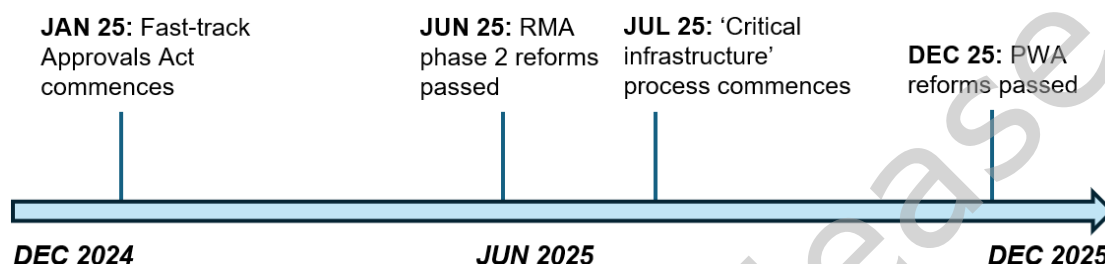


Regulatory Impact Statement: Review of the Public Works Act 1981

Purpose of Document	
Decision sought:	The purpose of this analysis is to inform Cabinet decisions on amendments to the Public Works Act 1981, following a targeted review agreed by Cabinet in June 2024.
Advising agencies:	Land Information New Zealand (LINZ)
Proposing Ministers:	Minister for Land Information
Date finalised:	28 November 2024
Problem Definition	
<p>New Zealand is experiencing a long-running infrastructure deficit, arising from an investment slump during the 1980-1990s. While not the only driver, a contributor is that the Public Works Act 1981 (PWA) processes for the acquisition of land for public works can add unnecessary delays, costs, and uncertainty for infrastructure projects.</p> <p>The status quo does not provide sufficient settings to support the Government’s commitment to deliver public infrastructure. Intervention is required to ensure that the mechanisms to acquire land under the PWA are more efficient, effective, and clear.</p>	
Executive Summary	
<p>The PWA provides powers for the Crown or a local authority to acquire land compulsorily or by agreement for delivering public works, such as roads, schools, defence works, justice facilities and water services. It sets out the process that must be followed to ensure the rights of private landowners are considered and compensation is paid where land or an interest in land is taken. With New Zealand’s population continuing to grow, there is strong demand for new public infrastructure. Acquiring interests in land through the PWA is a key tool to deliver this.</p> <p>Cabinet agreed to initiate a review of the Public Works Act ...</p> <p>In June 2024, Cabinet agreed to initiate a targeted review of the PWA to facilitate the Government’s delivery of public infrastructure, while retaining the principles of the PWA, through targeted amendments focused on improving efficiency, effectiveness and clarity [CAB-24-MIN-023.01 refers]. Cabinet also agreed that the review would focus on key issues in the PWA’s land acquisition, objection and compensation functions. Therefore, matters relating to the disposal of land and other provisions in the PWA have not been considered in this Regulatory Impact Statement (RIS).</p> <p>... to facilitate the delivery of infrastructure projects.</p> <p>In line with the Government’s wider commitment to make it easier to build critical infrastructure in New Zealand, the review aimed to ensure that the PWA facilitates the delivery of infrastructure projects to rebuild the economy and support New Zealand’s growth and prosperity. A key part of the Government’s economic plan, is building high quality, resilient infrastructure. It currently takes too much time and costs too much to deliver infrastructure in New Zealand.</p> <p>The Government is making changes across different regulatory systems to enable infrastructure development (concurrently with this review), including:</p>	

- the Fast-track Approvals Bill, currently before Parliament (scheduled to come into force in early 2025), will create a fast-track consenting process for projects that are considered to have significant regional or national benefits
- the Resource Management Act 1991 (RMA) is also under review. Phase two of the RMA reforms will aim to improve the efficiency and effectiveness of the system, with legislation scheduled to be passed in mid-2025, and Phase three will be introduced in 2025.
- proposed amendments to the PWA to facilitate the delivery of critical infrastructure, with legislation scheduled to be passed in mid-2025 ahead of the review of the PWA.

A high-level timeline outlining where the PWA review sits within wider system changes is included below:



This RIS discusses issues across multiple policy areas identified through the review and proposes a package of policy options for consideration by Cabinet. This RIS is structured in the following parts:

Part A – Acquisition – including access, decision-making, joint projects and land transfers (pages 12-37).

Part B – Compensation – incentivising early agreement, recognising inconvenience, and resolving disputes (pages 38-54).

Part C – Objections to land acquisition (pages 55-66).

Part D (pages 66-68) – will discuss the package of preferred options for reform, acknowledging the interdependencies between different policy issues and how the preferred options would work together to achieve the overall policy objective. Due to the nature and scale of potential reforms, some decisions (such as detailed design, or amendments that can be made through secondary legislation) will be sought in a subsequent Cabinet paper following initial policy decisions. The decisions that will be sought via a subsequent Cabinet paper are also signalled in **Part D**.

To support the review, an Expert Advisory Panel (the Panel) was established to provide LINZ with independent specialist advice. The preferred options in this RIS have been informed by the Panel's advice to LINZ and the feedback the Panel received through targeted engagement with stakeholders.

LINZ's preferred options comprise of a combination of all the options that were considered and will form a package of amendments to the PWA. LINZ's preferred options are:

Simplify acquisition powers and processes	Minister for Land Information retains sign-off on compulsory acquisition. (Option A1 (in part)).
	Delegate powers for acquisition by agreement to the New Zealand Transport Agency (NZTA) for NZTA works as the highest PWA user for land to be acquired by the Crown (Option A3) and provide LINZ with regulatory tools (Option A5).
	Transpower continues accessing the PWA via section 186 of the RMA with operational changes made for its access to be more efficient (Option A6).
	In the process to compulsorily take land (when no agreement can be reached), if the land required is certain Māori land the legislation will require the Minister for Land Information to consult the Minister for Māori Crown Relations or the Minister for Māori Development before issuing a notice of intention to use the PWA to take the land (Option A9).
	Enable users to work together to acquire land for public works, by providing for combined public works between entities that have public works powers (Option A11) and enabling users to acquire land where that land is necessary to relocate or reinstate private third-party infrastructure (Option A13).
	Reduce the survey requirements at Section 23 (Option A15).
Improve statutory compensation and incentives to reach agreement, and improve process for reaching agreement	Introduce a statutory incentive payment paid only where agreement is reached prior to a section 23 notice (Option B2) and increase existing additional compensation payments for home-loss and land-loss (Option B5).
	Expressly provide for advance compensation agreements and timely payment of compensation (Option B6).
	Require that Māori freehold land is valued as if it were general land when acquired or taken for a public work and extend the home-loss payment to all separately owned dwellings on Māori land. (Option B7).
	Introduce compulsory alternative dispute resolution where parties decide what form it takes from mediation to binding or non-binding expert determination, prior to an LVT claim (Option B9).
Refine the grounds for objections	Refine the grounds for objections under the PWA (Option C2).

Public consultation will take place through the Select Committee process. There is likely to be strong public interest in the options as they impact private property rights. Potential changes to landowners' ability to object to the taking of land are likely to be controversial. This reflects the fundamental trade-off in balancing the direct impacts on the rights of private landowners against the wider public benefits that would be realised through the delivery of infrastructure.

Limitations and Constraints on Analysis

A targeted review of the PWA focussing on efficiency, effectiveness and clarity to enable legislative amendments is expected to be passed by late 2025. A more fundamental review of the PWA would have required a longer period of analysis and public consultation. The range of issues to be addressed would likely be contentious,

which could have delayed the progress of any proposed legislative amendments to address efficiency issues.

The Panel was established to provide LINZ with independent specialist advice and convened between June and September 2024. Panel members had experience and expertise in using the PWA, representing Crown users, local government, landowners, whenua Māori and accredited suppliers. The Panel undertook targeted engagement with a range of stakeholders that directly interact with the PWA. The Panel’s consultation focussed on understanding problems and issues, rather than testing options. The Panel provided advice and identified options which were further developed by LINZ.

LINZ officials undertook targeted consultation with key agencies¹, to inform the options. Limited engagement has been undertaken with local government representatives. Public consultation has not been undertaken but the proposals will go through a Select Committee process and the public will have an opportunity to submit their views at that stage. LINZ acknowledges that this opportunity will be limited and later in the policy development process.

Cabinet agreed that the scope of the review is the PWA’s land acquisition and compensation functions. Concerns about the inefficiency and inflexibility of the PWA’s disposal and offer-back requirements were raised by stakeholders during the Expert Advisory Panel’s stakeholder engagements, but as these were out of scope, options were not developed to address them. This analysis has also been developed on the assumption that the Fast-track Approvals Bill, proposed amendments to the PWA to facilitate critical infrastructure delivery, and reforms to the RMA will be enacted in their current forms.

LINZ collects data on the Crown’s use of the PWA including all acquisitions by agreement, notices issued, and land taken by proclamation. LINZ collects only limited data on the use of proclamations by local authorities (not on acquisitions by agreement) so does not have a good understanding of the use of PWA powers generally by local authorities.

Responsible Manager(s)

Amanda Moran
Head of Strategy, Policy and Ministerials
Toitū Te Whenua, Land Information New Zealand



28/11/24

Quality Assurance (completed by QA panel)

Reviewing Agency:	Land Information New Zealand and the Ministry for the Environment
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¹ Including NZ Transport Agency Waka Kotahi, Ministry of Transport, Ministry for the Environment, Ministry of Justice, the Treasury, Te Arawhiti, Transpower, KiwiRail, and Te Waihanga New Zealand Infrastructure Commission.

Panel Assessment & Comment:

This RIS has been reviewed by a panel of representatives from Land Information New Zealand and the Ministry for the Environment.

These representatives consider that the RIS is clear, concise and convincing and reflects the nature of this targeted review of the PWA. The representatives acknowledge the limitations in relation to consultation and is of the view that the RIS partially meets this criterion. They further note that LINZ expects the public to have the opportunity to submit their views on any proposed changes through the Select Committee process.

The RIS has been given a 'partially meets' rating against *the quality assurance criteria*.

26 November 2024.

Proactive Release

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Overall context and review findings

The review has found that the status quo settings are inefficient and can be ineffective

1. The PWA provides powers for the Crown or a local authority to acquire land compulsorily or by agreement for delivering public works, such as roads, schools, defence works, justice facilities and water services. It sets out the process that must be followed to ensure the rights of private landowners are considered and compensation is paid where land or an interest in land is taken.
2. LINZ has completed a targeted review of the PWA to support the facilitation of the Government's delivery of public infrastructure while retaining the core principles of the PWA. The PWA reflects and is guided by four key principles:
 - the Crown and local authorities can acquire or take interests in land needed for a public work,
 - that legislative procedures are fair and transparent for all parties, ensuring good faith negotiation and full compensation to leave landowners no better or worse off following PWA action,
 - that there is an independent and binding judicial check on the Crown's powers to take interests in land, and
 - where land is no longer required for a public work, the Crown and local authorities must offer the land back to former owners unless exemptions apply.

The PWA processes can be inefficient, can limit effectiveness and are out of step with the needs of public works delivery agencies

3. The procedures for the taking of land are inefficient for Crown users, leading to duplication in each stage of the process as users comply with statutory and practice requirements. The PWA's notice requirements do not recognise that modern practice prioritises an upfront, early and more informal engagement with landowners, with the aim of seeking agreement ahead of any compulsory acquisition proceedings.
4. The requirement for Crown users to report to LINZ for each PWA decision requires extensive documentation and information sharing, which may be unnecessary for lower-risk transactions. LINZ has less familiarity than PWA users with the details of specific projects and the nature of on-the-ground interactions and relationships with owners, which often results in follow-up requests for information. A benefit of the current approach is that LINZ is a less interested decision-maker, not as motivated by a vested interest in getting the land at lowest cost.
5. There are regulatory overlaps between LINZ as a decision-maker on a transaction-by-transaction basis, and as the system regulator. LINZ also has limited oversight over the practice of local authorities under the Act who operate independently of the Crown.
6. The PWA is not flexible and does not account for the increasingly devolved nature of how public works are delivered. Government decisions in the 1990s devolved powers to acquire land to a wider portfolio of agencies. The PWA does not enable agencies to collaborate on works with interrelated objectives in a joined-up way.

It also does not work well for landowners or best serve their interests

7. While the PWA adequately protects landowner property and natural justice rights, provisions are complex and may be confusing for landowners to navigate. Compensation arrangements may not appropriately recognise the disruption caused by

land acquisition, nor provide a meaningful incentive to encourage early agreement, and are out-of-step with modern land values and living costs.

8. Procedures for landowners to object to the taking of land or to dispute the value of compensation are adversarial and overly formal. These processes can be long and expensive and are likely to damage relationships between landowners and PWA users, which can lead to longer project delays.
9. Over time, the PWA settings have come to reward landowner delays as extended negotiations or objections can sometimes result in higher compensation amounts.

A package of amendments to the PWA is proposed to improve efficiency

10. LINZ's preferred approach is to progress several options to amend the PWA together as a package. The combination of targeted changes across issues is expected to improve the overall efficiency of land acquisition under the PWA to facilitate the delivery of public infrastructure projects.
11. The options are set out in three key areas: acquisition, compensation and objections. Within each area, a number of options can be selected.

Proactive Release

Criteria used to compare options to the status quo

12. To reduce duplication through the different parts of this RIS, we have used the following unweighted criteria to assess the options against our objectives for each part. These criteria were agreed by Cabinet when considering the scope of the review and have been used consistently throughout this RIS.

Efficiency	The option is effective at improving process efficiency and removing unnecessary duplication.
Effectiveness	The option ensures that the legislation is workable, fit for purpose and realises the Crown's ability to undertake public works.
Clarity	The option provides transparency for those using and affected by PWA processes.
Feasibility	The option can be easily implemented to achieve the policy objective.

13. The options identified in this RIS have been informed by the scope of the review agreed by Cabinet. Other options identified by officials were also discounted if they did not meet one or more of the following criteria:

- retain the fundamental principles of the PWA,
- ensure due process to maintain natural justice and uphold property rights, or
- uphold the Crown's Treaty Settlement obligations.

14. The proposed options also aim to support the commitment expressed in the Speech from the Throne relating to the Government's priority to:

- invest in better transport infrastructure including progressing new Roads of National Significance, and
- lift New Zealand's productivity and economic growth.

15. The options throughout this RIS are analysed using the following key:

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

16. The marginal benefits and costs tables were determined based on the following criteria:

Impact

- **Low:** Proposal expected to have **little** cost or benefit impacts for the affected user compared to the status quo
- **Medium:** Proposal expected to have **some** cost or benefit impacts for the affected user compared to the status quo.
- **High:** Proposal expected to have **significant** cost or benefit impacts for the affected user based on the status quo

Evidence certainty

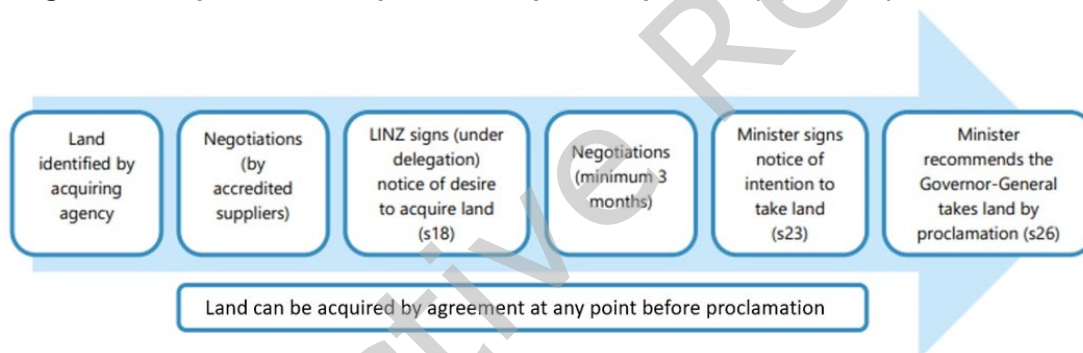
- **Low:** Level of confidence in impact rating is **weak** based on the evidence and information available.
- **Medium:** Level of confidence in impact rating is **medium** based on the evidence and information available.
- **High:** Level of confidence in impact rating is **strong** based on the evidence and information available.

Part A: Acquisition

Access, decision-making, joint projects and land transfers

17. The PWA gives powers to Crown agencies and local authorities² to acquire land (including by compulsion) and sets out the steps that users must take with landowners to acquire land for a public work. A variety of notices convey critical information to landowners, initiate or action certain steps, and are subject to statutory timeframes. An overview of the general acquisition process under the PWA for a Crown agency is outlined in Diagram 1 below:

Diagram 1: Simplified status quo PWA acquisition process (for Crown)



18. This part assesses proposed options relating to the acquisition of land, structured into three issues relating to the targeted scope of the review and problem definition:
- **Issue 1 – Access to the PWA:** who should have access to the acquisition powers in the PWA.
 - **Issue 2 – Joint projects:** the ability for land to be acquired by one agency on behalf of another for public works with a related purpose.
 - **Issue 3 – Survey requirements:** when requirements for PWA users to complete a full survey of land should apply in the acquisition process.

² Under the PWA, a 'local authority' includes regional and territorial councils, universities, school boards, wananga and Fire and Emergency New Zealand.

