Trust Monies for the year ended 30 June 2004

Account	As at 1 July 2003 \$000	Contributions \$000	Distributions \$000	Revenue \$000	Expenses \$000	As at 30 June 2004 \$000
Crown Law Office Legal Claims Trust Account	33	762	(788)	2	-	9

This interest bearing bank account is operated to receive and pay legal claims and settlements on behalf of clients of the Office. In accordance with S69 (2) Public Finance Act 1989 the interest income is payable to the Crown.

The accompanying accounting policies and notes form part of these financial statements.

# CROWN LAW OFFICE

## Notes to the Financial Statements for the year ended 30 June 2004

### Note 1: Major Budget Variations

#### Statement of Financial Performance (GST Inclusive)

1. *Output Class: Legal Advice and Representation Services*  
This output class recorded a deficit of \$10,000 for the year. The deficit is due to increasing the provision for Doubtful Debts and Work in Progress to reflect the year end position.

Previously the output class had budgeted a surplus, although the Office expected to breakeven. The budget was revised during the year to achieve a breakeven position. The budgeting of a surplus is inconsistent with the following publications: *Guidelines on Costing and Charging for Public Sector Goods and Services* - Audit Office, May 1989; and *Guidelines for Setting Charges in the Public Sector* – Treasury, 1999.

The number of new instructions received exceeded those forecast and has resulted in a small increase in the number of advice and litigation matters in progress.

2. *Output Class: Supervision and Conduct of Crown Prosecutions*  
This output class recorded a surplus of \$1,379,000 for the year. The appropriation for this output class had been increased by a net amount of \$3,367,000 (GST inclusive) in the Supplementary Estimates in anticipation of a demand based increase in expenditure for Crown prosecution services.
3. *Output Class: Conduct of Criminal Appeals*  
This output class recorded a surplus of \$2,000 for the year. The appropriation for this output class had been increased by a net amount of \$392,000 (GST inclusive) in the Supplementary Estimates to reflect an increase in direct costs and level of activity.
4. *Output Class: The Exercise of Principal Law Officer Functions*  
This output class recorded a surplus of \$5,000 for the year. Actual expenditure for the year was in accordance with budget.

Further information on the changes in output classes are set out in the Statement of Objectives and Service Performance. The Statement of Unappropriated Expenditure explains the variations from the Supplementary Estimates.

## CROWN LAW OFFICE

### Notes to the Financial Statements for the year ended 30 June 2004

#### Note 2: Other Revenue

2003 Actual \$000		2004 Actual \$000	2004 Main Estimates \$000	2004 Supp. Estimates \$000
	Legal fees and disbursements received from:			
13,747	- Government departments	14,431	13,565	14,859
-	- Other clients	4	670	-
-	Profit on sale of fixed assets	-	-	-
<u>13,747</u>	<b>Total other revenue</b>	<u>14,435</u>	<u>14,235</u>	<u>14,859</u>

#### Note 3: Personnel Costs

2003 Actual \$000		2004 Actual \$000
10,915	Salaries and Wages	11,950
36	Movement in Retirement and Long Service Leave	31
<u>10,951</u>	<b>Total personnel costs</b>	<u>11,981</u>

#### Note 4: Operating costs

2003 Actual \$000		2004 Actual \$000	2004 Main Estimates \$000	2004 Supp. Estimates \$000
30	Audit fees for audit of the financial statements	35	29	35
-	Increased provision for doubtful debts/WIP	120	-	-
229	Consultancy costs	191	266	266
22,601	Crown Solicitors fees	23,937	22,112	25,480
994	Operating lease costs	1,017	1,019	1,019
4,186	Other operating costs	4,443	4,045	5,077
<u>28,040</u>	<b>Total operating costs</b>	<u>29,743</u>	<u>27,471</u>	<u>31,877</u>

## CROWN LAW OFFICE

### Notes to the Financial Statements for the year ended 30 June 2004

#### Note 5: Depreciation Charge

2003 Actual \$000		2004 Actual \$000	2004 Main Estimates \$000	2004 Supp. Estimates \$000
16	Office Equipment	30	20	20
247	Computer Equipment	243	196	241
-	Leasehold Improvements	-	17	17
27	Furniture & Fittings	41	29	29
72	Library	74	73	73
362	<b>Total depreciation charge</b>	388	335	380

#### Note 6: Capital Charge

The Office pays a capital charge to the Crown on its taxpayers' funds as at 30 June and 31 December each year. The capital charge rate for the year ended 30 June 2004 was 8.5% (2003: 8.5%).

The capital charge was lower than budget because of the time delay in incurring crown solicitor fees and the funding draw down from the Crown which was scheduled to optimise the Crown's financial position while remaining within the appropriation.

#### Note 7: Revaluation reserve - Library

Prior to this year, the Office has revalued the Library collection asset.

