

REPORT OF THE  
**CROWN LAW OFFICE**

for the YEAR ENDING  
30 JUNE 2005

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ANNUAL REPORT

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## CROWN LAW OFFICE

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 cover many areas - judicial review of government action, constitutional questions, including Treaty of Waitangi issues, the enforcement of criminal law, human rights challenges to government policies and practices, and protection of the revenue. Crown Law administers the criminal prosecution process in respect of trials on indictment.

Crown Law has two primary aims 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.

In these ways, Crown Law supports New Zealand's tradition of democratic government under law.

# FUNCTIONS OF THE CROWN LAW OFFICE

The Crown Law Office is responsible for supporting the two Law Officers of the Crown, the Attorney-General and the Solicitor-General. This support is provided through:

- the provision of legal advice and legal representation services to Ministers of the Crown, government departments, and agencies forming part of the Government;
- 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 of regional Crown Solicitors in their prosecution functions, including administration of the Crown Solicitor's Regulations 1994.

Crown Law has no specific responsibility for policy formation or for the development of legislation. However when requested, Crown Law provides legal input on policy issues.

## KEY GOVERNMENT GOALS

Crown Law contributes to the key government goals which have been established to guide public sector policy and performance. In particular, Crown Law's functions are directed towards the maintenance of the Rule of Law in Government. Crown Law assists in the goal of maintaining trust in government by building safe communities. Crown Law does this by:

- protecting the Crown's legal interests;
- supporting the Crown and its agencies in meeting their responsibilities under law;
- achieving timely processes and fair results;
- assisting in the maintenance of law and order;
- securing robust due process;
- maintaining public interest factors in the application of the law; and
- ensuring quality of service delivery through the expertise and integrity of the staff.

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; and
- legal and administrative services for the Attorney-General and Solicitor-General in the exercise of Law Officer functions.

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

<b>Output Class</b>	<b>Contribution to the justice and the wider public sector outcomes</b>
<p>Legal Advice and Representation</p> <p><i>Legal advice and representation services to central government departments and Crown agencies</i></p>	<ul style="list-style-type: none"> <li>• maintaining the rule of law</li> <li>• protecting the Crown’s legal interests</li> <li>• supporting the responsibilities of the Crown and its agencies</li> <li>• the maintenance of public interest factors in the application of the law</li> <li>• timely processes and fair results</li> </ul>
<p>Supervision and Conduct of Crown Prosecutions</p> <p><i>A national Crown prosecution service which undertakes criminal trials on indictment, and appeals arising out of summary prosecutions</i></p>	<ul style="list-style-type: none"> <li>• a credible and effective justice system</li> <li>• robust due process</li> <li>• the maintenance of law and order</li> </ul>
<p>Conduct of Criminal Appeals</p> <p><i>Conduct of appeals arising from criminal trials on indictment and from Crown appeals against sentence</i></p>	<ul style="list-style-type: none"> <li>• a credible and effective justice system</li> <li>• timely processes and fair results</li> <li>• the maintenance of law and order</li> </ul>
<p>The Exercise of Principal Law Officer Functions</p> <p><i>Legal and administrative services for the Attorney-General and Solicitor-General in the exercise of Principal Law Officer functions.</i></p>	<ul style="list-style-type: none"> <li>• maintaining the rule of law</li> <li>• protecting the Crown’s legal interests</li> <li>• the maintenance of law and order</li> <li>• the maintenance of public interest factors in the application of the law</li> <li>• a credible and effective justice system</li> </ul>

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

## CHIEF EXECUTIVE'S OVERVIEW

New Zealand has a tradition of democratic government under law. Crown Law contributes to that on-going tradition through its commitment to the maintenance of the Rule of Law in Government, and by seeking to ensure that the Government has the benefit of its adherence to the Rule of Law. Crown Law 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, by providing legal advice to Ministers, government departments and agencies, often on complex and urgent matters, and conducting litigation on behalf of the Crown, generally in the name of the Attorney-General.

Crown Law was involved in matters during the year which covered a wide range of issues and areas of the law. Some of these matters, which demonstrate the nature of work undertaken by Crown Law, are summarised below:

### LEGAL ADVICE AND REPRESENTATION

#### *THE LITIGATION OF TAXATION DISPUTES*

Crown Law represents the Commissioner of Inland Revenue in all civil disputes concerning the liability to pay tax.

The major litigation undertaken last year concerned the Trinity tax avoidance scheme. At stake was some \$600 million. The Trinity scheme was a mass marketed tax scheme focusing on Douglas fir but with insurance contracts issuing from a company in the British Virgin Islands, which is a well-known tax haven. The litigation spanned 6 weeks

and involved around 30 mainly expert witnesses.

The Commissioner was successful. An application for costs of \$3 million has been made which emphasizes how resource intensive such litigation is. The taxpayers have appealed to the Court of Appeal.

There is a continuing stream of sophisticated tax avoidance cases coming before the courts.

#### *TREATY OF WAITANGI ISSUES*

Crown Law has been involved in several areas of work related to the Foreshore and Seabed Act 2004, since the Act came fully into force in January 2005.

In February 2005 Crown Law represented the government at an inquiry by the United Nations Committee on the Elimination of Racial Discrimination. The Committee was requested by Māori groups to investigate the Foreshore and Seabed Act under urgency procedures. The Committee, while expressing some concerns about aspects of the legislation, was content to receive further government advice on the implementation of the Act in the usual reporting cycle. This means a further report will be made to the Committee at the end of 2005.

Crown Law has supported the Ministry of Justice in discussions between East Coast iwi/hapu investigating the basis for agreement on declarations of territorial customary rights in the foreshore and seabed. Crown Law has also advised on the first applications filed under the legislation for customary rights orders, though these have remained, at this



point, at a preliminary stage in the Māori Land Court process.

Crown Law has supported the Office of Treaty Settlements (OTS) in all the settlements which OTS has negotiated and concluded over the past year, including complex issues associated with the vesting of the Rotorua Lakes in Te Arawa.

Crown Law represented the Crown in two large regional inquiries into claims of historical and contemporary breaches of the Treaty of Waitangi which were brought to a conclusion this year – the Wairarapa and Urewera claims. Counsel also appeared before the Waitangi Tribunal in the inquiry into the Central North Island claims which is due to be completed before the end of 2005.

Crown Law has presented arguments to the Waitangi Tribunal on a number of urgent inquiries into contemporary issues, in particular in defence of the Crown's process and decision-making about the mandate of claimant groups in negotiation with the Crown. The Tribunal has maintained its stance of endorsing the Crown's approach of negotiating with large natural groups and has generally supported the Crown's mandating decisions that reflect this approach.

#### *BILL OF RIGHTS COMPENSATION CLAIMS*

A significant aspect of human rights law practice this year has been the indication by the Court of Appeal in several cases of an increasingly refined approach to compensation and other remedies under the New Zealand Bill of Rights Act 1990. In the first, *Brown v Attorney-General*, the Court rejected a claim for compensation of \$3 million brought by a claimant who had been convicted and imprisoned for fourteen months before being released following a successful appeal. The Court found that a decision to decline the claimant legal aid had not rendered his criminal trial unfair, with one member of the Court indicating that in his view the remedy for errors in criminal trials was correction on appeal rather than monetary compensation.

The second, *Link Technology (2000) Ltd v Attorney-General (Customs)*, was a summary judgment claim for compensation for a search of the claimant's premises by the New Zealand Customs Service after a finding in criminal proceedings that evidence obtained was inadmissible as the search had been unreasonable. The Court rejected the claim, emphasizing that even if the criminal finding established a breach of the Bill of Rights Act, it did not automatically follow that compensation was payable.

The third, *Minister of Immigration v Udompun*, involved a claim of breach of procedural rights by a Thai national refused entry to New Zealand on two occasions, on one of which she was also held in Police custody pending return flights. Substantially reversing a decision of the High Court, the Court held that standards of procedural fairness depend strongly on the context and character of the decision and that in any event monetary compensation would only rarely be available for breach of such standards.

