

Regulatory Impact Statement Addendum: Additional legislative changes for Critical Infrastructure Delivery

Coversheet

Purpose of Document	
Decision sought:	Additional legislative changes for an accelerated land acquisition process to facilitate the delivery of critical infrastructure.
Advising agencies:	Toitū Te Whenua Land Information New Zealand; Ministry of Transport
Proposing Ministers:	Minister for Land Information; Minister of Transport
Date finalised:	12 February 2025
Problem Definition	
<p>This document is an addendum to the previous Regulatory Impact Statement: Accelerating Critical Infrastructure Delivery (CAB-24-MIN-0439 refers). The problem definition, outlined in the RIS, remains the same. This Regulatory Impact Statement addendum (addendum) is intended to be read in conjunction with the previous RIS.</p> <p>At Cabinet on 11 November 2024 Ministers were invited to report back on two matters [CAB-24-MIN-0439 refers]. This addendum sets out options and supplementary analysis for:</p> <ul style="list-style-type: none"> • a written submission process for objections to land acquisitions and • premium payments for land acquisitions 	
Executive Summary	
<p>Government intervention is required as the existing objection processes under the PWA may result in significant project delays and associated cost escalation for the delivery of critical infrastructure. The proposed options in the RIS and this Addendum to the RIS are intended to work with wider systems changes that also support the provision of critical infrastructure such as the Fast-Track Approvals Act 2024 (FTAA) and second phase of potential Resource Management Act reforms that are scheduled to be passed mid-way through this year. This work is being advanced ahead of the wider PWA review to align with these wider system changes and the approval of the first projects under the FTAA.</p> <p>The FTAA is now in force and projects listed in Schedule 2 of the FTAA (the scope of these proposals) can apply for substantive approvals from 7 February 2025. Without changes to the PWA process to encourage faster acquisition of land by agreement where the PWA applies, the overall objective of faster infrastructure development is unlikely to be met.</p> <p>Ministers have directed officials to undertake policy work to enable a faster land acquisition process that supports critical infrastructure delivery through amendments to the PWA. Ministers agreed that, under this process, the right to object the Environment Court to the</p>	

taking of land under section 23 of the PWA should be removed [BRF 25-081 / OC241066 refers]. The options assessed in the RIS and this addendum have been developed in this context.

This addendum assesses a new written submission process option and premium payments against the same unweighted assessment criteria as was used in the RIS, with the addition of “value for money and affordability”. This additional criterion has been added given the financial implications of legislating the premium payments.

Officials estimate that approximately 33 projects may be eligible for the accelerated process (based on the scope agreed by Ministers and indicative list of fast-track projects). All other projects that involve public works would be subject to the status quo PWA process.

The options in this addendum are being assessed against the five assessment criteria outlined in Table 1.

A new written submission process for critical infrastructure

Cabinet has agreed that landowners in the accelerated process will not have the right to object to the Environment Court to the taking of land for projects included in the accelerated process [CAB-24-MIN-0439 refers]. The previous RIS identified three options that were developed. LINZ and MoT have now developed an additional option (option four below)

The issue in this addendum: provision of a natural justice process for landowners. We have reassessed the following options against the new unweighted assessment criteria:

- **Option One: Status quo:** landowners can object to the Environment Court to the taking of land for all PWA projects on the specific grounds set out in section 24(7) of the PWA (appeals on point of law only).
- **Option Two:** Remove the right for landowners to object to the Environment Court for projects within scope.
- **Option Three:** Remove the role of the Environment Court as the body for hearing objections, with objections heard by a different body.
- **Option Four (new option in this addendum):** Remove the right for landowners to object to the Environment Court for projects within scope and replace with a new written submission process in legislation *[preferred option]*.

Judicial review remains available for all four options.

In the RIS Option Two: Remove the right for landowners to object to the Environment Court for projects within scope was the preferred option, although it was finely balanced. The RIS stated that Option Two “would provide the greatest possibility of achieving the policy objective, provide project certainty for developers, and align with related decision-making processes”. Option Two would require changes to operational policy and guidance to address the removal of the objection right to the Environment Court. [REDACTED]

The additional option “Option Four: Replace the role of the Environment Court with a new written submission process” is now the preferred option. This option will achieve the policy objective of reducing timeframes while providing an alternative process for the landowner to object to the taking their land. [REDACTED]

Premium payments for land acquisitions

The issue in this addendum: establish the appropriate process and value under the PWA to provide premium payment entitlements to landowners to avoid project cost escalation caused by PWA-related delays and to support the delivery of critical infrastructure projects.

LINZ and MoT have assessed the following options:

- **Option One:** Operational policy is used to promote the use of premium payments
- **Option Two:** Legislation is used to set premium payment entitlements [*preferred option*].

The preferred option is **Option Two**, as this would provide the greatest possibility of achieving the policy objective and provide greater certainty and consistency of approach.

Premium payments are seeking to encourage early acquisition agreements to be reached. The written submission process will provide landowners with an opportunity to object to compulsory acquisition in a new process which is expected to be resolved faster than the current process. Both measures can independently enable the delivery critical infrastructure faster than the status quo. The preferred approach is to include both as they relate to different stages of the acquisition process.

Limitations and Constraints on Analysis

As identified in the “Limitations and Constraints on Analysis” section of the RIS (pg. 3), officials were directed to undertake limited consultation. Officials have worked with the New Zealand Transport Agency Waka Kotahi (NZTA) on the additional options in this document. There is likely to be significant public interest in the proposals as they are related to the taking of land for critical infrastructure projects.

This addendum assumes premium payments will be significant in incentivising landowners to opt for early agreement to property acquisition. There is a high level of uncertainty about what level of payment will be most effective to influence landowner behaviour.

This addendum includes tables illustrating the potential financial implications of premium payments. The estimates are based on data provided by NZTA on 6 December 2024 for three first-wave Roads of National Significance (RoNS) projects. The costs are provisional and will likely change if the land requirements increase as project designs develop. These estimates are not necessarily representative of the other 30 projects within scope of the accelerated process for critical infrastructure.