#### Note 8: Debtors and Receivables

2003 Actual \$000		2004 Actual \$000
1,208	Trade debtors	1,021
(20)	<i>Less</i> provision for doubtful debts	(50)
1,597	Work in progress	1,763
(39)	<i>Less</i> provision for doubtful work in progress	(129)
76	Prepayments	78
2,822	<b>Total debtors and receivables</b>	2,683

## CROWN LAW OFFICE

### Notes to the Financial Statements for the year ended 30 June 2004

#### Note 9: Fixed Assets

<b>2003</b>		<b>2004</b>
<b>Actual</b>		<b>Actual</b>
<b>\$000</b>		<b>\$000</b>
	<b>Office Equipment</b>	
271	At cost	430
(219)	Accumulated depreciation	(242)
52	<b>Office Equipment – net book value</b>	188
	<b>Computer Equipment</b>	
1,394	At cost	1,320
(976)	Accumulated depreciation	(914)
418	<b>Computer Equipment – net book value</b>	406
	<b>Leasehold Improvements</b>	
1,652	At cost	2,507
(1,652)	Accumulated depreciation	-
-	<b>Leasehold Improvements – net book value</b>	2,507
	<b>Furniture and Fittings</b>	
275	At cost	844
(197)	Accumulated depreciation	(54)
78	<b>Furniture and Fittings – net book value</b>	790
	<b>Library</b>	
697	Base collection at valuation – 30 June 2001	697
39	Additions at cost	59
(143)	Accumulated depreciation	(216)
593	<b>Library – net current value</b>	540
	<b>TOTAL FIXED ASSETS</b>	
4,328	At cost and valuation	5,857
(3,187)	Accumulated depreciation	(1,426)
1,141	<b>TOTAL CARRYING AMOUNT OF FIXED ASSETS</b>	4,431

The library asset was independently valued at net current value as at 30 June 2001 by Stephanie Lambert NZCL of Lambert Library Services.

## CROWN LAW OFFICE

### Notes to the Financial Statements for the year ended 30 June 2004

#### Note 10: Creditors and Payables

2003 Actual \$000		2004 Actual \$000
2,569	Trade creditors	3,163
1,851	Accrued work in progress – Crown Solicitors Fees	1,829
588	Other accrued expenses	1,089
179	GST payable	189
5,187	<b>Total creditors and payables</b>	6,270

#### Note 11: Provision for Repayment of Surplus to the Crown

The provision for repayment of surplus to the Crown is equivalent to the net operating surplus as recorded in the Statement of Financial Performance. The Office recorded an overall net surplus in this financial year. The loss in Output Class: Legal Advice and Representation Services, has been written off against Taxpayer's Funds and a provision for repayment of the gross surplus to the Crown established.

#### Note 12: Provision for Employee Entitlements

2003 Actual \$000		2004 Actual \$000
	<b>Current liabilities</b>	
539	Annual leave	622
52	Long service leave	83
591	<b>Total current portion</b>	705
	<b>Non-current liabilities</b>	
75	Long service leave	92
124	Retirement leave	138
199	<b>Total long term portion</b>	230
790	<b>Total provision for employee entitlements</b>	935

## **CROWN LAW OFFICE**

### **Notes to the Financial Statements for the year ended 30 June 2004**

#### **Note 13: Financial Instruments**

The Office is party to financial instrument arrangements as part of its everyday operations. These include instruments such as bank balances, investments, accounts receivable and trade creditors.

##### *Credit Risk*

Credit risk is the risk that a third party will default on its obligations to the Office, causing the Office to incur a loss. In the normal course of its business, the Office incurs credit risk from trade debtors and transactions with financial institutions. The Office does not require any collateral or security to support financial instruments with financial institutions that the Office deals with, as these entities have high credit ratings. For its other financial instruments, the Office has in excess of 97% of the outstanding revenue represented by debtors and work in progress due from government departments and ministries.

##### *Fair Value*

The fair value of all financial instruments is equivalent to the carrying amount disclosed in the Statement of Financial Position.

##### *Currency and interest rate risk*

There are no financial instruments that potentially subject the Office to material foreign exchange or interest rate risks.

#### **Note 14: Contingencies**

The Office does not have any contingent assets as at 30 June 2004 (30 June 2003: Nil). There were no contingent liabilities as noted in the Statement of Contingent Liabilities.

#### **Note 15: Related Party Information**

The Office is a wholly owned entity of the Crown. The Crown Law Office enters into trading activities with the Crown, other departments and ministries, and Crown Entities. These activities are conducted on an arms length basis and are not considered to be related party transactions. Apart from those transactions described above, the Office has not entered into any related party transactions.

#### **Note 16: Events After Balance Date**

On 1 July 2004 Crown Law received a \$500,000 Capital Contribution from the Crown to assist with the move of office accommodation. The balance of the lease on the premises at St Paul's Square was assigned to the Government Communication Security Bureau as from 1 July 2004. No other significant events, which may impact on the actual results, have occurred between the year end and the signing of the financial statements.