The Court of Appeal also heard, but has yet to determine, appeals by both parties in *Attorney-General v Taunoa*, a claim involving the treatment of high-risk prison inmates in the "Behavioural Management Regime" conducted at Auckland Prison between 1998 and 2002. The High Court had rejected a claim that the regime amounted to psychological torture but had held it to be in breach of appropriate standards of detention, awarding substantial compensation to the claimants.

#### *RETROSPECTIVE CHANGES IN PENALTY*

The Court of Appeal and Supreme Court considered the right against retrospective changes in penalty in *Morgan v Superintendent, Rimutaka Prison*. As a result of his sentencing under the Sentencing and Parole Acts 2002, the claimant was ineligible for the automatic parole at two-thirds of his sentence that he would have received had he been sentenced under previous legislation. Both Courts decided, by majority, that the change in parole

calculation did not breach the right against retrospectivity.

#### *DISCRIMINATION LAW*

Child Poverty Action Group claim provisions in taxation legislation that provide for the "child tax credit" and the "in work payment" are discriminatory on the grounds of employment status, as many beneficiaries are not eligible for these. The Director of Human Rights Proceedings has pursued this claim before the Human Rights Review Tribunal. This is the first discrimination case involving a challenge to legislation. A hearing was held in June to determine the preliminary issue as to whether the Tribunal has jurisdiction to hear the matter, given it was not brought by or on behalf of any particular person/s who had suffered the alleged discrimination. The Tribunal's decision has yet to be delivered.

#### *GAZETTING OF PRISONS*

*Wright v Attorney-General* involved a challenge to the power of the Minister to gazette, and accordingly use, court cells as part of prisons. The challenge had significant implications for the Department of Corrections' management of the unpredicted increase in the prison population. Venning J held that the gazetting of the Manukau District Court Cells as a part of Mt Eden prison was valid.

#### *HISTORIC CLAIMS AGAINST THE CROWN FOR ALLEGED ABUSES IN STATE-RUN INSTITUTIONS*

A 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 2005 approximately 115 claims were filed in the areas of psychiatric institutions and children and young persons' care. Crown Law has been advised that there are many more claims yet to be filed. Counsel for the potential plaintiffs have advised that there may be more than 600 in the pipeline (across psychiatric hospitals and children's homes). If all the threatened claims are filed this will give rise to a significant contingent liability for the Crown and will have significant resource implications for Crown Law.

In October 2004 the Government decided to establish a forum, called the "Confidential Forum for Former In-Patients of Psychiatric Hospitals", to hear from former psychiatric patients and their families about their experiences in psychiatric hospitals. The Forum was established in early 2005 and is chaired by Judge Anand Satyanand. The Forum is designed to give former psychiatric patients the chance to tell of their experiences in psychiatric hospitals in a non-confrontational environment. This may provide benefits to participants and provide an opportunity to assist them to make the most of existing support mechanisms, complaint resolution services and counselling services. In August 2005, 300 people had registered their interest in the Forum.

#### *GREENLANE HOSPITAL LITIGATION*

Approximately 100 plaintiffs have brought an action against the Crown alleging that they suffered physical, psychiatric and or economic harm after learning that the organs of their dead children had been retained in the Greenlane Heart Library. The events complained of occurred between 1961 and 1993. The factual background of each plaintiff's claim varies; some plaintiffs consented to a post-mortem or to the examination of an organ, others expressly refused consent, were not asked to consent or specifically requested the return of organs.

The crux of the plaintiffs' claim is that the defendant should have acted in accordance with the plaintiffs' wishes, should not have removed organs without consent, and if it intended to remove organs or disregard the plaintiffs' wishes to disclose those matters to the plaintiffs. Each plaintiff seeks \$90,000 in damages. The litigation process is on hold while the plaintiffs formally add new claimants and select representative cases to be taken to trial.

#### *LEAKY BUILDINGS LITIGATION*

A number of owners of dwellings, mainly in large multi-unit developments, have sued the Building Industry Authority (now Department of Building and Housing), amongst others, claiming that the Authority was negligent in the performance of its statutory functions under the Building Act 1991 and that that negligence has caused or contributed to water damage to these dwellings. Claims have been brought in the High Court and Weathertight Homes Resolution Service, and Crown Law has been managing the claims in conjunction with external counsel.

The central issues for the Department will be before the Court of Appeal in *Sacramento* (one of the High Court cases) on 25-27 October 2005 and the Court's decision will have a considerable impact on the Crown's future strategy.

#### *EARLY CHILDHOOD EDUCATION*

In *Shaw & Kawhia Educational Trust v Secretary of Education & Attorney-General*, Crown Law successfully defended an application for judicial review of the decisions of the Secretary of Education and the Minister of Education relating to licensing decisions of the Kawhia Educational Trust. It was alleged that the Secretary and the Minister wrongly interpreted the Education (Early Childhood Centres) Regulations 1998 and the Education Act 1989 and wrongly refused to grant a teacher employed in the Kawhia centre an exemption from the early childhood qualification requirements of the legislation. The plaintiffs said that as a result of the

alleged misinterpretation, the centre would have to close.

The High Court ruled in favour of the Ministry and dismissed the application for judicial review.

The legal challenge was significant in the context of early childhood education policy, which has aimed, for several years, to up-skill early childhood education teachers by requiring the acquisition of formal qualifications in early childhood education.

#### *INJUNCTION: LEAKED STATE SERVICES COMMISSION DRAFT REPORT CONCERNING CERU*

On 23 November 2004, The Press published an article sourced from a leaked copy of the Draft Report of the State Services Commissioner's Inquiry into the Department of Corrections' Canterbury Emergency Response Unit ("draft report"). Ailsa Duffy QC had been conducting an inquiry into the Department's handling of the Canterbury Emergency Response Unit. Ms Duffy had distributed parts of the draft report to individuals whose reputations could be affected by its content to enable them to make comments, corrections or other input.

Crown Law gave urgent advice to the State Services Commissioner and prepared to apply for an urgent injunction to prevent further publication of the leaked report. This step ultimately became unnecessary as The Press gave an undertaking that it had destroyed its copy of the draft report and would not publish any further material from it.

#### *TAI HOBSON V ATTORNEY-GENERAL (DEPARTMENT OF CORRECTIONS)*

The Attorney-General applied to strike out the causes of action in a pleading against the Attorney-General brought by the widower of a victim of the Panmure RSA murders committed by William Bell. William Bell was on parole for aggravated robbery at the time of the murders. In a decision dated 23 September 2004, Heath J struck out the

causes of action based on negligence and breach of statutory duty. His Honour directed that the plaintiff file an amended pleading of the allegation of misfeasance in a public office. To date the plaintiff has not done so. The plaintiff has appealed the strike out decision in so far as it relates to the negligence claim, to the Court of Appeal. That appeal is set down for hearing on 10 November 2005. The case raises issues as to whether probation officers owe duties of care to potential victims of offenders and their families.

#### *VEXATIOUS LITIGANTS*

In April 2004, the High Court heard the Attorney-General's application for a "vexatious litigant order" against Mr G A R Palmer. Mr Palmer is a prison inmate who, since being convicted of serious sexual offences and sentenced to preventive detention in 2000, had brought numerous unmeritorious proceedings. Most of the proceedings were an indirect means to challenge his criminal convictions. In July 2004, the High Court issued a judgment accepting that the Attorney had made out a prima facie case for the vexatious litigant order and restraining Mr Palmer from commencing any further civil proceedings without leave, but only on an interim basis. The reason the judgment and order were given on an interim basis was because the Court was concerned about evidential aspects of one of Mr Palmer's trials. Until the outcome is known of an application that Mr Palmer has made (under s 406 Crimes Act) for the exercise of the prerogative of mercy, the Court is not prepared to issue a final judgment. In 2005, the Court of Appeal will hear and determine issues referred to it following Mr Palmer's s 406 application.