Responsible Manager(s) (completed by relevant manager)

Amanda Moran

Head of Strategy, Policy and Ministerials

Toitū Te Whenua Land Information New Zealand

12 February 2025



Ruth Fairhall

Deputy Chief Executive Policy Group

Ministry of Transport

12 February 2025

Quality Assurance (completed by QA panel)	
Reviewing Agency:	Toitū Te Whenua Land Information New Zealand; Ministry of Transport; Ministry for Regulation.
Panel Assessment & Comment:	<i>Land Information New Zealand and the Ministry of Transport have reviewed the Addendum to the Regulatory Impact Statement produced by Land Information New Zealand and the Ministry of Transport. The assessors considers that the information and analysis summarised in the Addendum partially meets the quality assurance criteria. The analysis in the Addendum is clear and convincing, however consultation to the degree required to meet the quality assurance criteria has not been undertaken. Consultation would have enabled stronger options analysis as greater levels of information would have been available.</i>

Proactive Release

Introduction

1. This document is an addendum to the previous Regulatory Impact Statement: Accelerating Critical Infrastructure Delivery (CAB-24-MIN-0439) (RIS). This addendum provides analysis of two additional policy issues that Cabinet invited the Minister for Transport and the Minister for Land Information to report on for inclusion in the Amendment Bill for the accelerated acquisition process to support critical infrastructure. The addendum is intended to be read in conjunction with the RIS.
2. This addendum sets out options and supplementary analysis for:
 - a new written submission process for critical infrastructure
 - premium payments for land acquisitions

The options will be limited to critical infrastructure projects






3. The options aim to address New Zealand's urgent critical infrastructure needs. Ministers have agreed the following criteria to access the accelerated process:
 - projects within scope will be:
 - projects listed in Schedule 2 of the FTAA, and
 - Roads of National Significance as identified in the Government Policy Statement on land transport 2024-34 (that are not included in Schedule 2 above)
 - cannot be used to acquire protected Māori Land (as defined in PWA) or land in the common marine and coast area
 - only available to those agencies and entities that can already access the PWA.
4. All other projects that involve public works would be subject to the status quo PWA process.
5. The policy problem that these options are seeking to address is specified in section 1 of the RIS.
6. The FTAA is now in force and projects listed in Schedule 2 of the FTAA (the scope of these proposals) can apply for substantive approvals from 7 February 2025. Without changes to the PWA process to encourage faster acquisition of land by agreement where the PWA applies, the overall objective of faster infrastructure development is unlikely to be met.

Assessment Criteria to decide upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

7. We have added one additional criterion to the assessment criteria used in the RIS. This is around "value for money and affordability" as shown in row two of Table 1 below. The complete unweighted criteria as set out in Table 1 below replace the criteria identified in paragraph 48 of the RIS. The revised assessment criteria have been used to assess the options against our objectives (as set out in Section 1 paragraph 46 of the RIS).

Table 1: Assessment criteria

Reduced timeframes 	The option is effective at reducing the timeframe for land to be acquired, if the need for compulsory acquisition(s) arises.
Value for money and affordability 	The forecast cost of the option can be achieved within existing budgets for land acquisition, and the relative economic benefits resulting from early acquisition exceeds costs.
Alignment with related decision-making 	The option supports wider decision-making processes that aim to facilitate the delivery of critical infrastructure (in particular, the fast-track consenting process and RMA reform).
Maintenance of public confidence 	The option does not significantly diminish public trust and confidence in the land acquisition process under the PWA.
Feasibility 	The option can be easily implemented to achieve the policy objective, by the responsible agencies.

A new written submission process for critical infrastructure

What scope will options be considered within?

- The Minister of Transport and the Minister for Land Information directed officials to undertake policy work to enable a faster land acquisition process that supports critical infrastructure delivery through amendments to the PWA. Ministers agreed that, under this process, the right to object the Environment Court to the taking of land under section 23 of the PWA should be removed [BRF 25-081 / OC241066 refers]. The three options assessed in the RIS and the new Option Four below have been developed in this context.

Options considered

- The RIS considered options 1-3 below and the description of these options are in section 2 of the RIS. Option Four is an additional option. This addendum assesses all four

options against the revised assessment criteria in Table One of this document. The four options are:

- **Option One:** Status quo: Landowners can object to the Environment Court to the taking of land for all PWA projects.
- **Option Two:** Remove the right for landowners to object to the Environment Court for projects within scope.
- **Option Three:** Remove the role of the Environment Court as the body for hearing objections, with objections heard by a different external body.
- **Option Four:** Replace the role of the Environment Court with a new written submission process.

Option Four: Remove the right for landowners to object to the Environment Court for projects within scope and replace with a new written submission process

10. Option Four would give effect to the Cabinet direction that landowners and every person having any estate or interest in the land intended to be taken will not have the right to object to the Environment Court to the taking of land for projects included in the accelerated process.
11. This option will replace the right of landowners to object to the Environment Court to the taking of their land for eligible projects with an opportunity for a written submission to the decision maker before the decision maker has to recommend (in the case of the Minister of Land Information) or request (in the case of a local authority) compulsory acquisition of land under section 26 of the PWA using the accelerated process. Executive decision-makers must provide for natural justice when making a determination that affects rights or interests, and the written submission process provides this. Judicial review rights will not be removed.
12. The proposed pathway would see the landowner provided with an opportunity to write to the decision maker, (which may be the Minister for Land Information, the Minister for Rail (for KiwiRail projects) or the council), once issued with a PWA section 23 notice, setting out why they believe the land should not be taken. The decision maker will consider the reasoning, as well as any submission in response by the acquiring agency, before determining whether to proceed to compulsory acquisition by seeking a proclamation. The written submission process, up to when the decision-maker receives all the responses, would take no longer than 60 working days (a considerably shorter period than the status quo of six to 12 months in the Environment Court).
13. The process will enable affected landowners to submit to the decision-maker that they oppose the compulsory taking of the land. The proposed timeframe for each step is expected to be a reasonable amount of time for each step to be completed while minimising potential delays to critical infrastructure projects. The proposed timeframes reflect that landowners will already be aware of the project through the section 18 Notice of Intention and any early consultation and negotiation processes that occur outside of statutory requirements. The key steps are:
 - The landowner must make an intention to submit within 10 working days of receiving the section 23 Notice of Intention and will be provided with a further 20 working days to submit.
 - If a submission is made, the agency that is seeking to acquire the land will have an ability to respond to the submission. The landowner will see any response from the

acquiring agency and have another 10 working days to respond to any new information.