Issue A1 – Access to the PWA

Section 1: Diagnosing the policy problem

Context behind the policy problem

19. The PWA gives powers to acquire land to the Minister for Land Information (the Minister), and local authorities. Only the Minister can acquire land on behalf of Crown agencies and Network Utility Operators (NUOs) who are carrying out public works.³ Many of these entities have been added over time or evolved from earlier entities that were accountable to elected boards. The New Zealand Railways Corporation (NZRC) has access to the PWA acquisition powers under its own legislation.⁴
20. LINZ provides quality assurance and statutory decision-making (for acquisitions by agreement) for Crown agency and NUO transactions that fall under the PWA, while each local authority is responsible for their own transactions. LINZ in practice performs a regulatory oversight function through this day-to-day role. In practice, LINZ accredits external suppliers who are hired by Crown agencies to perform operational acquisition functions under the PWA. These are then submitted to LINZ for decision-making. LINZ provides standards and guidelines to assist external suppliers in their preparatory work and undertakes quality assurance of this work before exercising the Minister's acquisition by agreement powers under delegation.
21. LINZ's main function is to exercise the Minister's acquisition powers under delegation up to the point of compulsory acquisition, including determining the amount of compensation payable. It does not perform many other monitoring and enforcement activities for those responsible for PWA actions. This is particularly true for local authorities, which LINZ generally has very little oversight over because they do not need approval for PWA actions (except when seeking a proclamation for compulsory acquisitions).
22. Status quo powers to acquire land under the PWA are exercised as follows:
 - **Crown acquisition by agreement:** most Crown agencies and entities must apply to and rely on decisions of the Minister and LINZ (under delegation for some functions) to acquire land. Acquisition by agreement occurs for approximately 94 percent of acquired land. If agreement cannot be reached, the land may then be compulsorily acquired.
 - **Crown compulsory acquisition:** Approximately six percent of acquisitions are by compulsion. The powers to take land by compulsion are higher risk, among the strongest available to government constitutionally significant, and in tension with the strong status afforded to property rights in law.⁵
 - **NUO access:** NUOs can negotiate commercially outside of the PWA and can access the PWA through section 186 of the RMA. NUOs must apply to the Minister to undertake the standard PWA land acquisition process on their behalf when they have not been able to reach agreement with landowners.
23. The Minister's decision-making role for Crown PWA actions reflects that when the PWA was introduced, the Minister of Works (whose PWA powers the Minister has inherited)

³ Section 186(1) enables NUOs to apply to the Minister for Land Information to have land required for a project or work acquired or taken under the PWA as if it were a public work

⁴ New Zealand Railways Corporation Act 1981. Compulsory acquisitions for the NZRC must be signed off by their responsible Minister.

⁵ Where there is any ambiguity in how compulsory acquisition powers are defined, the courts are likely to interpret the law in favour of an affected landowner.

was responsible for acquiring and delivering the Crown's public works. Since then, delivery of works has been devolved to responsible agencies including funding compensation payable to landowners and managing, constructing, maintaining and operating the public work.

24. New Zealand Transport Agency Waka Kotahi (NZTA) is the single largest acquirer of land under the PWA, accounting for 93 percent of the Crown's acquisition activity between 2013 and 2022.⁶

Iwi/Māori interests

25. Māori⁷ have a strong interest in their lands and compulsory acquisition has been a major and historical point of contention.
26. The acquisition of Māori freehold land for public works is now rare, and the Crown tries to avoid taking whenua Māori for public works where possible. Between 2015 and 2020, the Crown has only acquired three parcels of Māori freehold land for public works by agreement with the owners (none by compulsory acquisition). The Crown has not compulsorily acquired any Māori freehold land since 2013, when one property was compulsorily acquired for the Kāpiti Expressway.
27. Ministerial accountability for compulsory acquisition is important in supporting the partnership between Māori and the Crown. There are additional considerations relevant to acquisitions of whenua Māori including:
- The significance of land to Māori as taonga tuku iho,
 - The unique features of the Māori land tenure system under Te Ture Whenua Māori Act 1993 (TTWMA)
 - The durability of Treaty settlements and supporting the Māori Crown relationship.

What is the policy problem or opportunity?

28. The policy problem is that Crown agencies and entities lack autonomy in the decision-making process in relation to the public work they are delivering. Relying on decisions made by the Minister and LINZ (under delegation for some functions) may increase delays in acquiring land.
29. Some stakeholders expressed that it is inefficient for Crown agencies that frequently acquire land to rely on the Minister and LINZ to exercise PWA powers on their behalf. Agencies are familiar with their projects and the need for land to be acquired but are subject to an assessment based on LINZ's risk profile, timing and resourcing, which causes delay and duplication of work.
30. There is an opportunity to provide acquiring agencies and entities more direct access to the powers to acquire land under the PWA, with the aim of reducing potential delays to project timeframes through needing to apply and wait for decisions. This would need to be balanced against retaining transparency and accountability for more significant decision-making and maintaining regulatory oversight and consistency in decision-making.
31. There may also be a specific problem where Transpower's access (as both a NUO and State-owned enterprise (SOE)) to the PWA may be inefficient and inadequate to

⁶ This figure excludes local authority activity.

⁷ In this document, whenua Māori is used as a broad, non-statutory term for culturally significant land owned by Māori (it may include ancestral lands or land returned under Treaty settlements). Māori freehold land refers to land with Māori freehold land status under s129 of Te Ture Whenua Māori Act 1993.

support the Government's commitments relating to infrastructure and electrical generation.⁸ This issue is discussed in more detail below.

What objectives are sought in relation to the policy problem?

32. The overarching policy objective is that the PWA enables public works to be delivered effectively by the agencies or entities that are delivering those works. The following outcomes are also sought:
- there are appropriate levels of oversight and accountability (including appropriate political accountability) over the use of powers in the PWA, and
 - acquiring agencies and entities have appropriate levels of autonomy that reflect their skills and expertise, and on-the-ground relationships they have with landowners,
 - unnecessary costs and process inefficiencies can be reduced, in-turn reducing project delivery timeframes.

Section 2: Deciding upon an option to address the policy problem

Experience in comparable jurisdictions

33. Other jurisdictions broadly grant compulsory acquisition powers to central and local government. Most also confer some powers to certain private entities. Many jurisdictions require the approval of a central government actor (such as a Minister) before compulsory acquisition powers may be used.
34. There is usually an element of government ownership or control over the entities that can access these powers. For many jurisdictions, a local authority is still the approving authority for a local authority compulsory acquisition. A summary of access to acquisition powers in comparable jurisdictions is outlined in **Appendix 1**.

Options considered

35. This section outlines the options that were considered. A combination of options can be progressed as a package to improve the PWA's acquisition processes. The options are:

Options for compulsory decision-making	Option A1 – Status quo: Decisions on Crown land acquisitions are made by the Minister (with lesser powers, including acquisition by agreement, delegated to LINZ)
	Option A2: Enable the responsible Minister to sign off on compulsory acquisition.
Options for providing Crown agencies with autonomy for acquisitions by agreement	Option A3: Delegate powers for acquisition by agreement to the NZTA as the highest PWA user for land to be acquired by the Crown for NZTA works
	Option A4: Enable all Crown agencies to have autonomy for acquisition by agreement.

⁸ Transpower's access to the PWA is more constrained than Crown and local authority infrastructure providers and is via its status as a network utility operator under the RMA.

Option for regulatory tools	Option A5: Provide LINZ with regulatory tools in the PWA <i>(dependent on what other options are progressed)</i> .
Options for providing Transpower with access to the PWA	Option A6: Transpower continues accessing the PWA via section 186 of the RMA with operational changes made for its access to be more efficient
	Option A7: Provide Transpower with direct access to the PWA
Sub issue related to options A1 and A2 - decision-making on compulsory acquisition of whenua Māori	Option A8: Minister for Māori Crown Relations or the Minister for Māori Development joint decision-maker with the Minister for Land Information
	Option A9: Minister for Land Information consults Minister for Māori Crown Relations or the Minister for Māori Development

Option A1 – Status quo – Decisions relating to land acquisition are made by the Minister for Land Information (with applications for acquisition by agreement assessed by LINZ).

36. This option would retain the status quo as follows:

- The Minister for Land Information would retain sign-off on compulsory acquisition, with LINZ providing advice to the Minister to consider.
- LINZ would continue to assess applications for acquisition by agreement, under delegation.
- NUOs must apply to the Minister to undertake the standard PWA land acquisition process on their behalf, if commercial negotiations fail.

This ensures LINZ and the Minister retain oversight of the operation of the PWA and that there is an independent check on acquisition powers. This is particularly important for compulsory acquisitions which are of higher risk, and more constitutionally significant in terms of the powers that are exercised. The Panel supports this power remaining with the Minister for Land Information.

37. This option prioritises accountability and regulatory oversight in all decision-making relating to land acquisition. However, applying for and awaiting decisions adds time to acquisition processes and may be unnecessarily onerous for lower-risk decisions (e.g. acquisition by agreement). This would not likely achieve the overall policy objective as agencies and entities would experience barriers to accessing the powers in the PWA to effectively deliver public works.

Option A2 – Enable the responsible Minister to sign off on compulsory acquisition

38. This option would give power to sign-off on compulsory acquisition to the responsible Minister (i.e. the relevant portfolio Minister, such as Transport or Education) rather than the Minister for Land Information. This is similar to current arrangements for the NZRC who owns the land beneath the KiwiRail railway network on behalf of the Crown, and where powers are conferred and imposed on the responsible Minister.⁹

39. This option would mean that the powers relating to compulsory acquisition remain with a Minister of the Crown, providing an appropriate transparency and accountability and reflecting the constitutional significance of that power. In practice, the responsible

⁹ Provided by section 30 of the New Zealand Railways Corporation Act 1981.

department (rather than LINZ) would make an assessment and provide advice to their Minister.

Option A3 – Delegate acquisitions by agreement to NZTA as the highest PWA user

40. NZTA is currently the highest Crown user of the PWA (making up approximately 93 percent of all acquisitions). This option would provide NZTA with greater autonomy to enter into acquisition by agreement, which are considered to be lower risk, rather than having applications assessed by LINZ. The Panel supports this option. NZTA is currently the highest Crown user of the PWA (making up approximately 93 percent of all acquisitions).
41. To give effect to this, the Minister for Land Information would delegate powers outside of LINZ (but would still retain ultimate responsibility under the PWA for decisions made). The mechanism will allow delegation to other frequent Crown users that have in-house PWA resourcing and knowledge to create efficiencies. Delegating powers would require the approval of users' responsible ministers (i.e. the Minister of Transport should approve the delegation of any powers to NZTA). This option is supported by the Panel.
42. While frequent users of the PWA (such as NZTA) have experience of the system as a customer, they would need to develop systems and processes to manage the statutory process themselves. Under the current system, operational process steps have been carried out by accredited suppliers on their behalf, further demonstrating the need to build PWA system knowledge to manage delegated authority. Ministers will need to consider whether users (agencies/entities/departments) have appropriate resources to take over work currently conducted by LINZ. LINZ will need to thoroughly investigate these issues with affected users and their ministers.
43. This option would aim to create efficiencies in the decision-making process for a significant portion of Crown land acquisition decisions by agreement. Due to the scale of acquisitions performed by NZTA, the potential efficiency benefits could be significant.
44. In line with the delegation to LINZ of acquisition by agreement decisions, other lesser powers prior to compulsory acquisition could also be delegated to NZTA. This could be done without legislation.
45. The key trade-off with this option is that LINZ would have less oversight of these transactions. The Minister would retain sign-off for compulsory land acquisition, which is the strongest of powers available to the Crown, to provide greater accountability and a check on this power. LINZ would also retain a check on decisions by all other agencies that are lower users of the PWA, who may need to draw on LINZ's expertise and experience.
46. LINZ operates on a cost-recovery basis, so the removal of a large volume of its current work (i.e. NZTA acquisitions) would be removed through this option. This will impact on economies of scale and reduce capacity. Additional funding may be required to support LINZ to undertake the functions that remain with it when assessing and advising the Minister for Land Information on PWA decisions.

Option A4: Enable all Crown users to have autonomy for acquisition by agreement

47. Under this option, the Minister would delegate powers outside of LINZ to all Crown users to make decisions for themselves (i.e., extending Option A3 which provides this for the highest user).
48. As other agencies do not acquire land as frequently and routinely as NZTA, there is a risk that they will not possess the required system knowledge or resources to support this change, instead relying on LINZ expertise. The Panel noted that it may be more efficient for LINZ to continue its role and support for these other agencies accordingly.

49. Under this option, Crown users may be able to seek advice from LINZ to support this process, but this would depend on funding arrangements.¹⁰
50. In contrast to applying changes to Crown users universally, Option A3 retains the ability to delegate acquisition by agreement functions beyond NZTA on a case-by-case basis, if other agencies develop further resourcing and experience.

Option A5: Provide LINZ with regulatory tools in the PWA

51. The need for this option is dependent on what other options are progressed. If decision-making is devolved to responsible portfolio Ministers and/or agencies under delegation and Transpower is provided direct access, there may be a need to increase LINZ's regulatory tools to be able to act as an effective regulatory steward (as LINZ may no longer perform an active role in decision-making). Reduced visibility of PWA transactions will mean that LINZ is less able to proactively respond to PWA system issues or ensure consistency in how PWA functions are exercised.
52. This option would provide LINZ with new tools and methods such as an ability to seek notification of PWA actions, so it can collect data and monitor the health of the regulatory system and identify and respond to any emerging risks, trends or issues. LINZ would take on a more active system and regulatory stewardship role, such as auditing and ensuring consistent practice, rather than be involved in the details of the acquisition process itself.
53. LINZ would take a risk-based, evidence driven approach to the use of regulatory tools, recognising that the main users of the PWA are other Crown agencies. The tools would not be intended to increase regulatory burden to the extent that any efficiency gains achieved through devolved decision-making are outweighed.
54. LINZ is undertaking analysis on specific options for what these tools would look like, to support and inform further policy decisions.

Providing Transpower with access to the PWA

55. Transpower is a SOE that owns and operates National Grid (Grid) infrastructure for transmitting electricity. Transpower expects a growing need to acquire land interests including compulsorily in coming years to build new and upgrade existing critical infrastructure. This will support significant growing demands on the Grid, security of supply, and decarbonisation goals. Increasing transmission capacity is necessary to achieve the Government's goal of doubling the supply of renewable energy.
56. As an SOE, Transpower's access to the PWA is less direct than Crown agencies and local authorities. Access is through its status as a NUO under the RMA. Section 186 of the RMA allows NUOs that are requiring authorities to apply to the Minister for Land Information to use PWA powers. Land acquired under the PWA then vests in the NUO rather than the Crown.
57. Transpower's existing process for accessing the PWA is inefficient and a cause of delays in infrastructure projects, which will prevent it from increasing transmission capacity. The rationale for changing Transpower's access to the PWA is that it would support meeting the Government's renewable energy goals, and that Transpower's access to the PWA is less direct than the NZRC, which is also an SOE that delivers national linear infrastructure. The NZRC has direct access to the PWA through the New Zealand Railways Corporation Act 1981, rather than having to rely on the RMA mechanism (although other SOEs, like Kordia, do not have direct PWA access).

¹⁰ as KiwiRail does currently under their arrangements in the New Zealand Railways Corporation Act 1981

58. From its experience, Transpower considers that the section 186 RMA process adds at least 12 months to acquire land compulsorily compared with arrangements for other users. Transpower has also raised concerns that if its application to use the PWA is successful, LINZ takes over the acquisition process and PWA acquisitions which weakens their relationship with landowners.¹¹
59. SOEs, Transpower, NZRC, and KiwiRail (which gains land via NZRC) are the primary providers of large-scale national linear infrastructure. Other SOEs are not known to require or seek greater access to PWA powers, and so analysis focused on Transpower.
60. Consideration was not given to extending PWA powers to NUOs other than Transpower. NUOs are usually privately owned. The Panel advised that the PWA is not well-suited for use by private infrastructure providers, and that section 186 of the RMA remains an appropriate check for them.

Option A6: Transpower continues accessing the PWA via section 186 of the RMA with operational changes made for its access to be more efficient status quo

61. Transpower would continue to access the PWA via the section 186 RMA mechanism, following attempts at negotiating commercially. A standard PWA process would follow, including a minimum of three-months good faith negotiations under the PWA. However, this process would be made more efficient and streamlined by improvements made across the package of options in this review (e.g. changes to the objections process) and operational improvements. This option is supported by the Expert Advisory Panel and preferred by LINZ.

Option A7: Provide Transpower with direct access to the PWA

62. This option would involve a legislative amendment to allow Transpower to access the PWA directly, so it does not need to use section 186 of the RMA. It would give Transpower similar access to the NZRC.¹² This option is the Minister's preferred option.
63. This option would not limit Transpower's ability to acquire land outside of the PWA. Its access would be as follows:
- Transpower could initiate a negotiated PWA acquisition itself (that is, put the owners on notice that if the land is not acquired by commercial agreement, it would be acquired under the PWA) and enter into a negotiated PWA agreement itself (rather than through the Minister for Land Information).
 - The Minister for Land Information would still make any compulsory acquisition decisions (that is, the decision to issue a Section 23 Notice of Intention and to recommend a Proclamation).
 - If Transpower has put the owners on notice, and then reaches agreement or compulsorily acquires it, it would be a PWA agreement with all the disposal requirements attached.
 - Land acquired or taken under the PWA would vest in Transpower, rather than the Crown.