#### *TERTIARY INSTITUTIONS*

In August 1999 Unitec Institute of Technology applied for university status. Following the November 1999 general election, the Government imposed a moratorium on the establishment of any new

universities in New Zealand, pending a review of the tertiary education sector.

A comprehensive review was completed in December 2002 and on 1 January 2003 the Education (Tertiary Reform) Amendment Act 2002 ("Amendment Act") came into force.

After Unitec formally requested, in May 2004, that consideration of its application be resumed, the consideration process took place. Meanwhile Unitec issued proceedings claiming \$3 million Bill of Rights Act (BORA) compensation for the pecuniary loss suffered as a result of what it said was an unlawful suspension of its application (*Unitec Institute of Technology v Attorney-General and NZQA*). The High Court has found that the Crown is subject to s 27 BORA and that Unitec's right to natural justice has been breached.

The Crown has appealed the decision.

#### *ZAOUI LITIGATION*

In the year to June 2005, litigation has continued relating to Ahmed Zaoui's detention under a security risk certificate issued by the Director of Security and to the process that the Inspector-General must follow in reviewing the certificate.

Since July 2004, Crown Law has represented the Director of Security, the Minister of Immigration, 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.

Mr Zaoui was detained in a penal institution under a warrant issued under part 4A of the Immigration Act 1987. In November 2004 the Supreme Court held that the inherent jurisdiction of the High Court to grant bail was not excluded by Part 4A and that both the District Court and the High Court had the power to vary the warrant of commitment to

order the detention of Mr Zaoui in premises other than a penal institution.

On the basis of those findings, on 9 December 2004 the Supreme Court granted Mr Zaoui bail on certain conditions, including that he reside at the Dominican Friary in Newton Auckland. Bail continues until the Inspector-General of Intelligence and Security has made a decision under s 114J of the Immigration Act 1987.

In respect of the security risk certificate, the Crown appealed the decisions of the High Court and Court of Appeal. Ultimately, the Supreme Court allowed the Crown's appeal on the ground which the Crown had always advanced, namely, that the Inspector-General is required to determine only whether the relevant security criteria are met and not whether Mr Zaoui is subject to a threat of persecution that might ultimately prevent his removal from New Zealand.

With the litigation concluded, the Inspector-General (the Hon DP Neazor) has resumed his review of the security risk certificate. He is unlikely to complete that process in 2005.

#### *PUBLIC WORKS ACT, S 40*

There have been a number of claims filed in recent years under the offer-back provisions of s 40 of the Public Works Act 1981 involving land no longer required for the public work for which it was acquired or held. *Hood v Attorney-General* concerned land under the administration of the Ministry of Education - part of the original Queenstown District High School vacated in the 1970s and occupied for the past 25 years by the Queenstown Playcentre.

The Court of Appeal had held that the obligation on the Ministry of Education to offer the land back under s 40(1) of the Act had arisen in 1982. The Court considered, however, that the 1970s arrangement between the Minister of Lands, the Minister of Education and the Queenstown Borough Council that the land become reserve once it was no longer wanted for education purposes

made it unfair or unreasonable for the land to be offered back, thus bringing the exception under s 40(2) of the Act into operation. The claim therefore failed.

The claimant sought leave to appeal to the Supreme Court. The Supreme Court held that the decision of both Courts below had been that the arrangement, which predated s 40 and which had been acted upon by the Crown and the Council, made it unfair to offer the land back. That determination was not one that raised a point of general or public interest and there was no basis upon which it could be maintained that a substantial miscarriage of justice had occurred. Further, the Court held that the appeal did not involve a matter of general commercial significance. Accordingly the application for leave to appeal was declined.

#### *LAND TRANSFER FRAUD*

Crown Law has been providing advice to the Registrar-General of Land in respect of claims made against him for compensation under s 172 of the Land Transfer Act 1952 relating to land transfer fraud. Those cases have arisen from allegedly fraudulent activities in the Waikato/Bay of Plenty area. A number of persons have been charged with fraud, with their High Court trial expected to take place next year in Hamilton. In addition, claims have been lodged relating to the home buy-back activities of the ICMG group of companies, which are presently in statutory management.

#### *AQUACULTURE*

Before the aquaculture reform legislation was enacted last year, intending marine farmers required two authorisations, one under the Resource Management Act 1991 (RMA) and one under the Fisheries Act 1983. As pressure on coastal marine space increased in the late 1990s it became important to identify which factors needed to be considered under each Act and to clarify whether the holder of a coastal permit under the RMA could erect marine farming structures even if they could not be used for farming without the marine

farming permit under the Fisheries Act. The Ministry of Fisheries therefore applied to the High Court in 2002 for declarations to resolve these issues.

The proceeding culminated in an appeal to the Privy Council, brought by a marine farmer and heard in June 2005 (*Marlborough Aquaculture Limited v Chief Executive, Ministry of Fisheries*). Their Lordships dismissed the appeal. Their decision confirms the view of the Ministry of Fisheries of its role in relation to applications for marine farming permits, in particular that it can consider the effect of the proposed marine farming structure on fishing activities. The decision also confirms that marine farms may not be built unless a marine farming permit has been issued. Their Lordships finish with a reference to New Zealand's record in harvesting, conservation and enhancement of fishery resources, which they say other states would do well to emulate.

GOVERNMENT CASE TO WAITAKI  
CATCHMENT WATER ALLOCATION BOARD

As a result of the Resource Management (Waitaki Catchment) Amendment Act 2004, a Board was established to prepare and then hear submissions on a Draft Plan for the Waitaki River. Government decided to present a "Whole of Government" submission to the Board. This required the co-ordination of diverse interests and the consideration of the draft submission and relief sought by Cabinet. Legal submissions and supporting evidence were presented to the Board at the start of the hearing process. The Crown's position was generally supportive of the Board's Draft Plan but with proposals for clarification of some provisions, particularly the application of the minimum flow requirements in the lower Waitaki River. The Board's Plan is expected at the end of September.

PROJECT PROTECTOR

*Schelde Marinebouw BV v Attorney-General (Ministry of Defence) and Tenix Defence Proprietary Ltd* arose out of the New Zealand Navy's Project Protector. This tender process –

within a ceiling of \$500 million – was to meet the Navy's future training and transport needs and also to provide civil surface patrol requirements.

On 10 November 2004 the Dutch naval shipbuilding company Schelde, the unsuccessful tenderer, brought judicial review proceedings against the Minister of Defence, and Tenix (the successful Australian tenderer). The proceedings were directed towards bringing the tender award to a halt, and in the alternative, claimed damages of \$55 million for the alleged improper conduct of the tender.

The Crown successfully applied to strike out the claim and for an award of costs. The premise of Justice Gendall's decision was that any remedy that might have been available to Schelde had to be found in the private law of contract and not in judicial review or tort. His Honour concluded that the court's processes should not be used in the pursuit of what was, as pleaded, a hopeless case.

PARLIAMENTARY PRIVILEGE

Mr Jennings made a statement critical of a person's conduct during the course of a parliamentary debate in the House. Some time later, Mr Jennings is alleged to have told a journalist outside the House that "he did not resile from his claim" made in the House. The affected person sued Mr Jennings in defamation (*Buchanan v Jennings*). The issue concerned the extent to which what was said by a member inside Parliament (which is protected by parliamentary privilege) could be used in a defamation claim against the member on the basis of an effective (as opposed to actual) repetition of the parliamentary statement outside the House. The Solicitor-General intervened on behalf of the House of Representatives in this defamation proceeding before the Privy Council.

The Privy Council (upholding the majority decision of the Court of Appeal) dismissed the appeal and concluded that a member of Parliament could be held liable in defamation

if he or she made a defamatory statement in the House of Representatives and later affirmed the statement (without repeating it) on an occasion unprotected by parliamentary privilege.

*EMPLOYMENT LAW*

In August 2004 the Employment Team acted for the Secretary of Education in an appeal to the Court of Appeal against an Employment Court decision in *Secretary of Education v Yates*.