- All responses are then provided to the decision-maker within 10 working days to enable them to determine whether to recommend or request that the land is compulsorily acquired.
14. Given the significance of the Minister's decision no timeframe is proposed for when this is required. The variability of the potential implications for both land-owner and critical infrastructure providers means that the level of information and legal advice required for a robust decision is expected to also vary. This process is supporting critical infrastructure; it is expected that the Minister's decision will be made in a timely and efficient manner.
 15. Section 23 does not have an explicit test that must be met before the notice of desire is issued. In practise the decision-maker will consider the matters/test currently considered by the Environment Court when hearing an objection in section 24(7). It is proposed that section 23 and section 26 apply the same test for the decision-maker as per section 24(7). This will clarify the decision making at each stage, align with current processes, [REDACTED]
 16. There is a risk that amending the legal test in this way for the critical infrastructure process will create uncertainty for standard PWA acquisitions. This will be considered as part of the PWA review.
 17. Like Option Three, this option aims to provide for a balanced approach where landowners would have an opportunity to raise concerns and exercise their property rights through a forum without significant delay. The option provides a shorter and more accessible avenue for landowners without having to navigate a costly court process. The written submission process may reduce the number of voluntary agreements to land acquisition (as more landowners may choose to make a submission than would have made an objection to the court) but the decision on any submission against compulsory acquisitions under the proposed process should not significantly delay the construction of the project.
 18. This option would follow the same process outlined in Diagram 1 of the RIS (status quo process) with the role of the Environment Court replaced after a Notice of Intention to take land (section 23) has been issued. The written submission process is shown in Figure 1 below.

Figure 1: Written submission process:

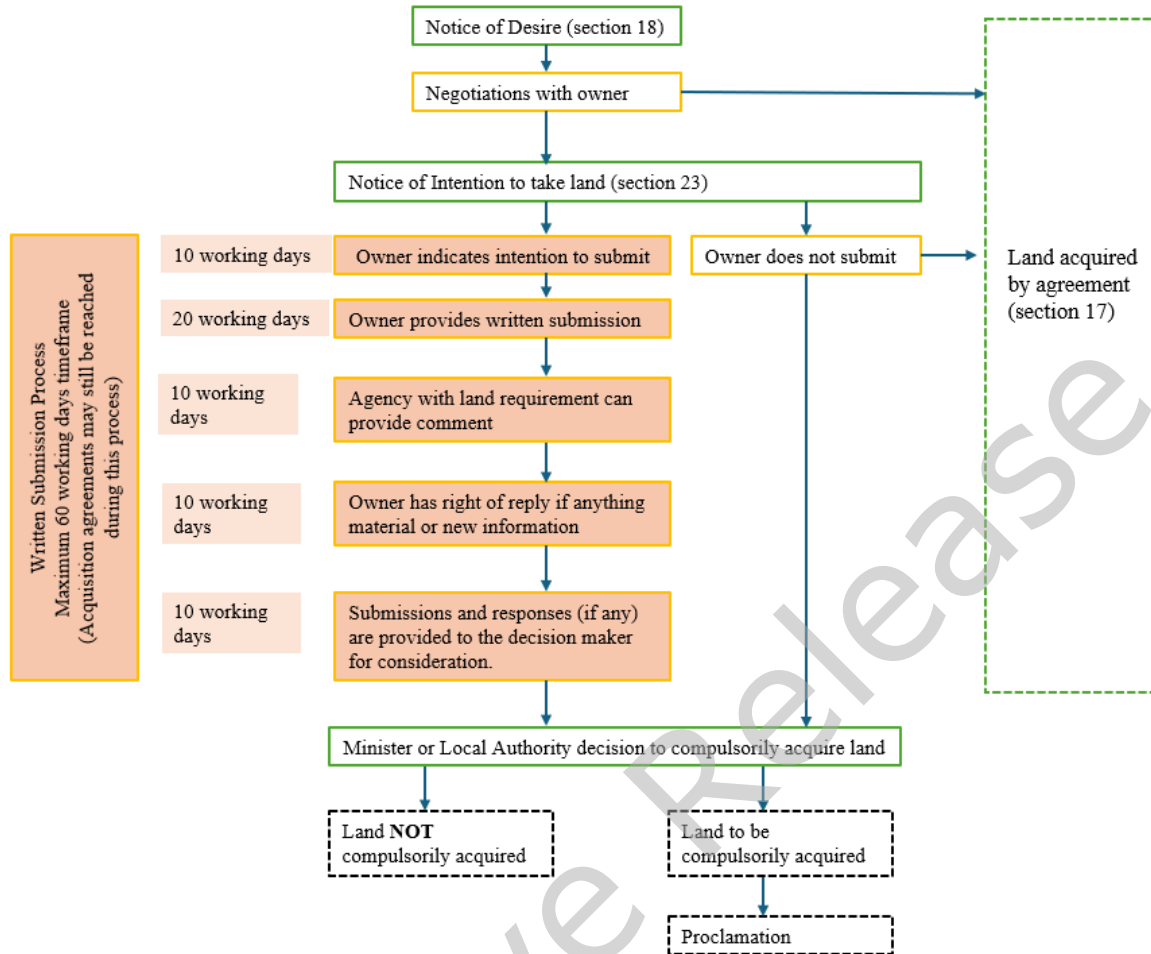
















Table 2: How do the options compare to the status quo/counterfactual?