¹¹ Currently, when Transpower applies to the Minister and gets approval to use PWA powers, an accredited supplier is appointed by LINZ to carry out negotiations with landowners and other PWA operational processes on behalf of Transpower.

¹² NZRC is an SOE which has direct access to PWA powers under the New Zealand Railways Corporation Act 1981. This arrangement is for the benefit of providing land to KiwiRail, another SOE. It allows NZRC to undertake most PWA actions itself and to apply to its responsible Minister (the Minister for State-Owned Enterprises) for compulsory acquisition decisions.

Sub issue related to options A1 and A2 - decision-making on compulsory acquisition of whenua Māori

64. The tenure and ownership for Māori freehold land under TTWMA is based on the principle of retention of land by its owners, their whānau and hapū. The Māori land tenure system has significant restrictions on the transfer of ownership. Most Māori freehold land has multiple owners and there are various statutory management structures and other methods for owners to use to make decisions about the land. The Māori Land Court has a role in scrutinising most dealings with Māori freehold land.
65. The power to compulsorily acquire whenua Māori is contentious. Historically, public works legislation has played a significant role in the Crown's alienation of whenua Māori. Whenua Māori is recognised in TTWMA as taonga tuku iho (cultural treasure handed down from ancestors). Retaining their connection to ancestral lands is of cultural and spiritual significance to Māori. The proportion of Māori freehold land is currently around five percent of New Zealand's total land area.
66. Compulsory acquisition of Māori land is rare due to operational practice, and make up a very small category of acquisitions, but are contentious decisions and create risk for the Māori Crown relationship. Involvement of the Minister for Māori Crown Relations (for land that returned as part of a Treaty settlement) or the Minister for Māori Development (for land covered by TTWMA) may build trust in the decision-making process by ensuring the Minister for Land Information is sufficiently informed of whenua Māori and Māori Crown relations matters relating to the acquisition. The Panel supported these Ministers having a decision-making role in section 23 notices for Māori land.
67. Options A8 and A9 affect Crown acquisitions but not local authority acquisitions, as the Minister for Land Information does not have a role in section 23 notices issued by local authorities.

Option A8: Minister for Māori Crown Relations or the Minister for Māori Development are joint decision-makers with the Minister for Land Information

68. Under this option, the Minister for Māori Crown Relations or the Minister for Māori Development would be joint decision-makers with the Minister for Land Information¹³. Joint decision-making would be for section 23 notices for the compulsory acquisition of protected Māori land. This option is the Minister's proposed option.
69. This option creates an additional procedural step, but only for a small category of acquisitions. It would result in greater oversight and accountability for contentious decisions with a high level of risk to the Māori Crown relationship.

Option A9: Minister for Land Information consults Minister for Māori Crown Relations or the Minister for Māori Development

70. Under this option, the Minister for Land Information would consult the Minister for Māori Crown Relations or the Minister for Māori Development. Consultation would be for decisions on section 23 notices for the compulsory acquisition of protected Māori land. This option is LINZ's preferred option.

¹³ the Minister for Māori Crown Relations for land specified in s11(1)(e), (f), or (i) of the 'protected Māori land' definition in the Infrastructure Funding and Financing Act 2020, or the Minister for Māori Development for other land specified in s11(1) of the 'protected Māori land' definition in the Infrastructure Funding and Financing Act 2020.

71. This option is consistent with a streamlined process and accountabilities for land acquisitions for public works. It may build trust in the decision-making processes by ensuring the Minister for Land Information is sufficiently informed before making a decision. However, this also creates an additional procedural step for a small category of acquisitions.

Proactive Release

Issue A1 – Access to the PWA

How do the options compare to the status quo?

Option assessment criteria	Options						
	Status quo	Options for compulsory decision-making	Options for providing Crown agencies with autonomy for acquisitions by agreement (mutually exclusive options)		Options for regulatory tools	Options for providing Transpower with access to the PWA (mutually exclusive options)	
	Option A1 - Status quo across all options Decisions relating to land acquisition are made by the Minister for Land Information (with applications for acquisition by agreement assessed by LINZ).	Option A2 – Responsible Minister to sign off compulsory acquisition	Option A3 – Delegate to NZTA for acquisition by agreement	Option A4 – All Crown agencies have autonomy for acquisition by agreement	Option A5 – LINZ Regulatory Tools	Option A6 – Transpower continues accessing the PWA via section 186 of the RMA (status quo) with operational changes made for its access to be more efficient	Option A7 – providing Transpower with direct access
Efficiency	0	- Likely to reduce efficiency by spreading knowledge, support, and advice across several agencies to support multiple Ministers making decisions.	++ Reduced duplication as LINZ expertise not required (noting that NZTA will need to develop system knowledge and processes, as they do not currently make any statutory PWA decisions). NZTA can make decisions without seeking further approval. Can be delegated to other agencies if they become high users.	0 Increased autonomy, however, not all agencies may have expertise and experience in PWA. Key risk that agencies may still want to lean on LINZ expertise, resulting in double handling.	0 LINZ would be less involved in day-to-day operation of the PWA, increasing efficiency in acquisition process (with lesser powers delegated to highest user).	++ Transpower's access to the PWA would be unchanged, but the processes would be more efficient and streamlined due to improvements made by the current review and operational improvements.	++ Transpower would be able to initiate PWA acquisition processes and enter into agreements without Ministerial agreement or having to have negotiated first, saving time in acquiring land. This would remove process duplication and save time.
Effectiveness	0	0 Would retain constitutionally significant powers with Minister of the Crown. However, unlikely to increase effectiveness in practice (duplicating existing process).	++ Would enable NZTA to deliver public works effectively. Maintains degree of system oversight and consistency with the Minister retaining oversight of higher risk decisions (compulsory).	++ It is unlikely that all agencies have the capability and expertise for this option to be effective. Agencies would likely want to continue to seek advice from LINZ.	++ LINZ would perform greater oversight role to help ensure consistency and compliance. Would support effectiveness of Option A2 and A3.	++ As Transpower is a state-owned enterprise, option 1 affords better oversight and protection by Government over the use of PWA processes.	++ Better enables Transpower's ability to acquire land when agreement cannot be reached so it can deliver infrastructure. Reduces system oversight. Transpower may need to build in-house capability to implement PWA activities effectively. Regulatory tools (option A5) would also apply to balance a reduction of oversight.

Clarity	0	- Multiple Ministers would be involved in compulsory acquisition decisions, reducing clarity.	0 Would add another process to an already fragmented regime. There would be less clarity about LINZ's role in the process and oversight of powers.	+ There would be consistency across all agencies for who the decision maker is for lesser powers. While LINZ standards and guidelines would need to be followed, there may be inconsistencies in approach for how those decisions are made across agencies.	+ Would assist in clarifying the change of LINZ's role in the system alongside other changes. Increased monitoring role would help add clarity in process for users.	0 S186 RMA mechanism is a protection that makes the shift from commercial negotiations to PWA powers and process clear to landowners.	- Landowners may find it confusing/unclear when a negotiation switches from being commercial (outside of the PWA) to a PWA negotiation, and how this impacts their rights. Standards, guidelines and other mitigations would likely be in place to account for this.
Feasibility	0	0 Agencies are unlikely to have the capability and expertise to perform this function. Would likely require additional resource and time for agencies to build up capability and new processes.	+ Assumes that NZTA currently has necessary expertise and capability to take on this function (could require additional resource). Would remove a significant volume LINZ's current work and free up capacity.	+ Would likely require additional resource and time for agencies to build up capability and new processes.	++ May require additional resource to build required function within LINZ, noting changes to funding mechanisms may be needed because of NZTA having greater autonomy in decision-making	+ Relies on changes to other parts of the system for improvements, but otherwise very little change to status quo for Transpower access.	+ Would require Transpower to build in-house PWA capability to deliver negotiations and agreement themselves. However, has buy-in from Transpower which may ease the transition.
Supported by Expert Advisory Panel	✓ Minister for Land information retaining sign-off on compulsory acquisition.		✓		✓ LINZ needs suitable regulatory tools but significantly increased regulatory intervention is not necessary	✓	
Total	0 Preferred option against A2) – with Minister for Land information retaining sign-off on compulsory acquisition.	-- Not recommended – unlikely to increase efficiency or effectiveness and achieve the policy objective. Would create duplication and require additional resource to build capability.	++++ Preferred option – likely to achieve the policy objective by delegating acquisition by agreement to agency with greatest resource, while retaining accountability for compulsory acquisition.	+++ Not recommended – unlikely to achieve the policy objective as most agencies are not frequent users of the PWA and do not have the established expertise and capability.	+++++ Preferred option (on basis that Option A3 is progressed). Would ensure oversight over system with change in LINZ's role from active decision-making.	+++ LINZ preferred option - The current mechanisms would remain with the related clarity and oversight benefits, with broader efficiency improvements resulting from the review.	+++ Option in Cabinet paper - Transpower would gain direct access to the PWA, speeding up the acquisition process so Transpower can better deliver transmission infrastructure. However, the system would be less clear and would require Transpower to build up new capability to undertake PWA activities.

Sub issue related to options A1 and A2 - decision-making on compulsory acquisition of whenua Māori

How do the options compare to the status quo?

Option assessment criteria	Options		
	Status quo	Options for decision making (mutually exclusive)	
	Option A1 - status quo	Option A8 – Minister for Māori Crown Relations or the Minister for Māori Development joint decision-maker with the Minister for Land Information	Option A9 – Minister for Land Information consults Minister for Māori Crown Relations or the Minister for Māori Development
Efficiency	0	<div>-</div> <p>Creates an additional procedural step that could cause a delay to acquisition processes until all decision-makers have considered the issue and reached a joint decision</p>	<div>+</div> <p>Like option A8, this would create an additional process step that could delay acquisition processes. However, having one decision-maker would likely make this process more timely.</p>
Effectiveness	0	<div>+</div> <p>This option would ensure the relevant legislation, interests, and Treaty settlement considerations have been considered, improving confidence in PWA decision-making and acceptance of decisions (potentially mitigating risk of objections or delays later in the process)</p>	<div>+</div> <p>This option would ensure the relevant legislation, interests, and Treaty settlement considerations have been considered, improving confidence in PWA decision-making and acceptance of decisions (potentially mitigating risk of objections or delays later in the process)</p>
Clarity	0	<div>+</div> <p>The process for joint decision-making will be set out in the PWA. This will ensure that decision-making processes are transparent and accessible for affected landowners.</p>	<div>+</div> <p>The process for consultation will be specified in the PWA. This will ensure that decision-making processes are transparent and accessible for affected landowners.</p>
Feasibility	0	<div>0</div> <p>Agencies may need to update or implement new processes for identifying whether land (they are interested in acquiring) is protected Māori land. LINZ would need to produce or update guidance to support agencies and develop processes to support joint ministers.</p> <p>This option relies on multiple decision makers to move onto the next process step, so ministers having time and resource available to decide will be key.</p>	<div>0</div> <p>Agencies may need to update or implement new processes for identifying whether land (they are interested in acquiring) is protected Māori land. LINZ would need to produce or update guidance to support agencies and develop processes to support the Minister for Land Information to consult.</p>
Supported by Expert Advisory Panel		<div>✓</div>	<div>✓</div>
Total	0	<div>+</div> <p>Option in Cabinet paper - Greater oversight and accountability for contentious decisions with a high level of risk to the Māori Crown relationship. Additional procedural step, which may delay acquisition processes.</p>	<div>+++</div> <p>Preferred option - Consistent with a streamlined process and accountabilities for land acquisitions for public works. May build trust in the decision-making process by ensuring the Minister for Land Information is sufficiently informed before deciding. Additional procedural step but does not rely on multiple decision-makers to move to the next process step.</p>

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

72. LINZ's preferred package of options to be progressed together are:

- **Option A1: Status Quo (in part)** – Minister for Land information retains sign-off on compulsory acquisition
- **Option A3:** Delegate acquisitions by agreement to NZTA as the highest PWA user and other agencies may apply if they become high users
- **Option A5:** Provide LINZ with regulatory tools in the PWA (*as option A3 above is preferred*)
- **Option A6:** Non-legislative operational changes to improve Transpower's current access
- **Option A9** – Minister for Land Information consults Minister for Māori Crown Relations or the Minister for Māori Development.

73. Retaining the **status quo (in part)** while enabling the highest Crown user (NZTA) to have autonomy for lesser powers (**Option A3**) is the overall preferred option. This is most likely to achieve the policy objective by creating efficiencies for lower risk acquisitions that make up a significant portion of overall land acquisition volumes (while still applying necessary expertise as the highest user).¹⁴ Higher risk acquisitions of greater constitutional significance would be subject to the appropriate levels of accountability and transparency by maintaining the **status quo (in part)**, with the Minister retaining powers in relation to compulsory acquisition.

74. Having the consideration of compulsory acquisitions remain with a Minister of the Crown will provide appropriate transparency and accountability and reflect the constitutional significance of these powers. Ultimately, officials consider there is a need to provide political accountability for the decision to compulsorily acquire land and have a degree of separation from the agency responsible for project delivery.

75. **Option A2** (responsible Minister to sign off) would retain accountability and transparency with decisions made by a Minister of the Crown, but it is not likely to achieve the policy objective in practice. While it may aim to create efficiencies as each agency would have knowledge of their specific projects, agencies would need to build the necessary capability and resource to provide advice to their responsible Minister on PWA matters. Many Crown agencies do not use the PWA frequently and would be unlikely to have the capability and expertise to perform this function, whereas LINZ has the relevant expertise and capability to provide advice and administer the Act. In practice, it is likely that agencies would continue to seek advice from LINZ under this option.

76. **Option A5** has been identified as a preferred option to accompany the changes that would be made through **Option A3**. Officials recommend that LINZ adopt a more active system and regulatory stewardship role, through specific regulatory tools in the PWA, to act as a sufficient safeguard against the oversight that would be foregone through enabling the highest Crown user (NZTA) to have autonomy for lesser powers.

77. **Option A6** (non-legislative changes to improve Transpower access) is LINZ's preferred option for Transpower access to the PWA as it provides greater PWA system integrity.

¹⁴ As noted above, NZTA make up approximately 93% of the Crown's acquisition activity and would have necessary expertise and experience to have access to lesser powers (in comparison to other agencies).

Under this option, processes would be more efficient through operational changes and benefitting from wider review improvements. Appropriate checks and balances are maintained over Transpower's compulsory acquisition powers, and there is a clear distinction between its commercial negotiations and its use of the PWA powers. Option A6 is also preferred by the Panel.

78. **Option A7** (providing Transpower with direct access to the PWA) is preferred by the Minister for Land Information. It is feasible and able to be implemented and may better serve the efficiency objectives of the review by removing process duplications that cause delays and better meet the Government's energy priorities. System integrity concerns could be addressed by strengthened regulatory tools (**Option A5**).

Sub-issue related to option A1 - decision-making on compulsory acquisition of whenua Māori

79. **Option A9** (consultation) is LINZ's preferred option for decision-making on compulsory acquisition of whenua Māori. This option improves oversight and accountability for compulsory acquisitions of protected Māori land. It is consistent with the streamlined process and accountability for land acquisition for public works and will enable processes to continue without relying on multiple decision-makers coordinating and reaching consensus. **Option A8** (joint decision-makers) achieves many of the same goals but risks additional and extended delays in the process.

What are the marginal costs and benefits of the options?

Affected groups	Comment.	Impact.	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Crown users (e.g., NZTA)	NZTA (as highest Crown user) may need additional resource over time to support change in autonomy for lesser powers.	Medium	Medium
LINZ (as the regulator)	Additional funding may be required to support change in regulatory role (noting the significantly decreased volume of NZTA acquisitions under current cost-recovery model will impact on economies of scale).	Medium	High
Others (e.g., wider govt, consumers, etc.)	-	—	—
Non-monetised costs		Medium	Medium-High
Additional benefits of the preferred option compared to taking no action			
Crown users (e.g., NZTA)	Highest crown users will experience efficiency gains through greater autonomy.	High	High
LINZ (as the regulator)	Additional tools would clarify LINZ's role in system and enable LINZ to be a more effective regulator of the PWA system.	Medium	Medium
Others (e.g., wider govt, consumers, etc.)	Confidence in the land acquisition system is maintained, with	Medium	High

	<p>powers relating to compulsory acquisition remaining with the Minister for Land Information. There would also be greater consistency across PWA behaviours.</p> <p>Transpower would benefit from improved, more efficient PWA acquisition processes.</p> <p>Māori and the broader public can have increased confidence that decisions about compulsory acquisitions of protected Māori land</p>		
Non-monetised benefits		Medium-High	Medium

Issue A2 – Joint projects

Section 1: Diagnosing the policy problem

Context behind the policy problem

80. Acquiring authorities must often work alongside each other for interconnected public works, such as the development of a motorway with connections to local roads and other transportation hubs (a current example being the RiverLink project in Lower Hutt).¹⁵ It is also common in the modern infrastructure environment to relocate third party infrastructure to enable a project to be delivered, which requires NUOs and acquiring agencies to work together, and coordinate with landowners.
81. The PWA does not provide for one acquiring authority to act on behalf of another, or others, when acquiring land from a single landowner for multiple public works with interrelated or parallel objectives.
82. The Crown and local authorities can combine to deliver a public work provided for by section 224 of the PWA if the work meets the test of being of both national **and** local importance. In addition to providing for combined works, section 224 also enables collaboration where a work may not meet the definition of a 'public work' under the PWA, which is the rationale for having a threshold in place to serve as a check on that power. This provision is rarely used due to the high threshold.