The main issue before the Court of Appeal was whether s 135 of the Employment Contracts Act 1991 (now s 214 of the Employment Relations Act 2000) precluded the Court of Appeal from hearing an appeal against the Employment Court’s decision because it was a decision on the construction of a collective employment contract.

The Court held that it is entitled to interfere with a decision of the Employment Court where the Employment Court construed the employment contract in a manner that did not, in law, amount to an orthodox approach to statutory interpretation.

The team also appeared in various proceedings before the Employment Court during 2004/2005, including further cases involving allegations of workplace stress (*Koia v Attorney General*, and *Nilson Reid v Attorney-General*).

Counsel also appeared before the Employment Relations Authority to argue successfully that a chairperson of a school board of trustees was not an employee.

**CRIMINAL MATTERS**

<b>SUPREME COURT (CRIMINAL APPEALS)</b>	<b>Numbers</b>
Application for leave to appeal granted, substantive hearing held, appeal dismissed	2
Application for leave to appeal granted, awaiting hearing/decision on appeal	2
Awaiting determination of Application for leave to appeal	7
Application for leave to appeal considered and refused	32

<b>COURT OF APPEAL</b>	<b>Numbers</b>
Solicitor-General Appeals Filed	34
Pre-Trial	4
Sentence	28
Other	2
Solicitor-General Appeals Heard	32
Allowed	19
Dismissed <sup>1</sup>	13
Solicitor-General Appeals Abandoned	4
Criminal Appeals Filed *(includes Solicitor-General appeals)	484
Heard Orally <sup>2</sup>	449
Heard on the Papers	21
Abandoned	91

<sup>1</sup> 10 of these appeals related to one case “Operation Crusade”.

<sup>2</sup> 77 appeals filed outside the financial year 04/05 were dealt with in the financial year 04/05.

*R v Howse*

The Privy Council heard the appeal of Bruce Thomas Howse against his convictions for the murder of two of his stepdaughters. The Court of Appeal had found that a substantial body of inadmissible evidence relating to his sexual abuse of the victims had wrongly been advanced at trial. However, the Court considered that the evidence that was properly before the jury was so strong that there was no substantial miscarriage of justice. Accordingly that Court dismissed the appeal. The Privy Council upheld the Court of Appeal's decision, by a 3/2 majority. The Law Lords divided, essentially, on the point of whether, as it appeared there had not been a fair trial, that point should be sent back to the NZ Court of Appeal for determination. The majority considered that as Howse was not willing to testify, the case against him was overwhelming and the NZ Court was right to dismiss the appeal.

In *R v Timoti* [2005] NZSC 37 the Supreme Court overruled the decision of the Court of Appeal that had disallowed the defence of provocation to an appellant, who acting in anger arising from insults and aggression from his stepfather some hours earlier, had committed an arson on the house in which the stepfather and others (including the appellant) lived. The arson killed the appellant's uncle. The Supreme Court ruled that the defence of provocation could apply in a case where the accused wished to avoid harming anyone, but took a risk that a person might be killed as a result of the planned crime. The Court saw no reason in law to restrict the defence to cases where the accused, having lost self-control, intended serious harm or death to any person. The appeal was allowed and a new trial directed.

*APPLICATIONS FOR LEAVE TO APPEAL TO THE SUPREME COURT**Trotter v The Queen* [2005] NZSC 7

This was an application for leave to appeal against a sentence of preventive detention. The applicant contended that a substantial miscarriage of justice had occurred because a sentence of preventive detention had been imposed. In refusing the application the Court established that the Court will only grant leave to appeal against sentence when a question is raised as to whether the sentencing process has seriously miscarried.

*David Young v Land Transport Safety Authority* [2005] NZSC 51

The applicant sought leave to appeal against the determination of the High Court on an appeal pursuant to s 144(1)(b) Summary Proceedings Act 1957. He had previously been refused leave by the High Court and the Court of Appeal to appeal the decision to the Court of Appeal.

The Supreme Court determined that in circumstances in which the Court of Appeal has refused leave for an appeal to that Court and there is a jurisdictional bar preventing the decision of the Court of Appeal declining leave from being further appealed, the Supreme Court will rarely allow that bar to be avoided by resort to a direct appeal. The Court established that other than in extraordinary circumstances an attempt to bring a direct appeal in such circumstances would be regarded as an abuse.



*SOLICITOR-GENERAL APPEALS IN THE COURT OF APPEAL*

*R v Samuel Hanna (CA 201/04)*

This was a Solicitor-General appeal against a Judge's refusal to impose a minimum term of imprisonment pursuant to s 86(2) Sentencing Act 2002 on Hanna who was convicted of aggravated robbery and kidnapping.

The Court of Appeal considered the proper interpretation of s 86(2) Sentencing Act and the application of the concept in s 86(3) of when "the circumstances take the offence out of the ordinary range of offending of that particular kind". The Court held that when applying s 86(3) and determining whether the offence may be regarded as "sufficiently serious" the sentencing judge must compare the actual offending against the general range of offending of that nature. It was incorrect to compare the offending against a particular category of such offending which was characterized by aggravating features. The appeal was allowed and a minimum term of imprisonment imposed. Section 86(3) has been repealed.

*R v TeKaha and Karitiana (CA40/05 & CA50/05)*

This case involved commercial paua poaching on a moderate scale. The two respondents were sentenced after trial to community work. The Solicitor-General appealed on the basis that the sentences were manifestly inadequate and wrong in principle in that terms of imprisonment were required. The Ministry of Fisheries and Crown Law considered it was important to uphold previous Court of Appeal authority to the effect that commercial paua poaching will almost invariably be met with a sentence of imprisonment. This is necessary in order for sanctions in this area to have a deterrent effect and to reflect the value of the fishery resource. The appeal was allowed, and custodial sentences were imposed.

*R v Taueki and Ors (CA 384/04, 30/6/05)*

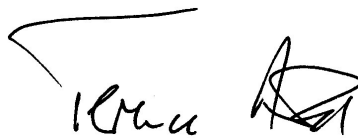
In *R v Taueki and Ors* the Court of Appeal on an application from the Solicitor-General reviewed sentencing levels for the crime of intentionally causing grievous bodily harm. The Court agreed that some sentences were too low to deter this prevalent offence effectively and it overruled the long standing decision of *R v Hereora* (1986) in the expectation that really serious examples of this crime would attract sentences somewhat higher than current levels.

*OFFENDER APPEALS IN THE COURT OF APPEAL*

*R v Lee (CA437/04):*

This case was an appeal against a conviction for manslaughter that occurred during the course of a violent exorcism. The accused, a Korean national, was the self-proclaimed leader of the "Lord of All" church. The Crown alleged that the victim died as a result of prolonged application of force to the victim's neck. The appellant represented himself at trial and did not take any active part in the proceedings. On appeal however, he asserted that the victim had consented to the fatal application of force. The Court of Appeal convened a bench of five Judges to consider the scope of the defence of consent in cases of violence. One of the issues on appeal was whether New Zealand should follow the English approach, reflected in the House of Lords' decision in *R v Brown* [1993] 2 All ER 75. The decision of the Court has not yet been delivered.

Crown Law is fortunate to employ high calibre, very competent professional and support staff. My thanks go to this fine team of people with whom I am privileged to work.