	Option One: Status quo	Option Two: Remove objections	Option Three: Objections outside court	Option Four: Written submission process
Reduced timeframes 	0	0 Agencies and entities may be able to acquire land more quickly.      	+ May result in reduced timeframes if objections are dealt with faster than Environment Court process (and body is properly resourced). Alternative process may be less costly to landowners, which could potentially increase the likelihood of objections as cost may be less of a barrier.	++ Process will be simpler for landowners, which could potentially increase the likelihood of objections as cost is less likely to be a barrier. The timeframe of approximately 60 working days up until the decision-maker receives all responses is faster than the status quo where there is an objection.
Value for money and affordability 	0	-   	- An alternative well-resourced decision-making body will be expensive to establish and maintain.	++ While this process may increase the administrative costs for the agencies supporting decision-makers, it is expected to avoid cost escalations and legal costs for all parties involved through the avoidance of court processes. Likely to be less costly and easier for landowners and PWA users.
Alignment with related decision- making	0	++ Would work in tandem with fast-track process (once enacted) and integrate decision-making.	- Would result in multiple objection processes operating at the same time for PWA land acquisition, as the Environment Court would continue to apply for projects outside of the accelerated process. However, would	- Would result in multiple objection processes operating at the same time for PWA land acquisition, as the Environment Court would continue to apply for projects that

			remove some duplication with RMA process as Environment Court would not be potentially considering same information.	are not included in the definition of critical infrastructure.
Public confidence 	0	-- Likely to be contentious and attract public scrutiny due to impact on private landowner rights. May raise equity concerns if landowner rights are treated differently based on the project type. [REDACTED]	0 Allows for an avenue for landowners to raise concerns and exercise rights to natural justice. May create uncertainty for the public as outcome would not set a precedent through case law. May potentially increase the risk of appeals if people want to be heard in court.	- Provides an avenue for landowners to raise concerns and exercise rights to natural justice. However, the decision-maker may be viewed as biased and not as neutral as an independent court process. Landowners may still want to be heard in court.
Feasibility 	0	+ / - Ease of implementation without having to create alternative objection processes. Definition of projects within scope will need to be made clear to reduce uncertainty. [REDACTED]	- Creating new objection pathway may be difficult to implement within timeframes (with legislation to be enacted in mid-2025). New procedures and training would be required. Not likely to be financially feasible as additional resource would be required to establish a separate process.	+ The new written submission process will be set out in legislation. New procedures and training would be required. The agencies are likely to have the necessary skill sets. An increase in objections may require additional resources.
Overall assessment	0	-1 Not recommended ¹ – while this is likely to have the greatest impact on achieving the policy objective of reducing timeframes, the	-3 Not recommended – due to the resources required to establish and maintain a separate decision-making body and the uncertainty on whether	+3 Preferred Option - will achieve the policy objective of reducing timeframes while preserving the

¹ The overall assessment for Options Two and Three in the RIS were 0 and -1 respectively. The addition of new criterium has amended the overall assessment of these option.

		<div>████████████████████</div> <div>██████████████████</div> <div>██████████████████</div>	option would make a substantive difference from status quo.	natural justice rights of landowners.
--	--	---	---	---------------------------------------

Key for qualitative judgements:

++

much better than doing nothing/the status quo/counterfactual

+

better than doing nothing/the status quo/counterfactual

+ / -

a mixture of positive and negative effects

0

about the same as doing nothing/the status quo/counterfactual

-

worse than doing nothing/the status quo/counterfactual

--

much worse than doing nothing/the status quo/counterfactual

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

19. We consider that Option Four would best achieve the policy objective to streamline the land acquisition process for critical infrastructure projects while also preserving the landowner's rights to natural justice. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
20. While Option Three rates higher for public confidence, it has been discounted for the reasons provided in paragraphs 76 and 77 of the RIS. In addition, Option Three will be the most expensive as it requires the establishment of a new separate decision-making body which will need to be in place for the duration of this temporary process regardless of whether it is used or not. Skilled staff will be required to administer the statutory processes, and the body will need to be in place until the final critical infrastructure project has completed its land acquisition processes. This is likely to be extremely inefficient. Historically, there have been a low proportion of objections to land acquisitions. This new body could not be established or maintained within current departmental budgets and is unlikely to be financially feasible.
21. Both Options Two and Four have the potential to provide greater certainty around project timing and costs for infrastructure agencies and potentially increase the attractiveness for investing in and delivering critical infrastructure projects in New Zealand. Any objection can cause significant delays and associated cost escalations for a project.
22. The fundamental trade-off with Options Two and Four is how the potential for decreased project cost escalation, and the possible public benefits that may be realised, are balanced against the direct impacts on the rights of private landowners. Option Four provides a simpler and cheaper process for landowners to oppose compulsory acquisition and it is likely to be completed in a relatively short time frame.
23. [REDACTED]
[REDACTED] While there is a risk of bias in the Minister making the decision on the submission, this option does provide an avenue for landowners to object to the compulsory acquisition of their land. The proposed written submission process is not expected to significantly delay the construction of critical infrastructure.
24. Local authorities already have processes in place to deal with objections to decisions under other legislation, such as the Local Government Act and Resource Management Act. While Option Four will require new processes to be established it is considered that the agencies affected are likely to have the necessary skills to implement any new process.

What are the marginal costs and benefits of the option?

25. The marginal costs and benefits of the preferred option are difficult to monetise for the reasons already set out in the RIS (see paragraphs 78-81). Table 3 shows that Option Four has fewer costs associated with it and has significant benefits when compared to the status quo.