What is the policy problem or opportunity?

83. The policy problem is that the PWA does not enable users to acquire land on behalf of other users except through the section 224 mechanism, and the threshold to use section 224 is too high. This can create a barrier to facilitating a collaborative approach to public works with shared or related objectives and create inefficiencies in the process to acquire land for projects where multiple users have a role in project delivery.

¹⁵ RiverLink is an infrastructure project involving Greater Wellington, Hutt City Council, and Waka Kotahi NZ Transport Agency, with several parties needing to acquire land under the PWA.

84. The inability of users to join up to acquire land causes inefficiencies, higher costs and creates unnecessary duplication and fragmentation. It could result in multiple acquisitions (each by a different agency) from the same landowner for the specific interest required by that acquiring authority. Stakeholders expressed that the PWA does not appropriately recognise and facilitate the modern environment of integrated public works that involve multiple agencies for the same project (or interconnected works).
85. There is an opportunity to amend the PWA to provide greater flexibility for agencies and entities to work together collaboratively to acquire land for works. Crown and local authority users would benefit from change.

What objectives are sought in relation to the policy problem?

86. The policy objective is to enable better collaboration to support the delivery of joint works through providing greater flexibility for agencies to work together. The following outcomes are also sought; reduced duplication and inefficiencies where land is required by multiple agencies.

Options considered

87. This section outlines the options that were considered. A combination of options can be progressed as a package to enable joint works. The options are:

Status quo	Option A10 – Status quo: The Crown and local authorities can combine to deliver a public work if the work meets the test of being of both national and local significance.
Options for joint works	Option A11: Provide for combined public works
	Option A12: Enable joint public works between users and wider partners e.g., private providers or Māori/iwi (Kāinga Ora model). Land may be transferred (including to a developer) to undertake the specified work despite sections 40-42 of the Public Works Act.
Option for improving flexibility for acquiring land where there is third party infrastructure	Option A13: Enable the Crown and local authorities to acquire land where that land is necessary to relocate or reinstate private third-party infrastructure which is affected by a public work.

Option A10 Status quo –The Crown and local authorities can combine to deliver a public work if the work meets the test of being of both national and local significance

88. The status quo (that a project must be of both national and local importance and approved by the Minister of Finance and another Minister) would not address the policy objective and would not support the Government's wider infrastructure commitments considering the modern project delivery environment where there are greater demands for collaboration.
89. The status quo does not provide an ability to 'combine' for joint works when working in areas with shared land requirements. Separately negotiated acquisitions by multiple agencies and entities may confuse and inconvenience landowners or may provide for differing points of leverage.

Option A11 – Provide for combined public works between entities that have public works powers so that one entity can acquire land on behalf of others, and the land may then be transferred between those entities

90. This option would create a new mechanism, to allow for the Minister for Land Information to authorise a combined acquisition project between entities that have public works powers so that one entity can acquire land on behalf of others, and the land may then be transferred between those entities. Section 224 would be retained.
91. This option would be similar to section 224, but simpler and more enabling, so that it could be used more frequently. The Minister for Land Information would need to authorise the agencies to acquire land jointly. The work would need to be a “public work” and would be subject to the PWA’s offer back requirements (unlike in section 224, and which adds to the need for a high threshold in that section).
92. In practice, this would mean that one party could act on behalf of itself and others to acquire the required land for a joint project, and landowners would be able to deal with one party rather than receive approaches from multiple agencies and entities.

Option A12 – Provide special powers for the acquisition of land for specified works for PWA users (Kāinga Ora model)

93. The Urban Development Act 2020 (UDA) provides Kāinga Ora with powers to acquire (either through agreement or by compulsory acquisition through the Minister), develop and transfer land when it initiates, facilitates, or undertakes any work for the purpose of urban development.
94. This option would mirror the provisions in the UDA and provide special powers for specified works initiated, facilitated or undertaken by PWA users.¹⁶ ‘Specified work’ would mean work for the purpose of a public good. Land that is transferred, acquired, or taken would be held for a specified work (instead of a public work). Land would be vested fee simple to the lead user. Land may also be transferred (including to a developer) to undertake the specified work despite sections 40-42 of the PWA (offer back). The obligation to offer back land that was taken for public works to its original owners acts as a balance to the significance of public works powers. Offer back can be contentious as historically the Crown has not met its offer back obligations particularly regarding Crown holding of Māori land, contributing to the further alienation of whenua Māori.
95. Enabling the transfer and vesting in land to private parties outside of the Crown and local authorities would greatly widen the access to public works. This option is likely to be contentious due to the circumvention of offer back which would remove the obligation for the Crown to offer back land to original owners and could contribute to the further alienation of whenua Māori where the land is Māori land.

Option A13 - Enable the Crown and local authorities to acquire land where that land is necessary to relocate or reinstate private third-party infrastructure which is affected by a public work.

96. Officials have also identified an option to provide flexibility for Crown agencies and entities to effectively acquire land where there may be third party infrastructure.
97. A 2013 Supreme Court decision *Seaton vs Minister for Land Information*¹⁷ provides that when a government work requires relocation of an NUO’s infrastructure onto other

¹⁶ The Crown or local authorities (and/or NUO depending on recognition).

¹⁷ *Seaton v Minister for Land Information* [2013] NZSC 42

private land,¹⁸ the NUO must acquire the land that the infrastructure is to be relocated onto separately.

98. The *Seaton* decision has had significant implications for the delivery of public works where the works require relocation of NUO infrastructure (such as power lines). Before the decision, the Crown had operated on the basis that land could be acquired to relocate NUO infrastructure. The *Seaton* decision requires that NUO to negotiate directly with a landowner for land to relocate the infrastructure, including applying under section 186 of the RMA for the use of compulsory acquisition if necessary.
99. The judgement creates inflexibility, additional complexity, duplication and increases project timeframes. It particularly impacts large linear infrastructure projects, such as roading or railway lines, which are likely to cross significant areas of land with existing infrastructure operated by third parties. This option (**A13**) would amend the PWA to enable entities to acquire land to relocate third party infrastructure. Amendments to section 16 of the PWA would be required to clarify that an acquiring entity may acquire land for the purposes of relocating affected third party infrastructure. This would be subject to certain limitations, including that this would only apply where:
 - the third party would otherwise also be empowered to take land under the PWA or under section 186 of the RMA (i.e. not allowing compulsory acquisitions that are not already allowed), and
 - the relocation is essential to completion of the Crown agencies' works (to prevent land being acquired unnecessarily, or to circumvent good practice that would otherwise be required of a third party).
 - This option was strongly supported by the Panel as it was raised frequently in the Panel's targeted consultations.

¹⁸ In *Seaton*, NZTA was undertaking a road-widening project and wanted to move 3 electricity towers owned by a NUO onto the appellant's land for safety reasons.

Issue A2 – Joint Projects

How do the options compare to the status quo?

Option assessment criteria	Options			
	Status quo	Options for joint works (mutually exclusive options)		Option for improving flexibility for acquiring land where there is third party infrastructure
	Option A10 – Crown and local authorities can combine to deliver a public work if the work is both national and local significance.	Option A11 – Provide for combined public works	Option A12 – Provide special powers for specified works (Kāinga Ora model model)	Option A13 - Enable land to be acquired to relocate affected infrastructure
Efficiency	0	<div>+</div> <div>Would reduce duplication in the acquisition process and use of agency resources, with one agency able to act on behalf of itself and others.</div>	<div>+</div> <div>Would provide Crown agencies and local authorities with greater ability to collaborate on infrastructure projects, better reflecting modern practice.</div>	<div>+</div> <div>Would reduce duplication in the acquisition process and use of agency resources, with one agency able to act on behalf of itself and others.</div>
Effectiveness	0	<div>++</div> <div>Would enable functions currently not provided for in the Act</div>	<div>+</div> <div>Would enable access to joint works under a provision that is more straightforward to achieve.</div>	<div>+</div> <div>Would enable functions currently not explicitly provided for in the Act (based on Courts interpretation)</div>
Clarity	0	<div>+</div> <div>Likely to create greater clarity for acquiring agencies and entities with better understanding of how to undertake collaborative works in a way that better reflects the modern project delivery environment.</div>	<div>-</div> <div>May be unclear what a 'public good' is in this context and when the provision can be used. May generate inconsistency and transparency issues, particularly if it provides access outside of Crown/local authorities.</div>	<div>+</div> <div>Likely to create greater clarity for acquiring agencies that they can undertake public works in the most straightforward way</div>
Feasibility	0	<div>+</div> <div>Would provide a threshold for joint works that can be met (as current provision largely unused). May require process and guidance changes to implement, particularly any requirements for clear and shared system objectives.</div>	<div>0</div> <div>Would widen access outside of the Crown/local authorities, potentially outside of what is understood as a public work and going beyond the scope of the principles of the PWA. Likely to be contentious due to potential circumvention of offer-back</div>	<div>++</div> <div>Function was practised before <i>Seaton</i> decision. May require updated guidelines to ensure best practise for acquiring authorities and landowners.</div>
Supported by Expert Advisory Panel		<div>✓</div>		<div>✓</div>
Total	0	<div>+++++</div> <div>Preferred option - Would enable greater access to current provision that is relatively untested (due to high threshold), reducing duplication in acquisition proves and use of agency resources. Would enable one agency to act on behalf of itself and others.</div>	<div>+</div> <div>Improves access to joint projects by using a more achievable test, but likely contentious due to relationship with offer-back provisions and by widening PWA access beyond Crown and local authorities</div>	<div>+++++</div> <div>Preferred option - Would improve flexibility, reduce complexity, duplication and project timeframes particularly for large linear projects such as roading or railway.</div>

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

100. LINZ's preferred approach is that the following options are progressed together to best achieve the policy objective:
- **Option A11:** Provide for combined public works between entities that have public works powers
 - **Option A13:** Enable the Crown and local authorities to acquire land where that land is necessary to relocate or reinstate private third-party infrastructure which is affected by a public work
101. Providing for combined public works between entities that have public works powers (Option A11) and enabling the Crown and local authorities to acquire land where that land is necessary to relocate or reinstate private third-party infrastructure (**Option A13**) is the overall preferred option. These options progressed together would most likely achieve the policy objective by providing greater flexibility for agencies and entities to work together in the delivery of interconnected projects. The options would help ensure that settings under the PWA better reflect the modern project delivery environment and practice.
102. Appropriate safeguards would be built into the process to acknowledge that landowner rights are maintained, and that acquiring agencies and entities do not circumvent good practice by being provided with greater autonomy and flexibility. For example, a threshold for collaborative work would remain (albeit lower), and conditions placed on where Crown users acquire land to relocate third party infrastructure:
- the third party would otherwise also be empowered to take land under the PWA or request that of the Minister and
 - the relocation is essential to completion of the Crown agencies' works.

What are the marginal costs and benefits of the option?

Affected groups	Comment.	Impact.	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Landowners	May experience a loss of leverage in negotiations by only engaging with one agency, rather than being able to engage with each agency interested in acquiring land	Low/medium	Low
PWA users (Crown and local authorities)	May be some administrative costs to establish systems and processes (such as committees or memorandums of understanding) to support collaboration	Medium	Medium
Others (e.g., wider govt, consumers, etc.)	Cost to LINZ as a regulator to provide guidance and	Low	High

	advice on what constitutes clear and shared system objectives		
Non-monetised costs		Low- Medium	Low-Medium
Additional benefits of the preferred option compared to taking no action			
Landowners	Will likely benefit from dealing with one agency acting on behalf of itself and others, rather than receiving approaches from multiple agencies.	Medium	High
PWA users (Crown and local authorities)	Reduces the amount of time and resource required to separately acquire land needed for joint works, by enabling one agency to act on behalf of another.	High	High
Others (e.g., wider govt, consumers, etc.)			
Non-monetised benefits		Medium-High	High

Proactive Release

Issue A3 – Survey requirements

Section 1: Diagnosing the policy problem

Context behind the policy problem

103. The PWA requires users to undertake a full survey of land before the issuing of a Section 23 notice to identify the boundaries of the land being taken against the whole property.
104. Following notification to a landowner that their land may be acquired (via Section 18), a Section 23 Notice of Intention (NOI) may be served on a landowner. An NOI indicates to the landowner that a user (Crown/local authorities/NUO) intends to take the land compulsorily and negotiations have moved to this stage.
105. When land is being compulsorily taken at Section 23, a user must survey the land, prepare a survey plan of the land and lodge it the Surveyor-General. Users must engage a surveyor to meet this requirement, as they are qualified to prepare a full survey plan. The survey requirement at this Section makes sure that landowners are informed of what land will be acquired, and that users are sure of what they will acquire.
106. Because landowners are able to lodge an objection to acquisition at Section 23, a survey also serves the purpose of clearly supporting the legal objections process to understand what specific land is being objected to being acquired.

What is the policy problem or opportunity?

107. The policy problem is that the requirement to undertake a full land survey when issuing a Section 23 notice creates inefficiencies for PWA users. There are often changes in project design up until proclamation. In addition, large scale linear infrastructure projects can put pressure on the surveying workforce to undertake many full surveys of required land simultaneously, without which compulsory acquisition cannot proceed.
108. LINZ and NZTA have previously worked successfully with the Surveyor-General to create bespoke exemptions from the normal survey requirements for land for large linear transport projects. A reduction of survey requirements at Section 23 could reduce duplication at this stage of acquisition, while still ensuring landowners and users are fully informed. A full land survey (or similar) would be required at proclamation (Section 26) to enable issue of new titles to the affected land and give the landowner certainty on the boundaries of the remaining land. Crown and local authority users would benefit from reduced survey requirements.
109. Reduced survey requirements at this section does not reduce clarity over land required, particularly for objections of acquisitions. Aerial survey plans or similar have previously provided the detail required at this stage of acquisition.

What objectives are sought in relation to the policy problem?

110. The overarching policy objective is that PWA requirements and processes enable agencies and entities to deliver public works efficiently and effectively. The following outcomes are also sought:
 - required process steps occur at the appropriate time, reducing process duplication
 - Landowners are informed and understand how a public work may impact on their property rights.

What options are being considered?

111. This section outlines the options that were considered. The options are:

Status quo	Option A14 – Status quo: PWA users must undertake a full survey of land before the issuing of a Section 23 notice
Options for survey requirements at Section 23	Option A15: Reduce survey requirements at Section 23. Require a plan that identifies land to be taken that would need meet a Standard (specified by the Surveyor-General).
	Option A16: Operational changes to improve process and clarify requirements for land identification at Section 23.

Option A14 – Status Quo

112. PWA users must undertake a full survey of land before the issuing of a Section 23 notice to identify the boundaries of the land being taken against the whole property.
113. The status quo does not address the policy objective because it creates unnecessary process inefficiencies for PWA users.

Option A15 – Reduce the survey requirements at Section 23

114. This option clarifies that there is no need to provide a full survey until a compulsory acquisition occurs which saves on time before issuing a Section 23 notice. Requires a plan that identifies land to be taken as well as temporary lease areas to support the construction. The plan would need to meet a Standard (specified by the Surveyor-General) that is prepared and certified by a Licensed Cadastral Surveyor. The plan would include overlaying with imagery in most cases. However, that plan would not be a full cadastral survey subject to the Rules for Cadastral Survey (that would be the Section 26 survey). And would not need to be validated or approved by LINZ.
115. This option retains the need to prepare a full survey where it harms the cadastre otherwise, or where there are conflicts in the quality or definition of the underlying boundaries of affected parcels. A full removal of any survey requirements at Section 23 would not enable landowners (or potential purchasers) to identify the boundaries of the land that is to be taken, or temporarily leased. Removal would not enable landowners to be informed, interferes with objection rights and may increase litigation.

Option A16 – Operational changes to improve process and clarify requirements

116. This option builds on previous work by LINZ and NZTA with the Surveyor-General to create bespoke exemptions from the normal survey requirements for land for large linear transport projects. LINZ would continue to develop and clarify operational process to reduce survey requirements in certain circumstances. However, this approach would continue to be a bespoke workaround the legislation, rather than the legislation providing the enabling framework.

Issue A3 – Survey Requirements

How do the options compare to the status quo?

Option assessment criteria	Options		
	Status quo	Options for joint works (mutually exclusive options)	Option for improving flexibility for acquiring land where there is third party infrastructure
	Option A14 – PWA users must undertake a full survey of land before the issuing of a Section 23 notice	Option A15 – Reduce survey requirements at Section 23	Option A16 – Operational changes to improve process and clarify requirements
Efficiency	0	<div>++</div> <div>Reduces process step for PWA users, addressing delays in the acquisition process.</div>	<div>++</div> <div>Reduces process step for PWA users, addressing delays in the acquisition process.</div>
Effectiveness	0	<div>++</div> <div>Enables PWA users to focus on other requirements for s23 notices. Retains survey requirements at appropriate process stage, reducing duplication</div>	<div>+</div> <div>Enables PWA users to focus on other requirements for s23 notices. Retains survey requirements at appropriate process stage, reducing duplication however workarounds are bespoke and do not address the policy problem directly</div>
Clarity	0	<div>+</div> <div>Sets out requirements and exceptions in the legislation, supported by LINZ guidance to explain to landowners and PWA users when surveys are required</div>	<div>0</div> <div>The legislation sets out survey requirements as status quo, relies on relationships between users and the Surveyor-General to ensure bespoke approach meets requirements.</div>
Feasibility	0	<div>+</div> <div>Requires minor changes to legislation, and updates to LINZ guidance and standards.</div>	<div>+</div> <div>Does not require legislative change but updates to LINZ guidance and standards</div>
Supported by Expert Advisory Panel		<div>✓</div>	
Total	0	<div>+++++</div> <div>Requires minor updates to legislation that will streamline PWA process for PWA users, retaining survey requirements at the appropriate process step and reducing duplication</div>	<div>++++</div> <div>Requires bespoke workarounds for users that create efficiencies but do not improve clarity or effectiveness.</div>

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

117. **Option A15** (reduce survey requirements at section 23) is the preferred option and most likely to achieve the policy objective. This option improves the efficiency of PWA processes by removing unnecessary duplication and ensuring requirements are clearly set out in legislation. It ensures that survey requirements are retained at the appropriate process step, while enabling PWA users to effectively navigate the acquisition process.
118. Non-legislative options may not go far enough to address efficiency concerns for PWA users and may make the system less clear for landowners.