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

## ORGANISATION INFORMATION

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	<ul style="list-style-type: none"> <li>• Governmental Business Team</li> <li>• Natural Resources Team</li> <li>• Taxation and Public Revenue Team</li> </ul>
Criminal Process Group	<ul style="list-style-type: none"> <li>• Criminal and Crown Solicitors Team</li> </ul>
Constitutional Group	<ul style="list-style-type: none"> <li>• Employment Team</li> <li>• Human Rights Team</li> <li>• Law Officer Team</li> <li>• Treaty Issues and International Law Team</li> </ul>

## MANAGEMENT STRUCTURE

### SENIOR MANAGEMENT GROUP:

Terence Arnold QC	Solicitor-General
Karen Clark	Deputy Solicitor-General (Public Law)
John Pike*	Deputy Solicitor-General (Criminal Law)
Cheryl Gwyn	Deputy Solicitor-General (Constitutional) and Team Leader of Law Officer Team
Diana Pryde	Practice Manager

\* Replacing Nicola Crutchley

### LEGAL TEAM LEADERS:

Bronwyn Arthur	Crown Counsel, Natural Resources
James Coleman	Crown Counsel, Taxation and Public Revenue
Peter Gunn	Crown Counsel, Employment
Fiona Guy	Crown Counsel, Criminal
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 2004/05 the overall permanent staffing of Crown Law increased to reflect the increased demand for services. The number of employees permanently employed at year-end was as follows:

	30 June 2005	30 June 2004
Solicitor-General, Deputy Solicitors-General and Practice Manager	5	5
Counsel	74	69
Legal Support	19	15
Secretarial and Word Processing	34	34
Corporate Services Group	24	21
<b>Total Number of Employees*</b>	<b>156</b>	<b>144</b>

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

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

## EQUAL EMPLOYMENT OPPORTUNITIES

Crown Law is committed to providing equal employment opportunities for all staff and for prospective employees who seek to join. 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 Crown Law, and are presented with opportunities to develop personally and professionally.

These principles are reflected and supported in initiatives undertaken in 2004/2005 including the review and publication of policies and procedures, covering safety and well-being, unwelcome behaviour, performance management and remuneration processes for support staff. The revised performance management process now has an improved focus on setting clear expectations, providing the necessary support to meet those expectations and acknowledging success.

Work also began in 2004/2005 on reviewing recruitment procedures to ensure that they are fair and transparent and that Crown Law is able to continue to employ the highest calibre professionals and deliver quality legal services to the Crown.

Crown Law 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 Crown Law 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 prosecute indictable offences in those centres where District Court and High Court jury trials are conducted. In 2005 the Deputy Solicitor-General (Criminal) completed the final review in a round of reviews of all Crown Solicitors offices.

The Crown Solicitors at Gisborne, Invercargill and Rotorua relinquished their warrants on 15 December 2004, 22 February 2005 and 6 April 2005 respectively, due to appointments to the District Court bench. Advertisements seeking expressions of interest to fill the vacant Crown Solicitor positions were placed on 10 June 2005. Interviews for the Rotorua and Gisborne warrants took place in June and July 2005. Decisions are pending. The appointment process for Invercargill is yet to commence.

## LEGISLATIVE RESPONSIBILITIES

Crown Law 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, Crown Law 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 Crown Law. 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

Crown Law is located in Unisys House, The Terrace and occupies four floors of office accommodation. The premises are under lease until 31 March 2013, with a further renewal available until 31 March 2019.

## NEW ZEALAND INTERNATIONAL FINANCIAL REPORTING STANDARDS

In December 2002 the New Zealand Accounting Standards Review Board announced that the New Zealand equivalents to International Financial Reporting Standards ("NZIFRS") will apply to all New Zealand entities for the periods commencing on or after 1 January 2007 with the earlier adoption optional.

The Minister of Finance announced in 2003 that the Crown will first adopt NZIFRS for the financial year beginning 1 July 2007.

Crown Law has commenced a project to identify the differences involved in the adoption of NZIFRS. The key areas of change are likely to be in the accounting treatment of fixed assets and financial disclosures.

# STATEMENT OF RESPONSIBILITY

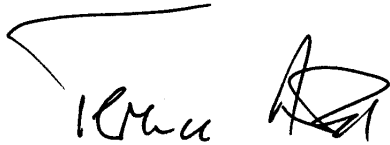
FOR THE YEAR ENDED 30 JUNE 2005

In terms of the Public Finance Act 1989 I am responsible, as Chief Executive of Crown Law, 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 Crown Law for the year ended 30 June 2005.



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

30 September 2005

Countersigned by:



**Chris Walker**  
Chief Financial Officer

30 September 2005



**Diana Pryde**  
Practice Manager

30 September 2005



## AUDIT REPORT

### TO THE READERS OF THE CROWN LAW OFFICE'S FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2005

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 2005.

#### UNQUALIFIED OPINION

In our opinion the financial statements of the Crown Law Office on pages 26 to 55:

- σ comply with generally accepted accounting practice in New Zealand; and
- σ fairly reflect:
  - the Crown Law Office's financial position as at 30 June 2005;
  - 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 2005, 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 the 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 our opinion.

The 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 our 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 2005. 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 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 2005 included on the Crown Law Office's web-site. The Solicitor-General is responsible for the maintenance and integrity of the Crown Law Office's web site. We have not been engaged to report on the integrity of the Crown Law Office's web site. We accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the web site.

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 2005 to confirm the information included in the audited financial statements presented on this web site.

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

## STATEMENT OF OBJECTIVES AND SERVICE PERFORMANCE

FOR THE YEAR ENDED 30 JUNE 2005

### 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)

<b>2004</b>		<b>2005</b>	<b>2005</b>	<b>2005</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>	<b>\$000</b>	<b>\$000</b>
14,431	Revenue – Other	16,222	16,174	17,372
14,441	Expenditure	17,174	16,174	17,372
(10)	Net surplus / (deficit)	(952)	-	-

#### EXPLANATION OF MAJOR VARIATIONS:

The deficit is due to an unplanned change in instructions received from clients with a greater proportion of the work being non-chargeable, inability to recover some costs from clients and team leaders spending more time on administration.

OUTPUT CLASS: LEGAL ADVICE AND REPRESENTATION - CONTINUED

SERVICE PERFORMANCE

*QUANTITY*

2004 Actual	Measures	2005 Actual	2005 Forecast
520	Number of new instructions for legal advice.	514	500 to 550
875	Average number of requests for legal advice in progress during the year.	907	800 to 850
707	Number of new instructions in respect of litigation matters.	652	600 to 650
2,279	Average number of litigation matters in hand.	2,405	2,050 to 2,150

EXPLANATION OF MAJOR VARIATIONS:

The number of new instructions for legal advice and litigation is difficult to estimate given the demand based nature of this activity. There was a small decrease in the number of new instructions received. However, the average number of matters on hand increased because of the complexities of the issues.

*QUALITY AND TIMELINESS*

Measures	Performance
Legal advice, including opinions, and representation services to be provided in accordance with Crown Law'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 2005 are set out on the following page.

OUTPUT CLASS: LEGAL ADVICE AND REPRESENTATION - CONTINUED

*QUALITY AND TIMELINESS - CONTINUED*

*Client Satisfaction Survey Methodology:*

The Client Satisfaction Survey for the year ended 30 June 2005 was completed during July 2005. The 2005 Client Satisfaction Survey was based on the overall performance for the year and not randomly selected matters, as previously. Clients were asked to assess the performance of Crown Law, against ten specific service level criteria. The service level criteria included acknowledgement of instructions, responsiveness in meeting instructions, providing reports on progress, achievement of deadlines, extent of client involvement in the matters, 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. 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>2004</b>		<b>2005</b>	<b>2005</b>
<b>Actual</b>		<b>Actual</b>	<b>Forecast</b>
73	Questionnaires issued	33	40 to 80
45	Questionnaires returned	19	N/A
79%	Overall satisfaction rating based on response.	72%	80% to 90%

The decrease in client satisfaction was mainly due to clients wanting more detailed progress reports and more timely and detailed invoices. Both these issues are being addressed individually with clients.

## 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 safer communities by assisting in the maintenance of law and order.

Financial Performance  
(Figures are GST exclusive)

2004 Actual		2005 Actual	2005 Main Estimates	2005 Supp. Estimates
\$000		\$000	\$000	\$000
26,228	Revenue – Crown	26,943	26,567	26,943
24,849	Expenditure	26,652	26,567	26,943
1,379	Net surplus / (deficit)	291	-	-

### EXPLANATION OF MAJOR VARIATIONS:

The appropriation for this output class was increased by an amount of \$376,000 in the Supplementary Estimates. This increase was required to meet the increase in cost incurred in the supervision of the Crown Solicitor Network and the provision of criminal law services.