Cost-benefit of the preferred option

26. The cost-benefit of the preferred Option Four is positive, as the wider public benefit of faster acquisition decisions avoids cost escalations from delays due to the status quo objection process and has the potential to deliver the infrastructure much faster. If landowners do wish to oppose the compulsory acquisition of land, the process will be much easier and less expensive for them. The written submission process in Option 4 has a maximum 60 working days timeframe up to when the decision-maker receives all the responses, which is faster than the status quo objection process.

Table 3: Costs and benefits of the preferred option

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Landowners	No additional costs	-	High
Government agencies (as regulators)	There may be an increase in the number of objections and new processes may need to be developed to address them.	Low - Medium	Low
Acquiring agency (infrastructure provider)	No additional costs identified for infrastructure providers than currently faced under status quo.	Low	Medium
Other – wider public	Removal of objections to the Environment Court may impact public confidence in land acquisition system.	Medium	Medium
Non-monetised costs		Low - Medium	Medium
Additional benefits of the preferred option compared to taking no action			
Landowners	A simpler and less costly objection process will be provided that avoids costly court processes. Landowners will be able to object through a submission to the decision-maker.	Medium - High	High
Government agencies (as regulators)	Removing court processes from landowner objection rights could reduce costs and delays (unless the decision is judicially reviewed).	Medium - High	Medium – demonstrated by case studies.
Acquiring agency (infrastructure provider)	The preferred option is likely to provide more certainty around timeframes for infrastructure providers and potentially increase the attractiveness of the New Zealand infrastructure sector to developers (for example, overseas construction firms with particular skills and expertise) and private financiers.	Medium - High	Medium – High – feedback from developers and industry is that certainty is a critical factor for planning

			and investment. ²
Other – wider public	Benefits from critical infrastructure are likely to be realised sooner, including improved health and safety, productivity and wellbeing.	High	Medium – ██████████ ██████████ ██████████
Non-monetised benefits		Medium - High	Medium – High

Premium payments for land acquisitions under the Public Works Act 1981

What scope will options be considered within?

27. The scope of options identified in this addendum will be considered in the context of the previous policy decisions by Cabinet and direction from Ministers. On 11 November 2024, Cabinet agreed that landowners, and every person having an estate or interest in the land, whose land is acquired under the accelerated process, be entitled to legislated premium payments [CAB-24-MIN-0439 refers].
28. Early agreement is crucial in reducing costs of development and achieving the Government's aspirations for critical infrastructure development.
29. Under the status quo, infrastructure developments often suffer delays due to negotiations on compensation while land acquisition is agreed. The PWA currently provides an incentive payment of \$10,000 if the landowner agrees to vacant possession within six months from the start of negotiations. However, this is restricted to those landowners whose principal place of residence is being acquired.
30. Data provided by New Zealand Transport Agency shows that, since 2017 (when the PWA was amended to provide for the section 72A early agreement incentive), of NZTA's PWA acquisitions, 88 landowners have been paid the \$10,000 incentive out of 472 full property purchases. It is not clear from the data what percentage of these properties included the owner's primary place of residence. NZTA's view is that the current level of the incentive payment under s72A(1)(b) is insufficient to incentivise early agreement to the desired level to achieve the objectives for critical infrastructure.
31. While additional payments can already be offered to landowners to incentivise the acquisition of land (i.e. legislative change is not required), this is not generally current practice.
32. The wider PWA review is developing proposals for consideration to change the eligibility, structure and quantum of incentive payments to promote early agreement. However, any amendments arising from these proposals are intended to be enacted around six months after enactment of the accelerated process for critical infrastructure. Consequently, relying on the outcome of the wider PWA review is insufficient to meet the objective of progressing critical infrastructure projects as soon as possible.

² New Zealand Infrastructure Commission (2022). *Rautaki Hanganga o Aotearoa 2022 - 2052 New Zealand Infrastructure Strategy*. Wellington: New Zealand Infrastructure Commission / Te Waihangā.

33. LINZ has not been able to find any examples of statutory premium/incentive payments in overseas jurisdictions from research into legislation and discussions with certain jurisdictions (i.e. NSW and Victoria in Australia, and British Columbia in Canada).

What options are being considered?

34. This section outlines the options that LINZ and MoT considered. These are:

- **Option One:** Operational policy is used to promote the use of premium payments
- **Option Two:** Legislation is used to set premium payment entitlements

Option One: Operational policy is used to promote the use of premium payments

35. Under Option One, LINZ, MoT and NZTA would use operational policy to promote the use of premium payments on top of statutory PWA compensation entitlements (as outlined in Appendix 1) as part of the negotiation process for critical infrastructure projects. Operational policy would be used to expand the eligibility for and increase the level of compensation so premium payments are offered for critical infrastructure projects.
36. Operational policy could cover many, but not all, of the 33 projects within scope of the proposal. Using operational policy would enable a tailored approach and could be implemented quickly, with consultation on specific issues. Operational policy is also more adaptable and easier to change than using legislation.
37. In addition to the limits to its reach, constraints on the effectiveness of using operational policy to address the problem include the:
- a. risk of inconsistency across projects and between agencies, requiring monitoring and oversight
 - b. lack of certainty and transparency for landowners, reducing confidence in the system
 - c. [REDACTED]
38. Overall, using operational policy risks increasing landowner expectations for compensation. Without statutory boundaries, there is a likelihood of escalating and unpredictable costs. Without the certainty of statutory entitlements, there is also a likelihood of additional negotiation and disputes around compensation. This would frustrate the objective of achieving agreement to acquisition as early as possible.

Option Two: Legislation is used to set premium entitlements

39. Option Two would give effect to the direction from Ministers by establishing premium payment entitlements within legislation for when land is acquired or taken for critical infrastructure projects³. Only the landowner would be eligible for premium payments (not those with lesser interests such as easements and leases).
40. Premium payment entitlements include both an incentive and recognition payment.

³ Cabinet agreed that the accelerated process will include an opt-out clause for agencies with projects eligible for the accelerated process. In that case, the status quo would apply. This addendum assumes no agencies with eligible projects choose to opt-out.