What are the marginal costs and benefits of the option?

Affected groups (identify)	Comment.	Impact	Evidence Certainty.
Additional costs of the preferred option compared to taking no action			
PWA users (Crown agencies, local authorities)	N/A		
Regulators (LINZ)	Cost to develop guidance/standards to assist landowners and PWA users with interpreting new requirements (including s26 survey)	Medium	High
Others (e.g., wider govt, consumers, etc.)	N/A		
Non-monetised costs		(High, medium or low)	
Additional benefits of the preferred option compared to taking no action			
PWA users (Crown agencies, local authorities)	Would save time and resource by avoiding duplication and process delay	High	High
Regulators (LINZ)	N/A		
Others (e.g., wider govt, consumers, etc.)	N/A		
Non-monetised benefits		(High, medium or low)	

Part B: Compensation

Incentivising early agreement, recognising inconvenience, and resolving disputes

119. Fair and transparent compensation settings are essential to a well-functioning public works system. A principle of the PWA is that landowners are entitled to full compensation for their land to ensure that their financial position is no better or worse than before any public work acquisition took place.
120. This part addresses whether current compensation arrangements provide a meaningful incentive for landowners and appropriately reflect the inconvenience imposed, and whether dispute procedures successfully balance matters of fairness and efficiency.
121. This part assesses proposed options relating to two issues:
 - **Issue 1 – Composition of compensation:** how much compensation is paid and when, including how to incentivise early agreement with landowners.
 - **Issue 2 – Process for determining compensation:** whether having compensation determined through the Land Valuation Tribunal aligns with the overall policy objective.

Issue B1 – Composition of compensation

Section 1: Diagnosing the policy problem

Context behind the policy problem

122. Compensation is available to landowners, as well as parties who have an interest in the land (such as a tenant), if that interest is acquired (or freed or discharged by a section 26 proclamation or a section 20 declaration) under the PWA.¹⁹ Landowners are entitled to various types of compensation under the PWA. The total amount of compensation can include the market value of the land to be acquired, reimbursement of reasonable costs incurred such as legal or relocation costs (disturbance payments) and business loss. Part 5 of the PWA sets out the types of compensation landowners may be entitled to.

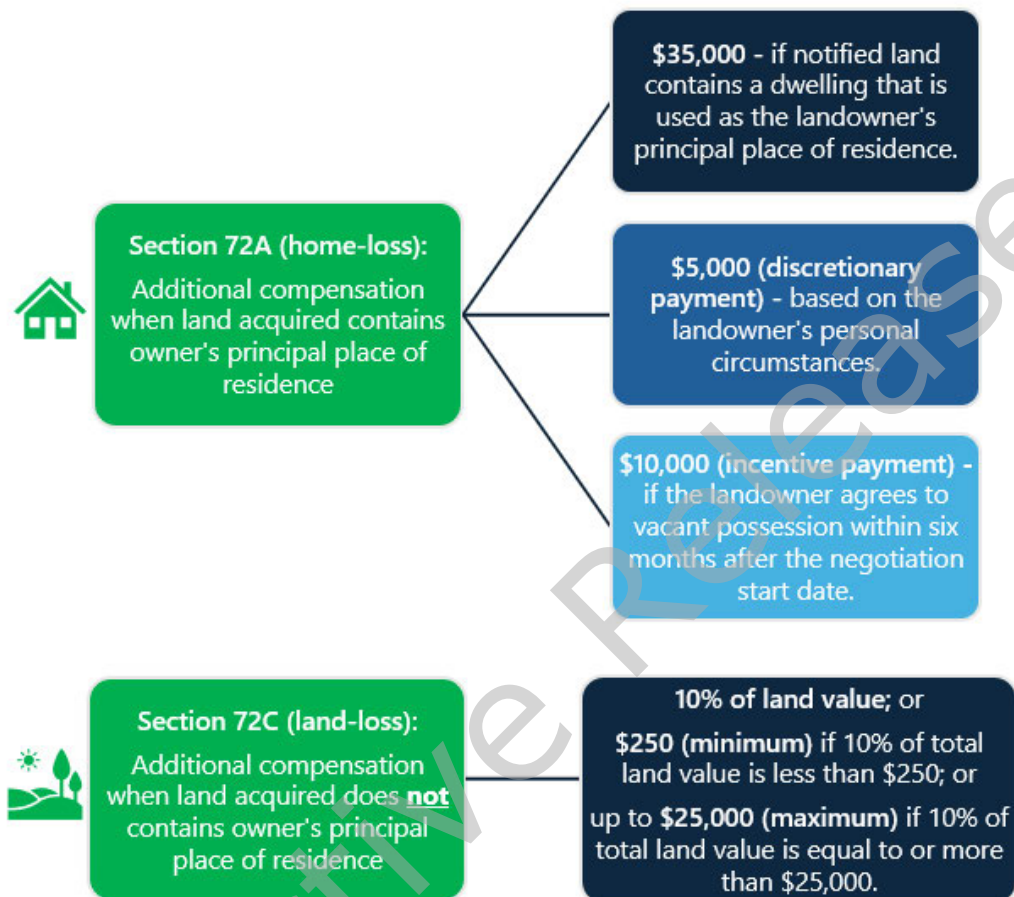
Additional compensation payments

123. Premium payments can also be offered to landowners to incentivise the sale of land. Provided that the decision is reasonable and fiscally responsible, agencies can offer the amount of compensation they deem necessary to secure agreement to acquire the land. However, premium payments are not widely used operationally, and practice is not well developed.
124. In 2017, reforms to the RMA made consequential amendments to the PWA to increase additional compensation payments for landowners. These intended to provide compensation for non-quantifiable losses, such as the impact of being forced to move from your home, have children move schools, and other uncalculatable costs. The intention was to better recognise the inconvenience of the PWA process for landowners.

¹⁹ Discharged from all mortgages, charges, claims, estates, or interests on proclamation or declaration.

125. Additional payments are only paid where an agreement is reached between a landowner and acquiring agency, and where vacant possession is given.
124. The different additional payment types (home-loss and land-loss payments) provided under the PWA are outlined in Diagram 2 below:

Diagram 2: Status quo additional compensation payments



Timing of payments

125. Generally, compensation is paid when the acquisition is settled, however in some cases an advance compensation payment will be made. Advance compensation agreements enable landowners to receive payment, and enable the acquiring agency or entity to receive possession, with full and final compensation negotiated or determined at a later date. This provides flexibility to allow for any potential claims that may arise from the construction of the public work (such as noise or flood risk) and for different views on valuations to be resolved. Advance compensation agreements occur in practice but are not expressly provided for within the PWA.

Development of the status quo

126. The efficient delivery of infrastructure is supported by early and upfront acquisition of land by agreement with the landowner. If no action is taken, compensation payments may not be adequate to incentivise landowners to reach agreement early in the acquisition process (i.e., at the initial offer stage or in subsequent early offers and negotiations). This would not support the overall policy objective.
127. The analysis of options in this part will sit alongside concurrent proposals for mandatory premium payments for landowners when their land is acquired for critical infrastructure projects.

What is the policy problem or opportunity?

128. The policy problem is that existing compensation arrangements (both the timing and quantum of payments) do not adequately incentivise landowners to reach agreement early, and do not appropriately recognise the inconvenience and disruption caused by the acquisition process. This can potentially slow down the process for acquiring land for public works and delay wider project delivery timeframes. In particular, the status quo compensation payments for home-loss and land-loss no longer appropriately reflect the inconvenience caused to landowners.
129. Acquisition by agreement (rather than by compulsion) is the best outcome under the PWA for all parties involved. There is an opportunity to provide meaningful incentives for landowners who reach early agreement (i.e., within the initial months of engagement and negotiation). There is an opportunity to reduce the timeframes for acquiring agencies to secure land through an improved compensation regime and reduce the likelihood of downstream delays caused by objections or difficulties in obtaining possession.
130. There is also opportunity to clarify timing of compensation payments to bring the PWA up to date with existing practice. This would involve streamlining the process for when compensation is paid after land has been taken by proclamation to allow landowners to receive compensation as soon as possible.

Iwi/Māori interests

131. Tangata whenua have strong interests in and connections to their lands, which the Treaty of Waitangi recognises and aims to protect. The historical context of Māori land has been a driver for the involvement of Māori landowners in disputes, including the effects of Māori land being valued less than non-Māori land.
132. Owners of Māori land may receive less compensation than equivalent general title land acquired under the PWA, due to adjustments in the valuation of Māori freehold land for multiple ownership and special significant sites. Valuers may apply a discount to the valuation based on Māori freehold land tenure. However, when the land is acquired by the Crown, it is considered that the land has the same value to the Crown as general title land. Crown practice is that the amount paid is that of comparable land.
133. The PWA does not recognise that multiple dwellings on Māori land can be separately owned. This means that where there are several dwellings, such as for papakāinga,²⁰ only one home-loss payment can be paid under the status quo.
134. A monetised value cannot necessarily be applied to Māori whenua, nor can it necessarily be replaced. It has non-monetised value and there could be options for addressing that value outside of the compensation regime (e.g., through bespoke solutions, like solatium payments).

What objectives are sought in relation to the policy problem?

135. The overarching policy objective is to ensure that the process for determining compensation can be undertaken in a timely way to facilitate the faster delivery of infrastructure. The following outcomes are also sought:
 - landowners are appropriately incentivised to reach agreement early in the acquisition process,

²⁰ Papakāinga refers to the development of housing on Māori land and can include other activities associated with the nature and function of the papakāinga.

- where the amount of compensation may be disputed, processes for determining compensation are timely, efficient and accessible for landowners, and
- owners of Māori land receive appropriate compensation for their land when it is acquired or taken.

Section 2: Deciding upon an option to address the policy problem

136. Experience in comparable jurisdictions for incentive payments, home and land-loss, advance agreements and the process for determining compensation is outlined in Appendix 3.
137. The existing compensation arrangements that the options will be considered within is outlined in Appendix 2, and includes areas like legal and valuation costs, and business losses.

Options considered

138. This section outlines the options that were considered. A combination of options can be progressed as a package to improve the PWA's compensation provisions. The options are:

Status quo	Option B1 - Status quo: The type and amount of compensation landowners may be entitled to remains as set out in Part 5 of the PWA.
Options for incentive payments	Option B2: Introduce a statutory incentive payment that is a percentage of land value and is paid where agreement is reached prior to a section 23 notice.
	Option B3: Include minimum compensation entitlements under section 17 (acquisitions by agreement), and that offers can be made above this as part of an agreement.
	Option B4: Clarify section 17 of the PWA (acquisitions by agreement) to include minimum compensation entitlements (as per option B3), and introduce a staggered incentive payment to acquisitions by agreement.
Options for home-loss and land-loss	Option B5: Increase existing additional compensation payments for home-loss and land-loss.
Option for advance compensation	Option B6: Expressly provide for advance compensation agreements and timely payment of compensation.
Option for Māori land	Option B7: Require that Māori freehold land is valued as if it were general land when acquired or taken for a public work and extend the home-loss payment to all separately owned dwellings on Māori land.

Option B1 – Status Quo

139. The status quo (maintain compensation entitlements under Part 5 of the PWA) would not provide a meaningful legislative incentive for landowners to reach agreement early or appropriately reflect the inconvenience caused. This would not address the overall policy objective of facilitating infrastructure development.

Incentive payments

Option B2 – Introduce a statutory incentive payment that is a percentage of land value and paid where agreement is reached prior to a section 23 notice.

140. This option would provide a clear and transparent approach to landowners and aim to incentivise early agreement in the acquisition process.
141. To provide certainty for landowners and acquiring agencies, a set percentage would need to be set in legislation (for example 10% in addition to the land value).

Option B3 – State minimum compensation entitlements under section 17, and that offers can be made above this as part of an agreement

142. Section 17 of the PWA sets out the process for acquisition by agreement, which is currently silent in relation to compensation. This option would amend this section to specify that the compensation entitlements in Part 5 of the PWA are a landowner's minimum compensation entitlement, meaning that agencies and entities could make offers above this as part of a section 17 agreement.
143. This option would effectively make entitlements under Part 5 serve as a 'floor' on compensation and enable a more commercial negotiation approach by providing autonomy for acquiring agencies and entities to apply discretion when making offers to reach agreement with landowners (as long as offers are reasonable and fiscally responsible). This also embeds what can currently occur operationally in legislation to provide greater certainty for all parties.

Option B4 – Clarify section 17 of the PWA (acquisitions by agreement) to state minimum compensation entitlements (as per option B3), and introduce a staggered incentive payment to acquisitions by agreement

144. This option would safeguard landowners' entitlements under section 17 by setting a 'floor' on compensation and enabling commercial negotiations.
145. This option would also introduce a 'staggered' approach to the way compensation payments are structured, where landowners who reach agreement prior to compulsory acquisition would receive additional compensation. This option was supported by the Expert Advisory Panel.
146. This would effectively create a two-tier system where additional compensation would be reduced if the land was compulsory acquired, with the aim of incentivising landowners to reach agreement (while still recognising the inconvenience of the acquisition process where compulsory acquisition occurs). Under this option, the additional payment for land-loss would be removed, and the home-loss payment retained.
147. A 'staggered' approach would set different bands according to land value to ensure that the incentive works for lower value properties and avoids a windfall on high value properties. The approach to structuring compensation payments under this option is outlined below (noting that these are not proposed figures and for example only):
- Additional 30% payment for property valued up to \$100,000 (reduced to 15% if by compulsory acquisition).
 - Additional 20% payment for property valued between \$100,000 and \$500,000 (reduced to 10% if by compulsory acquisition)
 - Additional 10% payment for property valued over \$500,000 (reduced to 5% if by compulsory acquisition).

Home-loss and land-loss payments

Option B5 – Increase existing payments for home-loss and land-loss

148. This option would increase the existing payments for home-loss and land-loss (currently up to \$50,000 for home-loss and up to \$25,000 for land-loss) on the basis

that the status quo values are no longer adequate. Stakeholders commented that existing settings have not been effective in influencing landowner behaviour as the amount of payment is too low. This option was supported by the Panel, if a staggered approach in option B4 was not adopted.

149. Having the home-loss payment linked to land value potentially discounts the extent of loss experienced by landowners, particularly for owners of lower value properties (while benefiting landowners of higher value properties).
150. This option would carve out the home-loss and land-loss payments to be separate from any incentive payment. As part of increasing the value of payments, the existing incentive (\$10,000) and discretionary (\$5,000) payments for home-loss would be removed. This would remove the incentive and discretionary nature of calculating a monetary value for home-loss, with the aim of providing greater clarity for landowners regarding their entitlements.
151. This approach would recognise that the additional compensation payment for home-loss should be the same, regardless of the value of their land. If this option is preferred (and subject to Cabinet decisions), officials will report back on recommended compensation values and the appropriate mechanism for these values to be updated (for example, by Order in Council) in the subsequent Cabinet paper following initial policy decisions. LINZ will assess the financial implications when assessing the appropriate level of compensation.

Advance compensation agreements

Option B6: Expressly provide for advance compensation agreements and timely payment of compensation

152. This option would recognise the provision of advance compensation agreements in legislation. While these types of agreements currently occur, this option would embed current practice in the PWA to support what is happening operationally and align with international practice (noting that Queensland, South Australia, British Columbia and Alberta provide for advance payments in their legislation). The aim of this option would be to better recognise the use of advance compensation agreements to facilitate earlier land acquisition, and this option was supported by the Panel.
153. This option would require acquiring authorities to pay the compensation assessed as at the date of proclamation. This ensures that a landowner receives compensation as soon as possible, rather than possibly having to wait until the outcome of a Land Valuation Tribunal claim before receiving payment. It may also reduce compensation claims.

Valuation of Māori freehold land and extending the home-loss payment to separately owned dwellings on Māori land

Option B7: Require that Māori freehold land is valued as if it were general land when acquired or taken for a public work and extend the home-loss payment to all separately owned dwellings on Māori land

154. This option would ensure that Māori freehold land must be valued and treated as general land when it is acquired for a public work. This would include:
 - amending section 62 of the PWA to require that when Māori freehold land is acquired or taken for a public work it must be valued as general land, and
 - extending the home-loss additional compensation payment to apply to all separately owned dwellings on Māori land (rather than a single payment only). This would apply where there are formal legal arrangements in relation to each dwelling.