OUTPUT CLASS: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS - CONTINUED

SERVICE PERFORMANCE – OUTPUT: CROWN PROSECUTION SERVICES

*QUANTITY*

2004 Actual	Measures	2005 Actual	2005 Forecast
	Number of trials for indictable crime:		
1,292	• District Court	1,443	1,200 to 1,300
117	• High Court	176	140 to 185
	Number of trials for indictable crime (Cost greater than \$10,000 per trial):		
176	• District Court	155	140 to 185
122	• High Court	88	100 to 120
	Number of other criminal matters dealt with by the Crown Solicitors:		
1,248	• Bail Applications and Appeals	982	1,200 to 1,300
2,601	• Guilty Pleas / Lower Band and Middle Band Sentencing	2,782	2,600 to 2,800
627	• Appeals relating to Summary Prosecutions	660	700 to 800

EXPLANATION OF MAJOR VARIATIONS:

*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 2005 is set out on page 32: Service Performance - Supervision of Crown Solicitor Network.

OUTPUT CLASS: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS - CONTINUED

SERVICE PERFORMANCE – OUTPUT: SUPERVISION OF CROWN SOLICITOR NETWORK

*QUANTITY*

2004 Actual		2005 Actual	2005 Forecast
0	Number of Crown Solicitors practices to be reviewed.	0	2 to 4
328	Number of applications from Crown Solicitors for special fees, classification of counsel and approval of additional counsel.	317	300 to 350

EXPLANATION OF SIGNIFICANT VARIANCES:

*THE REVIEW OF THE AUCKLAND CROWN SOLICITOR PRACTICE:*

The cycle of Crown Solicitor reviews was completed in 2004. In 2005 it was determined that the review process should be re-evaluated prior to the commencement of the next cycle. That review is still to occur.

*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 Crown Law'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 Crown Law'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.

## 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 Crown Law to support the application of the above Regulations.</li> </ul>	<p>The Review Panel, which comprised a senior representative of Crown Law, 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>

#### *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 (2004: Nil). However, due to the appointment of 3 Crown Solicitors to the District Court Bench, there were 3 vacancies as at 30 June 2005.



OUTPUT CLASS: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS - CONTINUED

SERVICE PERFORMANCE – OUTPUT: CRIMINAL LAW ADVICE AND SERVICES

QUANTITY

2004 Actual	Measures	2005 Actual	2005 Forecast
456	Number of new requests for legal advice or determination of applications received in relation to criminal law issues.	384	380 to 420
533	Average number of requests for legal advice or determination of applications in relation to criminal law in process during the year.	520	400 to 440
52	Number of new ministerials and parliamentary questions received.	49	35 to 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 number 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 Crown Law'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.
<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 78% of cases. (2004: 75%)</li> <li>No parliamentary questions were received. (2004: No parliamentary questions were received)</li> </ul>

## 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 safer communities by assisting in the maintenance of law and order.

### FINANCIAL PERFORMANCE

(Figures are GST exclusive)

2004 Actual \$000		2005 Actual \$000	2005 Main Estimates \$000	2005 Supp. Estimates \$000
1,676	Revenue – Crown	1,963	1,492	1,963
1,674	Expenditure	2,059	1,492	1,963
2	Net surplus / (deficit)	(96)	-	-

#### *Explanation of major variations:*

The appropriation for this output class was increased by a net amount of \$471,000 in the Supplementary Estimates to reflect the increase in the number of requests for appeal and the number of appeals taken by the offenders.

The unappropriated expenditure arose due to briefing appeal work to the Crown Solicitors, and the requirement that this work only be billed on completion. This was a change from previous years and the forecasted costs had not been separately disclosed and were thought to be Crown Prosecution costs.

### QUANTITY

2004 Actual	Measures	2005 Actual	2005 Forecast
	Number of appeals heard in the Court of Appeal arising out of criminal trials on indictment, brought by:		
10	• the Crown	34	20 to 30
N/A	• offenders	450	400 to 470
	Decisions made on requests for the Solicitor-General to take Crown appeals in relation to:		
44	• sentence	28	40 to 50
23	• case stated or other appeals.	6	25 to 30

OUTPUT CLASS: CONDUCT OF CRIMINAL APPEALS - CONTINUED

SERVICE PERFORMANCE

*QUALITY AND TIMELINESS*

<b>Measures</b>	<b>Performance</b>
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 59% (2004: 50%). Judgment is yet to be given on 2 appeals (2004: 14 – of the 14 appeals, 10 were subsequently allowed).
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 Crown Law 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.

**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 safer 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>2004 Actual \$000</b>		<b>2005 Actual \$000</b>	<b>2005 Main Estimates \$000</b>	<b>2005 Supp. Estimates \$000</b>
1,237	Revenue - Crown	1,311	1,311	1,311
4	- Other	3	-	-
1,241		1,314	1,311	1,311
1,236	Expenditure	1,196	1,311	1,311
5	Net surplus	118	-	-

OUTPUT CLASS: THE EXERCISE OF PRINCIPAL LAW OFFICER FUNCTIONS

SERVICE PERFORMANCE

QUANTITY

2004 Actual	Measures	2005 Actual	2005 Forecast
114	Number of new applications or requests for legal advice	101	120 to 140
294	Average number of applications or requests for legal advice in process during the year	289	300 to 320
220	Number of new ministerials and parliamentary questions received.	270	240 to 260

QUALITY AND TIMELINESS

Measures	Performance
Legal advice, including opinions, and legal representation services will be provided in accordance with Crown Law'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 74% of cases. (2004: 82%)</li> <li>Replies to parliamentary questions were provided within the required timeframe in 100% of cases. (2004: 100%)</li> </ul>

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 2005 are set out below.

*Client Satisfaction Survey Results:*

2004 Actual		2005 Actual	2005 Forecast
0	Questionnaires issued	0	15 to 20
0	Questionnaires returned	0	N/A
Not available	Overall satisfaction rating	Not available	80% to 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. As discussed in Output Legal Advice & Representation, the Client Satisfaction Survey is client based rather than specific matter based. This change of methodology means that survey results are not available.

## STATEMENT OF ACCOUNTING POLICIES

### FOR THE YEAR ENDED 30 JUNE 2005

#### REPORTING ENTITY

Crown Law is a government department as defined by the Public Finance Act 1989. These are the financial statements of Crown Law prepared pursuant to the Public Finance Act 1989. In addition, Crown Law 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 Estimates (Main Estimates) and those amended by the Supplementary Estimates (Supplementary Estimates) and any transfer made by Order in Council under the Public Finance Act 1989.

#### REVENUE

Crown Law 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

Crown Law 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 2005, direct costs accounted for 86% of Crown Law's costs (2004: 88%).

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 2005, indirect costs accounted for 14% of Crown Law's costs (2004: 12%). The increase in indirect costs is due to higher rental costs and higher depreciation expenses.

#### 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.

## 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.

### 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.

### 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:

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.

### DEPRECIATION TABLE

ASSET CLASS	ASSET LIFE	DEPRECIATION RATE
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%)



## ACCOUNTING POLICIES - CONTINUED

### FINANCIAL INSTRUMENTS

Crown Law 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 Crown Law.

### CHANGES IN ACCOUNTING POLICIES

All policies have been applied on a basis consistent with the previous year. There have been no changes in accounting policies, including cost allocation, since the date of the last audit.