Incentive payment

41. The purpose of the incentive payment is to encourage early agreement and therefore expedite the land acquisition process. This payment would be available only to landowners who agree to the acquisition of their land prior to the issue of a section 23 notice of intention under the PWA (the pre-cursor to compulsory acquisition).
42. A percentage of land value for the incentive payment would ensure that payments are proportionate to the value of the acquisition. This avoids windfall payments for smaller acquisitions, while maintaining the attractiveness of the incentive for larger acquisitions.
43. A range of options for premium payment entitlements were considered (see Table 4 for analysis of the financial implications of detailed options considered for premium payment entitlements). The incentive payment is set higher than the recognition payment so that premium entitlement payments operate as intended to encourage faster acquisition of land.

Recognition payment

44. The purpose of the recognition payment is to recognise that land is being acquired under an accelerated process and for critical infrastructure projects which are nationally or regionally significant. This payment would be available to all landowners whose land is acquired under the accelerated process.
45. Both a lump sum or percentage of land value could meet the purpose of recognition payments. A lump sum reflects that all landowners are similarly affected through having their land acquired by the accelerated process. A percentage of land value would avoid the risk of disproportionate payments to landowners for small or low value acquisitions.

Table 4 Indicative financial implications of detailed options for premium payment entitlements

Recognition payment			
Roads of National Significance	Lump sum \$10,000	Lump sum \$20,000	Lump sum \$30,000
Project 1 (67 acquisitions)	\$0.7m	\$1.3m	\$2m
Project 2 (46 acquisitions)	\$0.5m	\$0.9m	\$1.4m
Project 3 (31 acquisitions)	\$0.3m	\$0.6m	\$0.9m
Three RoNS total	\$1.5m	\$2.8m	\$4.3m

Incentive payment			
Roads of National Significance	10% of land value	15% of land value	20% of land value
Project 1 (Total acquisitions \$94 million)	\$9.4m	\$14.1m	\$18.8m
Project 2 (Total acquisitions \$47.58 million)	\$4.8m	\$7.1m	\$9.5m
Project 3 (Total acquisitions \$12.6 million)	\$1.3m	\$1.9m	\$2.5m
Three RoNS total	\$15.5m	\$23.1m	\$30.8m

46. To best meet the objectives of the accelerated process for critical infrastructure, Ministers directed that the premium payment entitlements consist of:
- An incentive payment of 15 percent of land value, when the acquisition of land is agreed prior to a section 23 notice under the PWA.
 - A recognition payment of five percent of land value, whether the land is acquired by agreement or not.
47. The current incentive payment under the PWA is \$10,000. For a property valued at \$800,000 (around that of a median priced residential property), this equates to 1.25%. Under the proposals, the level of incentive offered for a median priced residential property would be 12 times greater than that currently offered under the PWA. This is expected to significantly influence landowner behaviour towards early agreement.
48. Minimum and maximum payments are being included to ensure that the minimum amount is at a level that is expected to influence landowner behaviour while capping the maximum amount will ensure that the payments remain affordable and do not escalate the costs of providing the infrastructure.
49. There is limited data available on the property acquisitions (number of properties and cost etc) needed for all 33 eligible projects from which to assess the options for minimum and maximum payments and estimate the cost of premium payments.
50. Development of options was informed by data provided by NZTA on the estimated property acquisitions needed for three Roads of National Significance projects (the

NZTA sample). This data is not representative of all 33 projects eligible for the accelerated process but provided indicative information.

51. Options around the amount of the incentive payments are included in Tables 5 and 6 below. Table 5 shows that for all options, 5 to 6 percent of the NZTA sample would receive an incentive payment greater than the value of the land acquired.

Table 5: Minimum value options for incentive payments

Minimum level	Application to NZTA sample
\$5,000	<ul style="list-style-type: none"> 8% get minimum payment 5% incentive payment > land value
\$10,000 ⁴	<ul style="list-style-type: none"> 10% get minimum payment 6% get incentive payment > land value
\$15,000	<ul style="list-style-type: none"> 13% get minimum payment 6% get incentive payment > land value

52. Table 6 shows that for 80 percent of the NZTA sample to receive a full 15 percent incentive payment, the maximum would need to be \$275,000. For 50 percent of the sample to receive the full 15 percent incentive payment, the maximum could be set at \$100,000. Table 6 also shows that the level of the maximum payment has a significant impact on the total cost of the incentive payment – with a \$275,000 maximum having a total cost of more than twice that of a \$100,000 maximum.

Table 6: Maximum value options for incentive payments

Maximum level	Maximum land value receiving full incentive	Application to NZTA sample
\$100,000	\$666,000	<ul style="list-style-type: none"> 50% get full 15% incentive payment Cost \$9.95 million
\$150,000	\$1,000,000	<ul style="list-style-type: none"> 60% get full 15% incentive payment Cost \$13.20 million
\$275,000	\$1,800,000	<ul style="list-style-type: none"> 80% get full 15% incentive payment Cost \$23.14 million

53. The options for the minimum levels for recognition payments are set out in table 7.

Table 7: Minimum value options for recognition payments

Minimum level	Basis for option
No minimum	<ul style="list-style-type: none"> No minimum needed as not an incentive
\$350	<ul style="list-style-type: none"> Aligns with minimum land loss payment in the PWA (nearest equivalent existing payment)⁵
\$500	<ul style="list-style-type: none"> Covers the lowest valued 6% of properties in the NZTA sample

⁴ This is equivalent to the value of the incentive payment under s72A of the PWA, but eligibility under s72A limited to acquisitions including an owner's principal place of residence.

⁵ Cabinet has agreed to update the value of the minimum land loss payment in section 72C of the PWA [CAB-24-MIN-0504 refers]. Consistency and fairness are key considerations when determining compensation.