155. This option was supported by the Panel. It would aim to more appropriately recognise the impact of the PWA process for Māori landowners, better achieve the policy intent of the home-loss payment by recognising multiple dwellings and maintain greater consistency and equity across the compensation regime.

Proactive Release

Issue B1 – Composition of compensation

How do the options compare to the status quo?

Option assessment criteria	Options						
	Status Quo	Options for incentive payments (mutually exclusive)			Options for home and land loss	Options for advance agreement	Options for Māori land
	Option B1 - type and amount of compensation landowners may be entitled to remains as set out in Part 5 of the PWA	Option B2 – Statutory incentive payment where agreement is reached	Option B3 – Section 17 minimum compensation entitlements	Option B4 – Staggered approach to incentive payments	Option B5 – Increase payments for home-loss and land-loss	Option B6 – Advance compensation agreements and timely payment	Option B7 – Māori land valued as if it were general land and extend the home-loss payment to all separately owned dwellings on Māori land
Efficiency	0	++ May reduce time spent negotiating by providing a clear and consistent incentive to agree early.	++ Provides flexibility for entities to offer additional compensation incentives to encourage early agreement.	+ Provides an incentive to agree earlier in negotiation process but may also increase disputes due to system complexity and banding based on land value.	++ The impact of acquisition on landowners would be better identified and addressed, more appropriately recognising disturbances (which in turn could improve landowner experiences in negotiations).	+ Agencies would have greater flexibility and tools available in negotiations to help facilitate agreement. However, may be a minor impact for reaching earlier agreement.	+ Likely to encourage efficiency and help negotiations reach agreement more quickly where Māori land is involved.
Effectiveness	0	+ May incentivise earlier agreement, which should enable agencies to undertake public works in line with expected timeframes.	+ Would enable agencies to use more tools (offers above minimum requirements) to encourage landowners to engage in negotiations / reach agreement.	+ Recognises the impact of an inconvenience of acquisition at each stage, but potentially complex to navigate (needs agreement on initial land value).	+ Recognises the impact on landowners when acquisition results in loss of their homes or land. May improve landowner experience of negotiations, avoiding delays.	+ Would provide landowners with earlier access to full or partial compensation, potentially speeding up land acquisition.	+ Would better reflect the policy intent in relation to home-loss. Landowners would likely receive greater compensation that reflects market value.
Clarity	0	+ Incentive payments would be clearly set out in the legislation and would be consistent across property values, making it easy to access and understand.	- Would ensure that minimum compensation entitlements are easily accessible and transparent in the legislation. However, potential lack of clarity on the ability to offer above this and how these considerations will be consistently applied.	- May potentially create confusion for landowners with multiple bands depending on land value. Would likely add complexity to an already complex system.	++ Would likely increase clarity and consistency for landowners by removing the status quo incentive and discretionary nature of calculating home-loss.	++ May enable landowners to make alternative arrangements, providing more certainty in negotiations.	++ Would clarify what is already occurring operationally in some agencies (in extending the home-loss payment). Better align practice with legislation.

Feasibility	0	<div>+</div> <p>Requirements would be supported by LINZ standards, guidance and advice. Agencies may need to change some processes and practices to implement, but these should be straightforward changes. Additional compensation would need to be funded by agencies.</p>	<div>0</div> <p>Additional compensation would need to be funded by agencies – difficult to ensure offers are reasonable and fiscally responsible. LINZ would need to produce standards, guidance and advice on minimum requirements and process for making offers over, including requirements to be reasonable and fiscally responsible (which may be more complex).</p>	<div>0</div> <p>Would create additional complexities in the PWA system, which may be difficult for agencies to interpret and implement. Would likely require significant guidance and advice, and could lead to increased disputes because the incentive is based on land value.</p>	<div>++</div> <p>Requirements would be supported by LINZ standards, guidance and advice. Minor practice updates may be required for agencies, but this is otherwise a modification of current practice. Additional compensation would need to be funded by agencies.</p>	<div>+</div> <p>LINZ may need to produce new guidance and advice on advance compensation agreements. May involve process changes for some agencies but will only be used when agencies choose, so will likely be minor.</p>	<div>+</div> <p>No obvious barriers to implementation. Would amend legislation to clarify existing practice. Guidance would likely need to be developed for acquiring agencies and entities.</p>
Supported by Expert Advisory Panel				✓	✓ If Option B4 not adopted	✓	✓
Total	0	<div>+++++</div> <p>Preferred option – most likely to incentivise early agreement, enabling agencies to move into infrastructure delivery more efficiently. Compensation entitlements would be clear, consistent and easy to navigate.</p>	<div>++</div> <p>Makes minimum compensation entitlements clearer and easier to access. Provides agencies with tools to encourage agreement by allowing flexibility beyond minimum entitlements – however this may lead to some inconsistency. May not be difficult to ensure offers are reasonable and fiscally responsible.</p>	<div>+</div> <p>Provides an incentive to agree early in the acquisition process. However, would create complexity in the compensation regime and may lead to an increase in disputes (as the initial land value would need to be agreed before the incentive could be offered).</p>	<div>++++++</div> <p>Preferred option – the impact of acquisition on landowners would be better identified and addressed, more appropriately recognising disturbances. This could improve landowner experiences in negotiations, avoiding delays.</p>	<div>+++++</div> <p>Preferred option – agencies would have greater flexibility and tools available in negotiations to help facilitate agreement. Would mainly be useful in instances when the timing for the payment of compensation is the main issue in reaching agreement.</p>	<div>+++++</div> <p>Preferred option – would provide greater consistency and equity across the compensation regime. Would support the policy objective by better recognising the impact of land acquisition for Māori landowners.</p>

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

156. LINZ's preferred approach is that the following options are progressed together to best achieve the policy objective:
- **Option B2:** Introduce a statutory incentive payment paid only where agreement is reached prior to a section 23 notice.
 - **Option B5:** Increase existing additional compensation payments for home-loss and land-loss.
 - **Option B6:** Expressly provide for advance compensation agreements and timely payment of compensation.
 - **Option B7:** Require that Māori freehold land is valued as if it were general land when acquired or taken for a public work and extend the home-loss payment to all separately owned dwellings on Māori land.
157. While **Options B3 and B4** would aim to achieve the policy objective in-principle by providing a meaningful incentive to reach early agreement, these would add complexities to the compensation regime that may negate any benefits.
158. **Option B3** would ensure minimum entitlements are accessible, however, could create complexities and inconsistencies in the approach to offers above the minimum entitlements. It may also raise issues for the reasonable and fiscally responsible use of public money. **Option B4** would require that landowners and agencies agree on the initial land valuation (to determine the band of incentives) to proceed, which could result in complexities and delays.
159. The preferred options (**B2, B5, B6, and B7**) will ensure all landowners are fairly compensated when their land is acquired, and incentivised to reach agreement early in the acquisition process. It will also ensure that the processes for determining final compensation are timely, efficient and accessible, and that Māori landowners receive appropriate compensation for their land.
160. Officials consider that the existing compensation settings for compulsory acquisitions are appropriate, and that increasing the level of compensation for acquisitions by agreement would best achieve the policy objective.
161. Options for the detailed compensation provisions (compensation amounts and technical matters) will be considered through subsequent regulatory impact analysis and cost benefit analysis before further Cabinet decisions are sought in March 2025. The detailed compensation provisions will need to be tested with both Crown and local authority users.

What are the marginal costs and benefits of the option?

Affected groups	Comment.	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Landowners	N/A	N/A	N/A
PWA users (Crown agencies, local authorities)	PWA users will have to pay more compensation if incentives and home/land-loss payments increase.	Medium	High
Others (e.g., wider govt, consumers, etc.)	LINZ (as a regulator) will need to provide and update standards and guidance on compensation entitlements and processes (e.g. advanced compensation requirements)	Low/Medium	High
Non-monetised costs		Medium	High
Additional benefits of the preferred option compared to taking no action			
Landowners	Landowners (including Māori landowners) would receive greater compensation payments for their land.	High	High
PWA users (Crown agencies, local authorities)	PWA users will benefit from fewer delays in the acquisition process if incentives and other tools encourage earlier agreement	High	Medium
Others (e.g., wider govt, consumers, etc.)	Clearer requirements and fewer acquisitions moving to compulsion will free up LINZ capacity	Medium	High
Non-monetised benefits		High	High

Issue B2 – Process for determining compensation

Context behind the policy problem

162. Land that is being acquired for a public work does not affect the land's value or the amount of compensation to be paid. The value is based on the amount for which the land would be expected to be sold on the open market by a willing seller to a willing buyer on a specified date.
163. To determine the value of the land, the accredited supplier (on behalf of the acquiring agency,²¹) will arrange for an independent valuation from a registered valuer. Landowners are also recommended to arrange their own current market valuation from a registered valuer (with costs reimbursed). The valuations are used for negotiation and agreement on the sale and purchase of land.
164. If a landowner agrees to sell their land, but cannot agree the sale price, they can request for compensation to be decided by the Land Valuation Tribunal (LVT)²². The LVT deals with disputes about compensation and provides the final determination on the amount of compensation a landowner is entitled to under the PWA. While it is generally uncommon for cases to go before the LVT (approximately seven cases per year) the Expert Advisory Panel advised that the process can be lengthy and result in substantial delays in determining compensation

Development of the status quo

165. Without intervention, the determination of compensation will continue to be heard by the LVT with the option of parties choosing to participate *voluntarily* in mediation service. This may continue to result in lengthy processes and increase timeframes for compensation being determined. The LVT process does not directly affect land acquisition timeframes, as it takes place after acquisition.

What is the policy problem or opportunity?

166. Where compensation is determined by the LVT, the process to reach a decision can result in substantial time delays in determining compensation. While this may not directly impact land acquisition timeframes (as it takes place after acquisition), it can have an indirect impact as agency time and resources are directed towards the LVT process rather than project delivery.
167. There is an opportunity to develop an alternative process for determining compensation that is quicker, more accessible for landowners, and enables disagreements to be resolved through a less adversarial and costly process. This would also enable acquiring agencies to dedicate more resource towards infrastructure delivery rather than resolving compensation disputes through the LVT. The Panel supported an alternative dispute resolution process prior to going to the LVT.

Options considered

168. This section outlines the options that were considered. These are:

²¹ A private contractor approved by LINZ and engaged by an acquiring agency to acquire land for the purpose of a public work. The supplier will be the main contact with most landowners in negotiating land acquisitions under the PWA.

²² The LVT is a specialist tribunal (without regular hearings) and is made up of a District Court judge and two registered valuers. It costs \$65 to lodge a claim, and \$1,170 if the application proceeds to a hearing (excluding legal costs as these are not reimbursed once a matter is at the LVT).

Status quo	Option B8 – Status quo: Landowners can enter a Land Acquisition Resolution Service ²³ mediation, if eligible, or other voluntary mediation if available, otherwise any compensation dispute is heard at the LVT
Option for making alternative dispute resolution compulsory	Option B9: Introduce compulsory alternative dispute resolution, parties decide what form it takes from mediation to binding or non-binding expert determination, prior to an LVT claim

Option B8 – Status Quo

169. The status quo would keep the LVT as the only way to obtain a determination of compensation under the PWA when agreement cannot be reached. The LVT process provides protections around natural justice and appeal rights. Landowners can get an award of compensation from an independent court, and the proceedings are heard in public which adds an element of formality and accountability.
170. Acquiring agencies can introduce voluntary models of mediation to assist property owners and themselves to reach an agreement if initial negotiations fail. However, this would not achieve the overall policy objective as existing long and costly dispute processes through the LVT would be maintained as the primary forum for resolving disputes.

Option B9 – Introduce compulsory alternative dispute resolution prior to an LVT claim

171. This option would introduce a compulsory alternative dispute resolution process prior to an LVT claim. The parties decide what form the alternative dispute resolution takes from mediation to binding or non-binding expert determination. This would adopt an inquisitorial process and enable landowners to communicate their dispute face-to-face, compared to the more adversarial LVT process. The role of the LVT would remain, but a case may only be heard where efforts have been made to resolve the dispute through a mediation process. This option would apply to both Crown and local authority users.

²³ The Land Acquisition Resolution Service (LARS) is a free and independent mediation service to help landowners and the Crown reach agreements together.

Issue B2 – Process for determining compensation

How do the options compare to the status quo?

Option assessment criteria	Options	
	Options B8 - Status Quo	Option B9 – compulsory alternative dispute resolution process
	Landowners can <i>voluntarily</i> enter a Land Acquisition Resolution Service (LARS) mediation, if eligible, or other voluntary mediation if available, otherwise any compensation dispute is heard at the LVT	Introduce <i>compulsory</i> alternative dispute resolution process prior to LVT claim
Efficiency	0	++ Likely to be faster than LVT process. However, may slow down overall process if a dispute progresses to LVT.
Effectiveness	0	++ Could be more effective in facilitating land acquisition by agreement with greater involvement and participation of landowners. May improve ability to recognise non-financial matters and impacts through less adversarial process. Parties may be less likely to go to LVT after having issues clarified by alternative dispute resolution process. However, does not guarantee that a determination will be made.
Clarity	0	++ Process could be made explicit in the Act for all parties.
Feasibility	0	+ May reduce costs and provide value for many in longer term through reduced volumes going to LVT.

		Parties required to fund compulsory alternative dispute resolution process or use services already set up (if eligible) e.g. LARS and free Environment Court mediation service
Supported by Expert Advisory Panel	0	✓
Total	0	+++++++ Preferred option – likely to achieve the policy objective compared to status quo. In event that dispute is not resolved through compulsory alternative dispute resolution process, it would likely be less time-consuming than status quo because compulsory alternative dispute process would provide a starting point (shared evidence, facts) for the LVT.

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

172. The preferred option is **Option B9** which introduces a compulsory form of alternative dispute resolution before a claim is made to the LVT.
173. The option provides flexibility for unique and varying situations of parties in negotiations, and aims to reduce the volume of disputes reaching the LVT. While introducing another compulsory alternative dispute resolution service could be seen as an additional step that could create more delay and cost in the process, it is intended to provide a quicker and cheaper intermediate step to resolve compensation disputes while maintaining landowner relationships.
174. Not all disputes will be resolved through an alternative dispute resolution process. Where a dispute does need to be determined by the LVT, it is likely that the proceedings would require less time and resource as the key issues and material would have already been raised and collated during the alternative dispute resolution process.

What are the marginal costs and benefits of the option?

175. The marginal costs and benefits of the preferred options are difficult to monetise. Extended processes to determine compensation through the LVT can impose significant time and resourcing costs to landowners and acquiring agencies and entities.

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Landowners	Likely to reduce legal costs (noting these are not reimbursed once a dispute reaches the LVT).	Medium	Medium – evidence through similar models such as LARS.
Acquiring agencies and entities	May reduce legal and associated resources by resolving disputes before LVT stage. Parties required to fund compulsory alternative dispute resolution process or use services already set up (if eligible) e.g. LARS and free Environment Court mediation service	Medium	Medium
Regulators	Proposal to use existing services	Low	High – certain that services will be available
Non-monetised costs		Medium	Medium – High
Additional benefits of the preferred option compared to taking no action			
Landowners	Less adversarial process for landowners to participate in	Medium	Medium – evidence

	and access. Will ensure issues and views can be heard via alternative process. Ultimately, landowners may receive compensation earlier compared to LVT.		through similar models such as LARS.
Acquiring agencies and entities	Time and resource that would be spent at the LVT can be directed towards project delivery.	Medium	Medium – based on feedback from delivery agencies.
Regulators	Potential for longer term cost savings and value for money through reduced volumes of disputes going to LVT.	Medium	Low – difficult to predict future cost savings.
Non-monetised benefits		Medium	Medium

Proactive Release

Part C: Objections to Land Acquisition

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

176. Many public works cannot be built without affecting private landowners. The PWA is a critical mechanism for acquiring land to support public infrastructure projects. Most of the land that is acquired under the PWA is done so by negotiation with landowners. LINZ data indicates that in the last 25 years, the Crown has acquired over 7,500 interests in land under the PWA, over 95 percent of which were by agreement.
177. If a property cannot be acquired by agreement, the Crown or a local authority can acquire land by compulsion. Landowners have the right to object to the taking of their land if the Crown or local authority commences a compulsory acquisition process (under section 23(3) of the PWA). Landowner objections to compulsory acquisition of their land are heard by the Environment Court.²⁴
178. The PWA sets out the specific matters the Environment Court may consider, which are directed at testing whether all alternatives for the project have been considered, and confirming that it is “fair, sound and reasonably necessary” to take the land. Any recommendations of the Environment Court are binding on the Minister for Land Information or a local authority. The general right of judicial review of the decision in the High Court is also available.
179. The matters the Environment Court may consider in objection proceedings are similar to considerations in the RMA designation process. Where public works have an RMA designation, there is often duplication of evidence considered in PWA objections proceedings and the RMA designation process, although the legal tests in the PWA and RMA are different.
180. Timeframes for acquiring land vary according to the negotiation circumstances. The PWA requires a minimum of three months of good-faith negotiations after a first ‘notice of desire’ to acquire land is issued. If agreement cannot be reached, the land can then be compulsorily acquired.
181. If the landowner objects, the process to resolve objections and appeals can be lengthy and create uncertainty for all parties. While this is uncommon,²⁵ a single objection is sufficient to delay a project. Generally, if an objection is made, it adds an additional year to the compulsory acquisition process and can take longer if the case is appealed. This is a particular problem for linear infrastructure such as transport networks, which necessarily require acquisition of many properties to complete a project.
182. Environment Court hearings can vary depending on the complexity of the issues, the number of parties involved, and the preparation of evidence. A typical case could take several months to reach a conclusion. Once a hearing begins, the Court usually provides a written decision within three months. However, the overall process, including pre-hearing procedures like mediation and evidence preparation, can be extended. This creates delays, extra costs and uncertainty for projects.