## STATEMENT OF FINANCIAL PERFORMANCE

### FOR THE YEAR ENDED 30 JUNE 2005

2004 Actual			2005 Actual	2005 Main Estimates	2005 Supp. Estimates
\$000		Note	\$000	\$000	\$000
<b>REVENUE</b>					
29,141	Crown		30,217	29,370	30,217
14,435	Other	2	16,225	16,174	17,372
43,576	<b>Total Operating Revenue</b>		46,442	45,544	47,589
<b>EXPENSES</b>					
11,981	Personnel Costs	3	13,808	12,028	12,028
29,743	Operating Costs	4	32,294	32,386	34,536
388	Depreciation	5	857	923	850
88	Capital Charge	6	122	207	175
42,200	<b>Total Expenses</b>		47,081	45,544	47,589
1,376	<b>Net surplus / (deficit)</b>		(639)	-	-

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

## STATEMENT OF MOVEMENTS IN TAXPAYERS' FUNDS

### FOR THE YEAR ENDED 30 JUNE 2005

2004 Actual	Note	2005 Actual	2005 Main Estimates	2005 Supp. Estimates
\$000		\$000	\$000	\$000
1,936	Taxpayers' funds as at 1 July	1,936	1,936	1,936
1,376	Net surplus / (deficit)	(639)	-	-
1,376	<b><i>Total recognised revenues and expenses for the year</i></b>	(639)	-	-
-	Capital contribution received from the Crown	500	500	500
(1,376)	Provision for repayment of surplus to the Crown	-	-	-
1,936	<b><i>Taxpayers' funds as at 30 June</i></b>	1,797	2,436	2,436

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

## STATEMENT OF FINANCIAL POSITION

### AS AT 30 JUNE 2005

2004 Actual			2005 Actual	2005 Main Estimates	2005 Supp. Estimates
\$000	Note		\$000	\$000	\$000
<b>ASSETS</b>					
<b>Current Assets</b>					
3,403	Cash		545	651	2,067
2,683	Debtors and receivables	8	3,485	2,393	2,643
6,086	<b>Total current assets</b>		4,030	3,044	4,710
<b>Non-current assets</b>					
4,431	Fixed assets	9	4,070	3,955	4,140
10,517	<b>Total assets</b>		8,100	6,999	8,850
<b>LIABILITIES</b>					
<b>Current liabilities</b>					
6,270	Creditors and payables	10	5,331	3,874	5,441
1,376	Provision for repayment of surplus	11	-	-	-
705	Provision for employee entitlements	12	728	555	730
8,351	<b>Total current liabilities</b>		6,059	4,429	6,171
<b>Non-current liabilities</b>					
230	Provision for employee entitlements	12	244	134	243
8,581	<b>Total liabilities</b>		6,303	4,563	6,414
<b>TAXPAYERS' FUNDS</b>					
1,640	General Funds		1,501	2,140	2,140
296	Revaluation reserve	7	296	296	296
1,936	<b>Total taxpayers' funds</b>		1,797	2,436	2,436
10,517	<b>Total liabilities and taxpayers' funds</b>		8,100	6,999	8,850

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

## STATEMENT OF CASH FLOWS

### FOR THE YEAR ENDED 30 JUNE 2005

2004 Actual		2005 Actual	2005 Main Estimates	2005 Supp. Estimates
\$000		\$000	\$000	\$000
<b>CASH FLOWS – OPERATING ACTIVITIES</b>				
<i>Cash was provided from: Supply of outputs to</i>				
29,141	Crown	30,217	29,370	30,217
14,526	Government departments and related agencies	15,782	16,174	17,372
43,667		45,999	45,544	47,589
<i>Cash was applied to: Produce outputs</i>				
28,343	Operating	31,616	30,626	33,168
11,673	Personnel	13,272	11,788	11,788
1,291	Net GST paid	1,616	1,500	1,500
88	Capital charge	122	207	175
41,395		46,626	44,121	46,631
2,272	<b>Net cash flows from operating activities</b>	(627)	1,423	958
<b>CASH FLOWS – INVESTING ACTIVITIES</b>				
<i>Cash was provided from:</i>				
-	Sale of fixed assets	-	-	-
<i>Cash disbursed for:</i>				
2,819	Purchase of fixed assets	1,355	1,300	1,418
(2,819)	<b>Net cash flows from investing activities</b>	(1,355)	(1,300)	(1,418)
<b>CASH FLOWS – FINANCING ACTIVITIES</b>				
<i>Cash was provided from:</i>				
-	Capital contribution from the Crown	500	500	500
<i>Cash disbursed for:</i>				
-	Repayment of net surplus to Crown	1,376	-	1,376
-	<b>Net cash flows from financing activities</b>	(876)	500	(876)
(547)	Net Increase/(Decrease) in cash held	(2,858)	623	(1,336)
3,950	Add opening cash	3,403	28	3,403
3,403	<b>Closing cash</b>	545	651	2,067

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

## RECONCILIATION OF NET SURPLUS TO NET CASH FLOW FROM OPERATING ACTIVITIES

FOR THE YEAR ENDED 30 JUNE 2005

2004 Actual		2005 Actual	2005 Main Estimates	2005 Supp. Estimates
\$000		\$000	\$000	\$000
1,376	<b>Net (deficit)/surplus</b>	(639)	-	-
	Adjustment for items which do not impact cash flow:			
388	Depreciation	857	923	850
31	Increase/(decrease) in non current employee entitlements	14	-	13
<b>419</b>	<b>Total non-cash items</b>	<b>871</b>	<b>923</b>	<b>863</b>
	Adjustment for movements in working capital items:			
139	(Increase)/decrease in debtors and receivables	(802)	-	40
224	Increase/(decrease) in creditors and payables	(80)	500	30
114	Increase/(decrease) in current employee entitlements	23	-	25
<b>477</b>	<b>Working capital movements – net</b>	<b>(859)</b>	<b>500</b>	<b>95</b>
	Add/(less) investing activity items:			
-	Net loss/(gain) on sale of fixed assets	-	-	-
-	<b>Total investing activity items</b>	-	-	-
<b>2,272</b>	<b>Net cash inflow from operating activities</b>	<b>(627)</b>	<b>1,423</b>	<b>958</b>

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

## STATEMENT OF COMMITMENTS

AS AT 30 JUNE 2005

Crown Law 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 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.

2004 Actual \$000		2005 Actual \$000
<i>Operating lease commitments</i>		
1,795	less than one year	1,374
1,374	one to two years	1,389
4,014	two to five years	3,981
4,957	over five years	3,746
12,140	Total operating lease commitments	10,490
12,140	<b>Total Commitments</b>	10,490

No significant commitments were outstanding for the purchase of goods and services as at 30 June 2005.

## STATEMENT OF CONTINGENT LIABILITIES

AS AT 30 JUNE 2005

There were no contingent liabilities as at 30 June 2005 (2004: Nil)

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

## STATEMENT OF UNAPPROPRIATED EXPENDITURE

FOR THE YEAR ENDED 30 JUNE 2005

2004 Unappropriated Expenditure \$000	2005 Actual \$000	2005 Appropriation \$000	2005 Unappropriated Expenditure \$000
<b>Vote: Attorney-General</b>			
-	Output Class - Conduct of Criminal Appeals	2,316	107

## STATEMENT OF DEPARTMENTAL EXPENDITURE AND APPROPRIATIONS

FOR THE YEAR ENDED 30 JUNE 2005

(Figures are GST inclusive where applicable)	2005 Actual Expenditure \$000	2005 Appropriation Voted* \$000
<b>Vote: Attorney General</b>		
<i>Appropriations for classes of outputs</i>		
Legal Advice and Representation	19,202	19,543
Supervision and Conduct of Crown Prosecutions	30,020	30,311
Conduct of Criminal Appeals	2,304	2,209
The Exercise of Principal Law Officer Functions	1,360	1,475
<b>Total appropriations</b>	<b>52,886</b>	<b>53,538</b>

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

## STATEMENT OF TRUST MONIES

FOR THE YEAR ENDED 30 JUNE 2005

Account	As at 1 July 2004 \$000	Contributions \$000	Distributions \$000	Revenue \$000	Expenses \$000	As at 30 June 2005 \$000
Crown Law Office Legal Claims Trust Account	9	2,506	(2,432)	2	-	85

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

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



## NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2005

### NOTE 1: MAJOR BUDGET VARIATIONS

#### STATEMENT OF FINANCIAL PERFORMANCE (GST INCLUSIVE)

1. *Output: Legal Advice and Representation Services*

This output class recorded a deficit of \$952,000 for the year. The deficit is due to unplanned changes in the matters referred to Crown Law together with increased time spent on client administration and inability to recover some cost.

