Appendix 2: Public Works Act 1981 (PWA)







Land acquisition processes

Anytime during these below phases, land may be **acquired by agreement** with the landowner (s17)

Land identified by acquiring entity

Negotiations between landowner and acquiring entity (operational practice, not required by PWA)

Notice of **desire** to acquire land from landowner (s18)

Acquiring entity attempts to negotiate in good faith with landowner (minimum three months)

Notice of **intention** to take land (s23)

(As necessary) 2
Crown/local
authority responds
to **objections** by
landowner to the
Environment Court

If no objection or no successful objection, Minister recommends the Governor-General takes land by **proclamation** (s26)

Case law has meant delivery agencies must go through separate acquisition process for the same project

The need for two notices, does not apply in most countries and may contribute to project delays A review may identify possible improvements to incentives for landowners to reach acquisition by agreement

Examples of delay areas for review (BRF 24-304 refers)

Fast Track Approvals Bill

The Bill provides that the Environment Court may, in hearing an objection to the acquisition of land under the PWA, adopt a finding of joint Ministers on alternative sites, routes or methods where these have been considered under the RMA approval process.

2

Environment Court (EC) objection processes

Sections 23-24 of PWA. Anytime during the below, acquisition by agreement (s17) can still be reached and objections withdrawn

Landowner may submit an objection to EC, within 20 working days after receiving notice of intention to take land (s23)

EC forwards objection to Minister or local authority, who, within 1 month, must send the Court and the landowner with a response EC inquiries into objection, holds a hearing, then rules on whether the acquisition is "fair, sound, and reasonably necessary" for the works.

Crown Law Office attends.

(As necessary)
Appeals as far as Supreme
Court. All processes involved
in PWA regime are also
subject to judicial review.

Compensation

Compensation is provided at the end of agreement or proclamation processes.

Objections to compensation amounts are not heard by the Environment Court but are referred to the Land Valuation Tribunal.

PWA users

Formally the PWA was only used by the former Ministry of Works. Now a range of entities use the PWA to acquire land, including:

- Central government delivery agencies (e.g. NZTA, Education)
- Local authorities (acquisitions for councils, universities and polytechnical institutions)
- New Zealand Railways Corporation
- Network utility operators (e.g. transpower, local lines companies)

Acquisition timeframes

If the full process is involved, it generally takes up to 2 years to acquire land

Objections to the Environment Court can extend these timelines. In general, objections add a year, but this can be longer as their decision is subject to appeal as far as the Supreme Court

4

Land disposals under the PWA

The PWA prescribes a process managing land when it is no longer required for the purposes for which it was acquired. Firstly, it must be determined whether the site is required for further public works. If not, the land must be offered back to its former owner or their successors for purchase, except where there are exemptions. Treaty of Waitangi settlements may apply before land can be sold on the open market.