²⁴ The Environment Court considers whether it would be fair, sound and reasonably necessary for achieving objectives of the Crown or local authority for land to be taken (s24(7) of the PWA).

²⁵ Data provided by NZTA (the single biggest user of the PWA) notes that in the 10-year period from 1/7/2014 to 30/6/2024 a total of 49 objections were received to s23 PWA notices that related to NZTA projects. This represents 3.1% of the total properties acquired over that period.

183. Schedule 11 of the Fast-track Approvals Bill (scheduled to be enacted by the end of 2024) proposes to modify the process under the PWA to take or deal with land where a landowner has made an objection. While a landowner can still object to the Environment Court, the Court must accept any determination of the fast-track projects advisory group about consideration of alternative sites.
184. The RMA is being reviewed. Amendments to the RMA may affect the feasibility or implementation of the options (such as removing duplication with the RMA process – Option C3).
185. The Government is also considering proposals to develop an accelerated land acquisition process for ‘critical infrastructure’ projects,²⁶ which would come into force in mid-2025. If introduced, this would remove the right for landowners to object to the Environment Court to the taking of their land under section 23 of the PWA (compulsory acquisition) for specified projects (and replacing it with a process to ensure that natural justice rights are provided for).
186. The analysis of options assumes that concurrent proposals relating to the removal of objection rights to the Environment Court for critical infrastructure projects will be enacted by mid-2025.

What is the policy problem or opportunity?

187. The overarching policy problem is that the right for landowners to object to the compulsory acquisition of their land, and the objection process itself, can lead to significant project delays and significant cost overruns. This process can also create uncertainty for project developers and agencies/entities using the PWA.
188. While relatively few land acquisitions result in an objection, the increased timeframes and escalating costs that can be caused by an objection to the Environment Court can be a significant barrier for agencies and entities to deliver projects effectively and efficiently. Delays caused by objections not only create direct legal costs, but also extend construction timelines and force projects to incur wider additional costs, such as escalating prices of materials, plant, and labour.
189. Changes to the objections process would apply to Crown and local authority users of the PWA.

Scale of the problem

The proportion of land acquired by the compulsion is low...

190. While the process to acquire land under the PWA can be lengthy where there is an objection, most land for public works is acquired by agreement.²⁷ As a result, landowner objections are uncommon. LINZ has identified only five cases (three local authority and two Crown cases) since 2018 where the Court has issued a decision report on an objection.

... but a single objection can have significant impacts on a project

191. While the volume of objections may be low, the potential impact on project costs and delivery timeframes, and wider public benefits that would be forgone due to delays

²⁶ ‘Critical Infrastructure’ means projects listed in Schedule 2 of the Fast-track Approvals Act (once enacted) where the PWA applies, and Roads of National Significance as set out in the *Government Policy Statement on land transport 2024-34*.

²⁷ LINZ data indicates that the Crown has acquired over 7,500 interests in land under the PWA in the last 25 years, over 95 percent of which were by agreement.

caused by objections can be significant.²⁸ Users of the PWA have advised that a single or small number of landowner objections can have a significant impact on project delivery timeframes, particularly where the acquisition of particular parcels of land are critical to a project (for example, linear transport projects). Case studies outlining the impact of objections on project timeframes are attached in **Appendix 2** for reference.

192. Larger and more expensive critical infrastructure projects face greater risk as cost increases compound over time, and at a much larger scale. For example, the Mount Messenger Bypass project in Taranaki experienced cost increases of \$37 million in the 2023-24 construction period as legal objections prevented contractors from being able to access critical areas of the site. 60 percent of the original \$280 million project budget was spent without any actual road construction being completed due to escalating costs due to delays.

Natural justice rights

193. There are legal and reputational risks associated with these options. Options relating to compulsory acquisition powers raise significant constitutional and legal issues, particularly in relation to the natural justice rights of landowners. There has been an ability to object to a compulsory land acquisition in New Zealand since at least 1894, and the protection of private property rights is deeply embedded in New Zealand law and society.
194. Landowners also have the right to judicially review the process used to acquire land. In a judicial review proceeding, the High Court considers matters like those considered by the Environment Court in an objection hearing, although the focus of an Environment Court objection is limited to the specific grounds in s 24(7) of the PWA.

195. The ability to claim compensation in the Land Valuation Tribunal is also available to landowners. This process does not affect acquisition timeframes, as it takes place after acquisition.

Iwi/Māori interests

196. Māori land is recognised by the Te Ture Whenua Māori Act 1993 as taonga tuku iho of special significance to Māori and promotes the retention of Māori land in the hands of its owners, their whānau and their hapū. Natural justice procedures that are considered adequate for general land may not be adequate for Māori land.
197. Only five percent of Māori land remains, giving greater significance and severity to the impact of land acquisition decisions. This has been recognised through PWA proposals relating to an accelerated process for critical infrastructure projects where objection rights are maintained for the compulsory acquisition of protected Māori land.
198. If objections rights are restricted, there may be an increase in Māori landowners seeking recourse via other means, such as the Māori Land Court (as currently occurs with PWA matters).
199. Acquiring agencies and entities recognise and generally accept that acquisition of Māori land is a more lengthy and complex process than acquiring general land. This

²⁸ A notable recent example is the Mount Messenger bypass project, which was subject to significant delays due to objection processes.

stems from both the unique characteristics of Māori land tenure and the cultural significance of remaining Māori land.

What objectives are sought in relation to the policy problem?

200. The policy objective is to reduce the likelihood of delays to the land acquisition process, and resulting project escalation costs, that can be caused by landowner objections to the taking of land. The following outcomes are also sought:

- an appropriate natural justice for landowners is provided for, and
- greater certainty is provided for all parties.

Section 2: Deciding upon an option to address the policy problem

Experience in comparable jurisdictions

Right and ability for landowners to object

201. Landowners' ability to object to the taking of land varies significantly across comparable jurisdictions and can depend on the nature and urgency of the project.
202. Some comparable jurisdictions do not allow objections if the land is needed urgently. The Australian Commonwealth legislation states that where there is an urgent necessity for the acquisition, and it would be contrary to the public interest for objections to be allowed, the Minister may remove this right (although this has been used very rarely).²⁹ In Alberta, where the Lieutenant Governor in Council is satisfied that the land is urgently required, they may direct that an acquisition proceed without inquiry. In British Columbia, objections are not allowed for land that is being acquired for a linear development (e.g., railways, roads, power transmission lines).
203. In New South Wales and Victoria, there is no right to object to the taking of land under their land acquisition regimes. However, there is a right for the landowner to be heard at the project planning stage (similar to the designation process under the Resource Management Act 1991).
204. In Singapore, a landowner can only object if they disagree with technical aspects of how the land has been identified in an acquisition plan (for example, the extent to which they own the defined area, or the area of land being taken).

Hearing of objections and appeals

205. New Zealand is unique compared to other jurisdictions where objections are heard through a court process (with the ability to appeal to a higher court). Historically, landowners could object to a compulsory acquisition by writing to the Minister or local authority exercising the power. In 1981, this moved to a judicial process through the Planning Tribunal (now the Environment Court) to avoid the Executive becoming a judge in its own cause.
206. Many comparable jurisdictions have their objections heard by a Minister or other body. In the United Kingdom, objections are considered by hearing or written submissions to the Minister, who then appoints an independent inspector to act on their behalf. In Ontario, objections are heard by a Tribunal but depending on the project, there may be specific legislation that limits hearings and replaces the Tribunal with a Ministerial process.

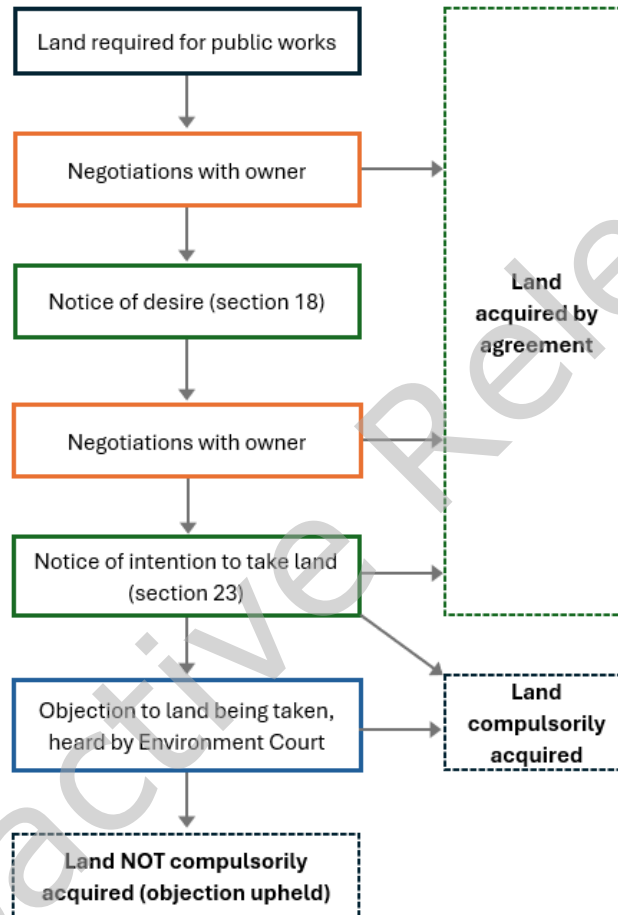
²⁹ Section 24 of the Lands Acquisitions Act 1989.

207. Some jurisdictions retain the ability to appeal to a court after an alternative body has considered an objection. Under the Australian Commonwealth legislation, the affected party may appeal the Minister's decision to a Tribunal for review. The Tribunal's decision is non-binding, and this right can be removed within their Pre-Acquisition Declarations.

Current objection process under the PWA

208. The proposed options would make amendments to the existing PWA processes which provide the ability for landowners to object to the Environment Court at the section 23 stage. This process is outlined in diagram 3 below:

Diagram 3: Status quo PWA objections process



Options considered

209. This section outlines the options that were considered. These are:

Status quo	Option C1 – Status quo: Landowners can object to the Environment Court to the taking of land for all PWA projects.
Refine grounds for objection	Option C2: Refine the grounds for objections under the PWA and make procedural improvements.
Remove objection rights if RMA designation present	Option C3: Remove the right for landowners to object if an RMA designation is approved. ³⁰
Objections heard by another body rather than Environment Court	Option C4: Remove the role of the Environment Court as the body for hearing objections, with objections heard by a different body.
Remove objection rights entirely	Option C5: Remove the right to object entirely.

Option C1 – Status quo

210. The status quo (landowners can object to the Environment Court to the taking of land for all projects, even when the land is designated for public work under the RMA), would not address the policy objective and would not support the Government's wider infrastructure commitments. The status quo process is outlined in Diagram 3 above for reference.

Option C2 – Refine the grounds for objections under the PWA and make procedural improvements

211. This option would make changes to the current PWA objection provisions. Where an RMA designation has been made, the requirement that the Court consider whether adequate consideration has been given to alternative sites, routes, or other methods to achieve objectives would be removed. Where no designation has been made, the Court will continue to inquire into the adequacy of consideration given to alternatives. The grounds for landowners to object would be refined and procedural improvements made to make the process more efficient.

212. The "fair, sound and reasonably necessary" test would be retained, with specific criteria introduced so that the inquiry is focused on an individual property interest, rather than the project or route-level matters. Relevant considerations to be specified would be:

- the amount and location of land to be acquired within the route approved by the RMA designation
- the type of property interest to be acquired (i.e. freehold, lease etc). This option would also make procedural changes to improve efficiency
- require objectors to state the grounds for their objection when it is filed

³⁰ A designation is a permission provided under the RMA which authorises land use for a public work or a project that is undertaken by a requiring authority. A designation is included in a local authority's district plan. Designations will generally lapse after 5 years if they are not given effect to. But if the requiring authority has given effect to the designation, it persists indefinitely.

- specify that compensation matters must be excluded from consideration (as compensation claims are dealt with by the Land Valuation Tribunal)

Option C3 – Remove the right for landowners to object if an RMA designation is approved

213. Option C3 would remove the right to object to the taking of land under section 23(3) of the PWA where a designation has been approved under the RMA. This would aim to reduce duplication where relevant matters (alternative sites, methods etc) have already been considered by the Environment Court under the RMA process.
214. The ‘fair, sound and reasonably necessary for the achieving the objectives’³¹ test in the PWA would be incorporated into the designation process (which would require an amendment to the RMA).
215. The right for landowners to object to the Environment Court would remain where the land being acquired for a project does not have an RMA designation in place.

Option C4 – Remove the role of the Environment Court as the body for hearing objections, with objections heard by a different body

216. Option C4 would remove the role of the Environment Court as the body for hearing objections. Landowners would have the ability to have their objection heard by a Ministerial inquiry process (like arrangements in the United Kingdom and Canadian jurisdictions).
217. This option assumes that the court process has a significant impact on project timeframes. This aims to provide for a balanced approach where landowners would have an opportunity to raise concerns and exercise rights to natural justice through a forum that may not result in significant delays. This approach may also provide a more accessible avenue for landowners without having to navigate a costly court process.
218. This option would follow the same process outlined in diagram 3 above (status quo process) with the role of the Environment Court replaced after a notice of intention to take land (section 23) has been issued. A new process would need to be developed, and decisions made on an appropriate body to hear objections (for example, an independent inspector such as the Ombudsman, or administrative committee). This would require additional funding and time to be established.³²

Option C5: Remove the right to object entirely

219. Option C5 would remove the right to object entirely. This would remove the potential for delay to projects from the objections process but there would need to be other steps put in place to protect landowners’ natural justice rights.

220.

³¹ Under section 24(7)(d) of the PWA.

³² Detailed costings on establishing a new process were not possible within the timeframes of this analysis.

How do the options compare to the status quo?

Option assessment criteria	Options				
	Option C1 (status quo)	Option C2	Option C3	Option C4	Option C5
	Landowners can object to the Environment Court to the taking of land for all PWA projects.	Refine grounds for objections in PWA	No right to object if RMA designation approved	Objections heard by different body	Remove the right to object entirely
Efficiency	0	<div>+</div> <div>Updated grounds to object would reduce overlap between RMA and PWA process. Tighter process for objections leading to faster resolution.</div>	<div>0 / +</div> <div>Would create efficiency by removing consideration of matters that were considered in the RMA designation process. However, may put additional pressure on designation process (effectively shifting the PWA process) and lead to an increase in appeals.</div>	<div>+</div> <div>Likely to provide faster resolution of issues relating to the compulsory acquisition land than the current Environment Court process (if new body is properly resourced).</div>	<div>+</div> <div>Removes the potential for delay from objections and allow users to acquire land more quickly.</div>
Effectiveness	0	<div>+</div> <div>Would modernise objection provisions and align with good practice and/or policy objective.</div>	<div>0 / +</div> <div>Would provide certainty for acquiring agencies and entities. Would require changes to the purpose of the RMA designation process (land-use at the project level versus taking individual parcels of land). However, may inadvertently slow down designation process.</div>	<div>+</div> <div>Provides a specific mechanism to provide natural justice for landowners in relation to the taking of their land where necessary.</div>	<div>+ / -</div> <div>Would provide certainty that there would be no objections. However, without a specific objections mechanism in legislation to provide for natural justice there may be unanticipated outcomes in litigation</div>
Clarity	0	<div>++</div> <div>Would reduce ambiguity in provisions, reducing potential areas of dispute and objection. The scope and process to make objections would be clarified.</div>	<div>-</div> <div>Potentially ambiguous and uncertain due to blending consideration of land acquisition matters into RMA processes. The PWA and RMA have different purposes.</div>	<div>-</div> <div>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.</div>	<div>-</div> <div>Procedural safeguards will be developed</div>
Feasibility	0	<div>++</div> <div>Updates legislation so that it better reflects current good practice and/or policy objective. Legislative changes only and uses existing Environment Court processes.</div>	<div>--</div> <div>Would require significant changes to the RMA (including to the purpose of the Act). Agencies would need to change the timing and sequencing of land acquisition decisions to align with designation (currently designation can be done years in advance).</div>	<div>-</div> <div>Creating new pathway would require new systems, procedures, training, and ongoing costs. Not likely to be financially feasible as additional resource would be required to establish a separate process. Status quo makes use of established Environment Court processes. Potential longer-term value for money compared to court depending on design of new process.</div>	<div>-</div> <div>Need to create an alternative objections process to ensure natural justice and design and fund it for all users.</div>

Supported by Expert Advisory Panel			✓		
Total	0	<div>++++++</div> <div>Preferred option – likely to reduce the time and cost of objections, while still providing a specific natural justice mechanism for landowners. Reduces potential overlap with RMA designation process.</div>	<div>-</div> <div>Not recommended – risk of slowing down RMA designation process.</div>	<div>0</div> <div>Potential for faster resolution of objections and acquisition of land if properly resourced but is unlikely to be cost-effective given low volume of objections.</div>	<div>-</div> <div>Not recommended – time savings from removing the objections process likely to be offset by</div>

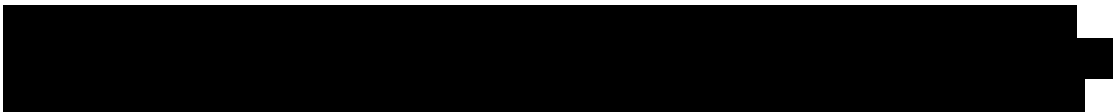
What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

221. The preferred option is **Option C2** (refine grounds for objections in PWA). This is most likely to achieve the policy objective and reduce potential for delays and costs resulting from objection processes, while still providing a specific natural justice mechanism for landowners in relation to the acquisition of their property. Changing the specific grounds on which landowners may make an objection under the PWA will also reduce overlap and potential duplication with the RMA designation process.
222. This assessment is also based on the assumption that concurrent proposals relating to the removal of objection rights to the Environment Court for ‘critical infrastructure’ projects will be enacted by mid-2025.³³ It is expected that these proposals would address issues where a single objection may have a significant impact on the delivery timeframes and costs for specified projects where there is a greater need to mitigate these risks. **Option C2**, which is an enhancement of the status quo, is the preferred option to achieve the policy objective where there is an objection that does not relate to a critical infrastructure project.
223. While **Option C3** may have merit in-principle (i.e., aiming to remove duplication with the RMA designation process), there is a risk that this option would inadvertently slow down the designation process by including the consideration of land acquisition matters (noting that the designation process currently can occur much earlier). While there may be a degree of similarity in the matters considered, the PWA and RMA processes consider different legal tests. This option would also require significant amendments to the RMA, including possible changes to the purpose of that Act, and is potentially outside of the scope of the review of the PWA.