54. Table 8 shows that for 80 percent of the NZTA sample to receive a full 5 percent recognition payment, the maximum would need to be \$92,000. For around 50 percent of the sample to receive the full 5 percent recognition payment, the maximum would need to be set at \$35,000. Table 8 also shows that the level of the maximum payment has a significant impact on the total cost of the incentive payment – with a \$92,000 maximum having a total cost of nearly twice that of a \$35,000 maximum and nearly three times the cost of a \$20,000 minimum.

Table 8: Maximum value options for recognition payments

Maximum level	Maximum land value receiving full recognition	Application to NZTA sample
\$20,000 ⁶	\$400,000	<ul style="list-style-type: none"> 37% get full 5% incentive payment Cost \$2.24 million
\$35,000 ⁷	\$700,000	<ul style="list-style-type: none"> 52% get full 5% recognition payment Cost \$3.44 million
\$92,000	\$1,800,00	<ul style="list-style-type: none"> 80% get full 5% recognition payment Cost \$6.09 million

55. The total cost of premium payments for the NZTA sample, assuming 100% uptake, is estimated to be \$12 to \$30million (depending on the maximum level chosen). The current indicative estimated total cost of these projects is \$4.75 to \$6.45 billion. The premium payments would be around 0.2 to 0.6 percent of total project cost.
56. All options are expected to be cost neutral. Even at the highest level of payments the savings from the avoidance of delays and associated cost escalations are expected to be more than the level of payments accessed in the options above. An advantage of legislative maximum amounts is that it maintains incentive payments at a predictable and affordable level for each project. Ministers are recommending the following levels of payments: Incentive payments – \$5000 minimum and \$150,000 maximum; Recognition Payments – No minimum and \$92,000 maximum.

How do the options compare to the status quo/counterfactual?






57. LINZ and MoT has assessed the options against the criteria, and a scoring is set out in Table 9 below.

Table 9: Assessment of options

Criteria	Status quo	Option One: Operational policy is used to promote the use of premium payments	Option Two: Legislation is used to set premium payment entitlements
Reduced timeframes	0	+	++

⁶ Equivalent to compensation (solatium) payment under section 42A of the PWA for loss of opportunity to purchase back property (nearest equivalent payment in PWA).

⁷ Cabinet has agreed to update the value of the minimum land loss payment in section 72C of the PWA [CAB-24-MIN-0504 refers]. \$35,000 is in line with proposals being developed for the PWA review (subject to further Cabinet decisions).

		Some increase in early agreement but constrained by lack of transparency and consistency.	Clear and transparent premium payment entitlements that are applied consistently will accelerate decisions on land acquisition.
Value for money and affordability 	0	0 Operational premium payments will cost more upfront, but lack of consistency and transparency constrains faster delivery.	0 Statutory premium payments will cost more upfront but are expected to result in cost savings due to the faster delivery.
Alignment with related decision-making 	0	+ Operational premium payments are consistent with objectives of fast-track consenting processes and other measures to facilitate the delivery of critical infrastructure.	++ Statutory premium payments encourage faster land acquisition, which is consistent with the objectives of fast-track consenting process and other measures to facilitate the delivery of critical infrastructure.
Public confidence 	0	- Potential for landowner dissatisfaction from lack of transparency and inconsistency in operational approach to premium payments. Potential inequity for those who have concluded acquisition prior to adoption of policy.	0 Certainty and transparency for landowners of premium compensation entitlements. Potential inequity for those who have concluded acquisition prior to enactment.
Feasibility 	0	- Potential operational issues in defining, implementing and monitoring and overseeing a consistent operational approach to premium payments.	0 No operational issues as eligibility and level of payment set in legislation
Net scores	0	0	+4

Key for qualitative judgements:

- ++** much better than doing nothing/the status quo/counterfactual
- +** better than doing nothing/the status quo/counterfactual
- + / -** a mixture of positive and negative effects
- 0** about the same as doing nothing/the status quo/counterfactual
- worse than doing nothing/the status quo/counterfactual
- much worse than doing nothing/the status quo/counterfactual

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

58. The options assessment is that *Option Two: Legislation is used to set premium payment entitlements* is preferable to Option One.
59. Option Two scores higher than the status quo and Option One on the criteria of 'reduced timeframes' and 'alignment with decision-making'. This scoring reflects that premium payments are more consistent with the intent of policy reform to the PWA, and a judgement that transparent and consistent application of these payments will increase the incentives for landowners to agree to land acquisition (so reducing project timeframes and lead to the benefits of infrastructure development).
60. Option Two is neutral with the status quo and Option One in terms of 'value for money and affordability'. As noted, Option Two is expected to result in a greater number and value of incentive payments relative to current practice under the status quo. Relative to Option One, greater certainty of application reducing the risk of cost escalation. LINZ and MoT expect that some payments may appear disproportionate in some cases for the acquisition of small areas of land (e.g. partial land acquisitions).
61. Option Two will cost more upfront, as Option Two has greater reach than Option One and raises entitlements from the status quo. However, NZTA already operates budgets for landowner compensation (and we assume this is the same for other acquiring agencies with projects within scope), and the effect of increased payments would be to use a greater proportion of the allocated budget at an earlier time. The faster the land acquisition happens the earlier the delivery of infrastructure projects, with the avoidance of delays and related cost escalations due to land acquisition objections and associated legal costs.
62. Option Two is more effective in terms of the criteria of 'public confidence', as it maintains full transparency and consistency in application of landowner entitlements to compensation. Option One may reduce public confidence in the system due to a lack of transparency and inconsistency in application of operational policy on compensation. Both options may initially have a risk of lower public confidence as the amendments could result in inequities for some landowners. Proposals being developed as part of the wider PWA review to change the structure and quantum of incentive payments that apply to standard PWA acquisitions would not be enacted until around six months after the accelerated process for critical infrastructure. Any effect on public confidence is likely to be counter-balanced by the prospect of greater certainty of incentive payments.

63. Option One is likely to require more attention in administering, both initially and ongoing to ensure its effectiveness in terms of developing operational policy and monitoring its application.