2. *Output: Supervision and Conduct of Crown Prosecutions*

This output recorded a surplus of \$291,000 for the year. The appropriation for this output class had been increased by a net amount of \$423,000 (GST inclusive) in the Supplementary Estimates in anticipation of higher costs associated with the supervision of the Crown Solicitor network and criminal law services.

3. *Output: Conduct of Criminal Appeals*

This output recorded a deficit of \$96,000 for the year. The appropriation for this output had been increased by a net amount of \$530,000 (GST inclusive) in the Supplementary Estimates to reflect an increase in direct costs and the level of activity.

4. *Output: The Exercise of Principal Law Officer Functions*

This output class recorded a surplus of \$118,000 for the year. Actual expenditure for the year was below budget mainly due to the allocation of overhead cost allocated on the basis of time recorded.

Further information on the changes in output classes are set out in the Statement of Objectives and Service Performance.

5. *Output: Personnel Costs*

The increase of \$1.8 million is due to the increases in staff numbers (12) and salary costs.

6. *Output: Debtors and Receivables*

The increase of \$800,000 is due to an increase in unbilled work on hand as at 30 June \$470,000 (billed in July) and an increase in receivables of \$330,000 arising from a higher level of June billing.

7. *Output: Net Cash Flow*

The reduction in cash flow was mainly due to the increase in operating costs (rent and personnel costs) and the late timing of payments by clients.

NOTE 2: OTHER REVENUE

2004 Actual \$000		2005 Actual \$000	2005 Main Estimates \$000	2005 Supp. Estimates \$000
	Legal fees and disbursements received from:			
14,431	- Government departments/ other government entities	16,222	16,174	17,372
4	- Other clients	3	-	-
-	Profit on sale of fixed assets	-	-	-
<u>14,435</u>	<b>Total other revenue</b>	<u>16,225</u>	<u>16,174</u>	<u>17,372</u>

NOTE 3: PERSONNEL COSTS

2004 Actual \$000		2005 Actual \$000
11,950	Salaries and Wages	13,794
31	Movement in Retirement and Long Service Leave	14
<u>11,981</u>	<b>Total personnel costs</b>	<u>13,808</u>

NOTE 4: OPERATING COSTS

2004 Actual \$000		2005 Actual \$000	2005 Main Estimates \$000	2005 Supp. Estimates \$000
35	Audit fees for audit of the financial statements	37	36	35
30	Increase (decrease) provision for doubtful debts	30	(30)	-
90	Increase (decrease) provision for doubtful WIP	(80)	(90)	(29)
191	Consultancy costs	302	434	434
23,937	Crown Solicitors fees	25,365	24,416	24,416
1,017	Operating lease costs	1,430	1,384	1,384
4,443	Other operating costs	5,210	6,236	8,296
<u>29,743</u>	<b>Total operating costs</b>	<u>32,294</u>	<u>32,386</u>	<u>34,536</u>

NOTE 5: DEPRECIATION CHARGE

<b>2004 Actual</b>		<b>2005 Actual</b>	<b>2005 Main Estimates</b>	<b>2005 Supp. Estimates</b>
<b>\$000</b>		<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
30	Office Equipment	52	47	47
192	Computer Equipment	183	221	259
51	Computer Software	75	108	108
-	Leasehold Improvements	277	414	302
41	Furniture & Fittings	194	56	57
74	Library	76	77	77
<b>388</b>	<b>Total depreciation charge</b>	<b>857</b>	<b>923</b>	<b>850</b>

NOTE 6: CAPITAL CHARGE

Crown Law 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 2005 was 8.0% (2004: 8.5%).

The capital charge was lower than budgeted 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

The library asset was independently valued at net current value as at 30 June 2001 by Stephanie Lambert NZCL of Lambert Library Services. Since that date, Crown Law has changed its valuation method for the library collection from fair value to historical cost. This decision, which is consistent with FRS-3: Accounting for Property, Plant and Equipment, has been made as the cost of the valuation exceeds the benefits of an updated valuation.

NOTE 8: DEBTORS AND RECEIVABLES

<b>2004 Actual</b>		<b>2005 Actual</b>
<b>\$000</b>		<b>\$000</b>
1,021	Trade debtors	1,651
(50)	<i>Less</i> provision for doubtful debts	(80)
1,763	Work in progress	1,866
(129)	<i>Less</i> provision for doubtful work in progress	(49)
78	Prepayments	97
<b>2,683</b>	<b>Total debtors and receivables</b>	<b>3,485</b>

## NOTE 9: FIXED ASSETS

2004 Actual \$000		2005 Actual \$000
	<b>Office Equipment</b>	
430	At cost	507
(242)	Accumulated depreciation	(294)
188	<b>Office Equipment – net book value</b>	213
	<b>Computer Equipment</b>	
866	At cost	969
(536)	Accumulated depreciation	(719)
330	<b>Computer Equipment – net book value</b>	250
454	<b>Computer Software</b>	571
(378)	At cost	(453)
76	Accumulated depreciation	118
	<b>Leasehold Improvements</b>	
2,507	At cost	2,495
-	Accumulated depreciation	(277)
2,507	<b>Leasehold Improvements – net book value</b>	2,218
	<b>Furniture and Fittings</b>	
844	At cost	1,025
(54)	Accumulated depreciation	(248)
790	<b>Furniture and Fittings – net book value</b>	777
	<b>Library</b>	
697	Base collection at valuation – 30 June 2001	697
59	Additions at cost	89
(216)	Accumulated depreciation	(292)
540	<b>Library – net current value</b>	494
	<b>TOTAL FIXED ASSETS</b>	
5,857	At cost and valuation	6,353
(1,426)	Accumulated depreciation	(2,283)
4,431	<b>TOTAL CARRYING AMOUNT OF FIXED ASSETS</b>	4,070

NOTE 10: CREDITORS AND PAYABLES

2004 Actual \$000		2005 Actual \$000
3,163	Trade creditors	2,977
1,829	Accrued work in progress – Crown Solicitors Fees	2,055
1,089	Other accrued expenses	150
189	GST payable	149
6,270	<b>Total creditors and payables</b>	5,331

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. Crown Law recorded an overall deficit 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

2004 Actual \$000		2005 Actual \$000
	<b>Current liabilities</b>	
622	Annual leave	644
83	Long service leave	84
705	<b>Total current portion</b>	728
	<b>Non-current liabilities</b>	
92	Long service leave	99
138	Retirement leave	145
230	<b>Total long term portion</b>	244
935	<b>Total provision for employee entitlements</b>	972

## NOTE 13: FINANCIAL INSTRUMENTS

Crown Law 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 Crown Law, causing Crown Law to incur a loss. In the normal course of its business, Crown Law incurs credit risk from trade debtors and transactions with financial institutions. Crown Law does not require any collateral or security to support financial instruments with financial institutions that Crown Law deals with, as these entities have high credit ratings. For its other financial instruments, Crown Law 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 Crown Law to material foreign exchange or interest rate risks.

## NOTE 14: CONTINGENCIES

Crown Law does not have any contingent assets as at 30 June 2005 (30 June 2004: Nil). There were no contingent liabilities as noted in the Statement of Contingent Liabilities.

## NOTE 15: RELATED PARTY INFORMATION

Crown Law is a wholly owned entity of the Crown. Crown Law 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, Crown Law has not entered into any related party transactions.

## NOTE 16: EVENTS AFTER BALANCE DATE

No other significant events, which may impact on the actual results, have occurred between the year end and the signing of the financial statements.

# DIRECTORY

## STREET ADDRESS

Level 10  
Unisys House  
56 The Terrace  
Wellington

## POSTAL ADDRESS

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## OTHER CONTACT DETAILS

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Website: <http://www.crownlaw.govt.nz>

## AUDITOR

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

## BANKERS

Westpac Banking Corporation  
Government Branch  
Wellington

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