224.



225.



³³ ‘Critical Infrastructure’ means projects listed in Schedule 2 of the Fast-track Approvals Act (once enacted) where the PWA applies, and Roads of National Significance as set out in the *Government Policy Statement on land transport 2024-34*.

226. It is not clear whether having an objection hearing heard by an alternative body (**Option C4**) would result in a meaningful reduction in timeframes. It assumes that hearing processes under an alternative body would be significantly less time consuming than the Environment Court. No reliable data was available on the timing impacts of Environment Court proceedings or judicial review in the High Court. These impacts are significantly influenced by the willingness of the parties to settle, and whether there is an intention on the part of the applicant to use litigation as a delay tactic. Ultimately, **Option C4** may still delay the delivery of an infrastructure project and therefore not achieve the policy objective.

What are the marginal costs and benefits of the option?

227. The marginal costs and benefits of the preferred option are difficult to monetise. A key benefit of the preferred option is that a specific natural justice mechanism will remain for landowners under the PWA.

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
PWA users, landowners and landowner advocates, regulators	Adjustment to the refined grounds for assessing objections (process changes, guidance) until case law develops.	Medium, reducing over time.	Medium
Other – wider public	—	—	—
Non-monetised costs		Low	High
Additional benefits of the preferred option compared to taking no action			
Landowners	Avenue to exercise natural justice and property rights is maintained through specific process in the PWA.	Low, no change compared to status quo.	High.
Government agencies (as regulators)		Low, no change compared to status quo.	
Other – wider public	May result in greater public confidence in land acquisition process with greater clarity and certainty.	Low, no change compared to status quo.	Medium.

Non-monetised benefits			
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Part D: Preferred options for reform

228. The preferred options will be given effect through amendments to the PWA, with a bill expected to be passed by the end of 2025. The changes will need to be implemented by Crown and local authority PWA users.
229. LINZ will be responsible for administering the legislation. LINZ Standards and Guidelines will need to be updated to reflect updated legislative requirements. LINZ expects there to be a transition period into the new arrangements and will engage with affected groups to ensure the system changes are well socialised and understood. LINZ will continue to play an education and advisory role to support the implementation of changes.

Proactive Release

Delivering preferred options package

Preferred Option		Delivery And Implementation
Part A – Acquisition	Option A1: Status Quo (in part) – Minister for Land information retains sign-off on compulsory acquisition	Minimum implementation required as status quo is maintained in relation to compulsory acquisition decisions. Arrangement would be clarified as part of wider guidance and communication to stakeholders about changes resulting from the review.
	Option A3: Enable the highest Crown user (NZTA) to have autonomy for lesser powers	NZTA would need to develop capacity to deliver this option. For example, additional in-house resource may be required (noting that some capability already exists), such as in-house legal resource, and process for making statutory decision. LINZ's existing function of having oversight of all other land acquisition would remain. Communications and guidance would need to be issued to all agencies explaining the change in role for NZTA and that the status quo would still apply to all other agencies and entities.
	Option A5: Provide LINZ with regulatory tools in the PWA	Additional funding may need to be sought in relation to any changes to LINZ's regulatory functions. This will be considered in the subsequent Cabinet paper. LINZ has existing expertise and capability in the PWA, but training and additional capability (e.g., monitoring or auditing functions or digital tools) may be required for LINZ to effectively implement a change in its regulatory role.
	Option A6: Transpower continues accessing the PWA via section 186 of the RMA with operational changes made for its access to be more efficient	Legislative and operational changes made as part of the broader PWA review. LINZ would update standards and guidance where relevant and engage with Transpower to ensure it understands the system changes and any required process updates.
	Option A9: Minister for Land Information consults Minister for Māori Crown Relations or the Minister for Māori Development.	LINZ would need to update and produce guidance/standards for entities to identify where the need to consult would arise. LINZ would need to develop processes for supporting ministers during consultation, and resource and perform an ongoing supporting role.
	Option A11: Provide for combined public works that have public works powers	Updates to LINZ standards and guidelines for PWA users, particularly for clear and shared system objectives requirements
	Option A13: Enable entities/users to acquire land where that land is necessary to relocate or reinstate private third-party infrastructure	Updates to LINZ standards and guidelines for PWA users and landowners.
	Option A15: Reduce the survey requirements at Section 23	Updates to LINZ standards and guidelines for PWA users, in consultation with the Surveyor-General. Guidance or standards set by the Surveyor-General may also be needed.
Part B – Compensation	Option B2: Introduce a statutory incentive payment paid only where agreement is reached prior to a section 23 notice	LINZ would need to undertake further analysis on the detailed compensation amounts to be specified in legislation, including undertaking any relevant targeted consultation and cost-benefit analysis. LINZ will need to develop and issue updated guidance for landowners on their compensation entitlements, and standards and guidance for acquiring agencies.
	Option B5: Increase existing additional compensation payments for home-loss and land-loss.	LINZ would need to undertake further analysis on the detailed compensation amounts to be specified in legislation, including undertaking any relevant targeted consultation and cost-benefit analysis. LINZ will need to develop and issue updated guidance for landowners on their compensation entitlements, and standards and guidance for acquiring agencies.
	Option B6: Expressly provide for advance compensation agreements and timely payment of compensation.	LINZ will need to develop and issue guidance for agencies and landowners to assist them with how, when and why an advanced compensation agreement might be used. This would also need to clarify minimum rights around disputes, payment process etc. LINZ will also need to update standards for acquiring agencies.
	Option B7: Require that Māori freehold land is valued as if it were general land when acquired or taken for a public work.	LINZ will need to develop guidance and update standards. Agencies and local authorities will need to update processes, and address this through their funding and procurement processes as relevant.
	Option B9 – Introduce compulsory alternative dispute resolution process prior to LVT claim	The LVT will update their process to reflect this.
Part C – Objections	Option C2: Refine the grounds for objections under the PWA and make procedural improvements.	This would require legislative change only to implement, and existing Environment Court processes would remain for implementation. LINZ would need to develop guidance for landowners and acquiring agencies and entities on changes to the grounds to object under the PWA. Clear communication and guidance would be required for landowners to clearly outline any changes to their objection rights and what matters may be in or out of scope (e.g., that compensation matters are out of scope).

Matters to be considered in subsequent analysis

230. As noted throughout this RIS, there are detailed design decisions, or matters that are dependent on the outcome of initial policy decisions, that will be sought via a subsequent Cabinet paper (scheduled to be considered in March 2025).
231. The following policy issues will be considered in the next tranche of decisions are outlined in table 4 below:

Table 4: Matters to be considered in subsequent analysis

Policy issue	Summary
Acquisition pipeline and notices	Proposals to streamline the acquisition process, including reducing notice requirements, and specifying requirements for good faith negotiations (which will be further developed with agencies).
Compensation amounts	Subject to initial decisions on incentive and inconvenience payments, further decisions will be sought on the set amount and appropriate percentage for payments.
Technical compensation matters	A range of technical issues around compensation have been raised through the review, e.g. whether GST has been included.
Funding	Depending on the agreed approach for decision-making, LINZ will seek further decisions on funding requirements
Emergency provisions	Potential provisions for a regulation making power to support emergency responses through an amended PWA process (i.e., where land may need to be acquired urgently as part of a recovery or rebuild phase).

Papakupu whāiti

Glossary

Accredited supplier	A private sector service provider accredited by LINZ to undertake certain actions in the acquisition and disposal of land by the Crown under the PWA and related legislation.
‘Critical infrastructure’	In reference to concurrent proposals in relation to objection rights. Includes projects listed in Schedule 2 of the Fast-track Approvals Act (once enacted) where the PWA applies, and Roads of National Significance as set out in the <i>Government Policy Statement on land transport 2024-34</i> .
Designation	A permission provided under the RMA which authorises land use for a public work or a project that is undertaken by a requiring authority.
‘Lesser powers’ (as referred to in Part A)	Powers to enter into acquisition by agreement and other decisions before section 23 decisions (compulsory acquisition).
LINZ	Toitū Te Whenua Land Information New Zealand.
LVT	Land Valuation Tribunal – a specialist tribunal that deals with objections to Rating Valuations and valuations for land taken under the PWA.
NUO	Network Utility Operator – defined in section 166 of the RMA. Includes entities that distribute gas, petroleum, geothermal energy, telecommunications, electricity, water and wastewater, or construct or operate roads, railway lines and airports.
NZTA	New Zealand Transport Agency Waka Kotahi – Crown entity tasked with promoting safe and functional transport by land.
UDA	Urban Development Act 2020 – provides the means for Kāinga Ora to perform its urban development functions, including land acquisition powers.

Appendix 1: Land acquisition international comparisons

JURISDICTION	ACQUIRING AUTHORITY
New Zealand (PWA)	The Minister for Land Information and local authorities
Australian Commonwealth (Land Acquisition Act 1989)	The commonwealth or a commonwealth authority
New South Wales (Land Acquisition (Just Terms Compensation) Act 1991)	A Minister of the Crown, a statutory body representing the Crown, a council, a county, a joint organisation within the meaning of the Local Government Act 1993 or any other authority authorised to acquire land by compulsory process.
Victoria (Land Acquisition and Compensation Act 1986)	A person or body who or which is authorised by or under an Act to acquire land and in the Act is expressed to be the Authority for the purposes of this Act.
Queensland (Acquisition of Land Act 1967)	The State, a local government or a person authorised by an Act to take land for any purpose
Tasmania (Land Acquisition Act 1993)	The Crown, a public authority, a local authority or a promoter (n.b. Part 1A (Acquisition of Land by Crown for Private Sector Infrastructure Project) provides opportunity for the private sector to engage).
British Columbia (Expropriation Act)	A person, including the government, empowered under an enactment to expropriate land.
Alberta (Expropriation Act)	The Crown or any person empowered to acquire land by expropriation.
Singapore (Land Acquisition Act 1966)	An officer of the Singapore Land Authority established under the Singapore Land Authority Act 2001 or any public officer or officer of any other public authority constituted under any written law for a public purpose.
UK (Acquisition of Land Act 1981)	The Minister, local authority or other person who may be authorised to purchase the land compulsorily
Scotland (Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947)	The Secretary of State, certain Scottish Ministers, Scottish Water and local authority where, apart from this Act, power to authorise the authority to purchase land compulsorily is conferred by or under any enactment contained in a public general Act and in force immediately before the commencement of this Act, other than any enactment specified in subsection (4) of this section.

Appendix 2: PWA case studies for roading projects (NZ Transport Agency Waka Kotahi)

Existing approach – recent case studies showing differing timelines for NZTA project delivery

<p>Faster: Manawatū Gorge Bypass</p> <p>Overview</p> <p>Landowners: 13 – low number with generally supportive landowners and community</p> <p>Engagement Commenced: 2018</p> <p>Resolved: 2020</p> <p>No objections</p> <p>Reasons for success</p> <ul style="list-style-type: none"> • Early landowner engagement and deals completion. • Emergency project: Community / Landowners understood project drivers and 'the why'. Support received from majority. • Notices of Intention (NOI) to take land (s23s) served early – brought negotiations to a head. • Strong relationships with key landowners: KiwiRail, Meridian, and AgResearch. • Design avoided challenging properties and included practical bespoke solutions like underpasses clauses to suit landowners e.g. landowner able to walk his land. • Single accredited land acquisition supplier dedicated to the project. • Regular project team participation in discussions to support PWA process. 	<p>Average: Puhoi to Warkworth</p> <p>Overview</p> <p>Landowners: 50- medium number with some high complexity (overseas owner and forestry)</p> <p>Engagement Commenced: 2010 - Land requirement plans issued 2014 (21 properties purchased by then)</p> <p>Resolved: 2016</p> <p>One objection to s23 – settled at Environment Court facilitated mediation</p> <p>Reasons for success</p> <ul style="list-style-type: none"> • LINZ signed off NOI at a lower of design detail than has been required more recently. • Advance agreements and negotiations in parallel with compulsory acquisition process. • Direct dialogue between NZTA and affected landowners to address any agreement impediments. <p>Challenges</p> <ul style="list-style-type: none"> • Overseas developer (owned 40% of required land) concurrently sought Resource Consent for lifestyle subdivision development. Complications due to native bush and forestry on the land. Ultimately, land obtained by agreement. • Auckland Unitary Plan decision released late 2016, coinciding with s23 issue. • Q2II land covenant (note this was prior to the lesser interests advice note from LINZ). 	<p>Delayed: Mount Messenger Bypass</p> <p>Overview</p> <p>Landowners: 7- very low number with some post treaty settlement land involved.</p> <p>Engagement Commenced: 2017</p> <p>Resolved: All by 2021 except one. Ongoing challenges in 2024</p> <p>Appeals and objections to most, if not all, RMA and PWA decisions</p> <p>Challenges / reasons for delay</p> <ul style="list-style-type: none"> • The P family and supporters (P's) filed appeals / objections to most / all RMA and PWA decisions. • P appealed RMA consents resulting in extended (years) delays and several hearings. Courts ruled in the Crown's favour. P subsequently appealed PWA process. • All properties except the P land was acquired using the PWA by 2021 (either willing or compulsory acquisition with LINZ). • 7+ year ongoing delay to acquire the P property. Still not acquired (2024). • Key factor was Ministerial decision to halt PWA action (s23) until the iwi agreement between Ngati Tama had been reached. • Additional factors included protests and unlawful occupation, other litigation activities, and issue of multiple trespass notices against the project team and Crown representatives.
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Appendix 3: International comparison of compensation provisions

In New Zealand, landowners are entitled to an additional \$10,000 when their principal place of residence is acquired, and agreement to a vacant possession date is reached within six months of negotiations commencing. This is intended to incentivise early agreement. Officials identified no statutory mechanisms for paying additional compensation to owners if they agreed within a certain timeframe in other comparable jurisdictions (i.e., as an incentive to agree).

Many jurisdictions including New Zealand offer additional compensation where an acquisition includes land used as the affected party's principal place of residence. Some jurisdictions also include these payments where land is used as a principal place of business. A common approach is to calculate this payment as a percentage of land value (international comparisons show this is commonly 5-10%), and some set a maximum amount available.

British Columbia confirmed in consultation that additional compensation is not available to landowners for acquisitions. Their legislation provides for an agreement for land to be taken and for payment of some compensation, but for the final compensation amount to be determined later (instead of land being taken by expropriation). This is not disallowed in New Zealand, but advance payments are provided as a matter of practice rather than prescribed in legislation.

Several jurisdictions (Queensland, South Australia, British Columbia, and Alberta) provide for advance payments in their legislation. The acquiring agency is required to pay compensation within a set timeframe after land is taken by compulsory acquisition. Accepting an advance payment does not affect an owner's right to claim further compensation/without prejudice in South Australia and Alberta.

Process for determining compensation

In New South Wales, the acquiring authority must let the landowner know their entitlement to compensation and the amount offered 45 days after a notice of acquisition (the equivalent of New Zealand's proclamation process). By comparison, in New Zealand, the Crown and landowner typically each get a valuation as a starting point for negotiations to occur. A valuation is not a final offer, unlike the example in New South Wales which is the final offer (although this can be objected to).

In Victoria (AU), if the acquiring authority makes a total offer, it must pay the offer of compensation in the Court within seven days of the offer being made. The Court/Tribunal determines the full amount, and interest can accrue on this. New Zealand's legislation does not provide for acquiring authorities to pay compensation to anyone other than the landowner – including that the Minister/local authority can instigate proceedings in the Land Valuation Tribunal if the landowner has not yet and has refused compensation.

Appendix 3: Existing PWA compensation entitlements (in addition to land value)

CIRCUMSTANCE	ENTITLEMENT
If the land being acquired includes the affected party's principal place of residence ss72, 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 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.

CIRCUMSTANCE	ENTITLEMENT
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).

Proactive Release