What are the marginal costs and benefits of the preferred option?

64. The marginal costs and benefits of the preferred option are difficult to monetise for the reasons already set out in the RIS (see paragraphs 78-81).

Cost-benefit of the preferred option

65. The cost-benefit of the preferred option (Table 10) is based on the assumption that landowners will agree more quickly to the acquisition of their land if a statutory incentive payment is available. The likely uptake of incentive payments cannot be estimated and is likely to vary between landowners and projects. Each individual project would be able to calculate the maximum amount that would be payable. Overall, the cost-benefit is expected to be positive.

Table 10: Costs and benefits of the preferred option

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Landowners	No additional costs identified than currently faced under status quo	Low	High
Government agencies (as Regulators)	No additional costs identified than currently faced under the status quo.	Low	High
Acquiring agency (infrastructure provider)	There are additional costs in the short-term for delivering premium payments, requiring re-phasing within budgets.	Up to \$30 million for NZTA projects for first three years + additional unknown costs for other 30 projects	Low-Medium
Other – wider public	Premium payments may impact public confidence in the land acquisition system.	Low	Low
Total monetised costs		Up to \$30 million for NZTA projects for first three years + additional unknown costs for other 30 projects	Low-Medium
Non-monetised costs		Low	Medium-High

Additional benefits of the preferred option compared to taking no action			
Landowners	Premium payments will provide significant additional compensation for acquired land	Up to \$30 million for NZTA projects for first three years + additional unknown payments for other 30 projects	Low-Medium
Government agencies (as Regulators)	Less scrutiny required of operational decision-making for compensation payments	Low	High
Acquiring agency (infrastructure provider)	Faster acquisition decisions would reduce project costs and delays	High, expected to equal or exceed costs	Low - Medium
Other – wider public	Premium payments may support public confidence in the land acquisition system	Low	Low
Total monetised benefits		Up to \$30 million for NZTA projects for first three years + additional unknown payments for other 30 projects	Low-Medium
Non-monetised benefits		<i>Medium</i>	<i>Medium</i>

Section 3: Delivering an option

How will the new arrangements be implemented?

66. The preferred options in this addendum will not change how the new arrangements are proposed to be implemented in the RIS.
67. The risks that 'land will be taken by compulsion where it could have been acquired by agreement' and 'that securing vacant possession may be more difficult' both still exist as set out in the RIS. However, the premium payments will provide some mitigation by making acquisition by agreement more financially attractive.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

How will the new arrangements be monitored, evaluated, and reviewed?

The accelerated process will be reviewed after a fixed period

69. Cabinet has agreed that the review of the accelerated process will occur after three years [CAB-24-MIN-0439 refers] rather than two years as specified in the RIS.
70. Levels of premium payments may be adjusted by Order in Council five yearly on the recommendation of the Minister of Land Information.

Appendix 1: Existing compensation entitlements under the PWA

In addition to the **value of the land** being acquired, landowners are entitled to the following:

Circumstance	Entitlement
If the land being acquired includes the affected party's principal place of residence s72, 72A PWA	Additional compensation of up to \$50,000. This is made up of: <ul style="list-style-type: none"> • \$35,000 if landowner qualifies for compensation under s72(1); and • \$10,000 if an agreement is negotiated and signed within six months from the start of negotiations and the agreement specifies date of vacant possession; and • a further \$5,000 at the Minister's discretion based on an owner's personal circumstances.
Additional compensation if land acquired excludes home s72C PWA	Additional compensation at the rate of 10% of the value of the land acquired is payable, from a minimum of \$250 to a maximum of \$25,000 provided landowners give up occupation of their land on the agreed date.
Legal and valuation costs s66 PWA	Landowners are entitled to reimbursement of the reasonable costs of legal and valuation advice about the land acquired (or any replacement land).
Household removal costs s66 PWA	Landowners are entitled to claim the reasonable cost of moving their household goods. There are some limitations depending on the distance to the new home.
Accessibility improvements s66(1)(b) PWA	If landowners have permanent improvements on their land that improve accessibility for a person with disabilities, and that have not been included in the land valuation, landowners can recover these costs.
Other professional costs s66 PWA	Other professional or expert advice costs may be reimbursed. LINZ requires pre-approval of these before expert is engaged (LINZ standards).
Other disturbance costs s66 PWA	Any other costs incurred by an owner in moving from the land acquired (e.g., temporary stock fencing) are considered on a case-by-case basis, with evidence required from the owner.

Repayment of mortgage loss s67 PWA	Compensation where an owner incurs losses relating to mortgages for land acquired and replacement properties.
Business losses s68 PWA	If there is a business on the land being acquired, the owner may be entitled to have that business relocated. The owner can claim for business loss resulting from the business relocation including loss of actual profits and business goodwill and any loss from having to close the business temporarily while moving. If the business is not relocated but is still affected by the construction of the public work, the owner can seek compensation for any actual loss incurred.
Assistance to purchase property s73, 74 PWA	Though rarely used, the PWA provides for advances to be made to the owner to purchase a private residence (s73) or farm, commercial or industrial property (s74) where the land taken is less value than a replacement property (of comparable standard).
Business and/or residential tenant removal costs s75 PWA	Any business or residential tenants that have to give up occupation are entitled to have their reasonable removal expenses paid by the Crown.
Injurious affection ss60(1)(b), 63 PWA	Where other land held by the owner suffers injurious affection arising from the taking of land (such as a loss of value of their remaining land) they are entitled to compensation. This can also include situations where an affected party has not had any land acquired for the project but has suffered a loss during construction of the work.
Damage to land s60(1)(c) PWA	If the owner suffers any damage from the exercise of any power under the PWA that is not otherwise compensated under the Act, then they are entitled to compensation.
Where no market for land s65 PWA	Where there is no market for the land because of its particular use (e.g., a church or health facility), an owner can be paid the cost of replacing the existing buildings (equivalent reinstatement).