

## Land acquisition processes

**Timeframes:** If compulsory acquisition occurs, this process generally require 1-2 years. Objections to the Environment Court can extend this in general by a year, although this can be longer if appeals occur.

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

1

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)

### Land acquiring entities

- 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)

Delivery agencies must go through separate acquisition processes for the same project

The need for two notices does not apply in most countries and may contribute to delays

A review may identify improvements to incentives for landowners to reach acquisition by agreement

### Examples of project delay areas for review

### 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 Anytime during the below, acquisition by agreement (s17) can still be reached and objections withdrawn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 a response

EC inquires into objection, holds a hearing, then rules on whether the acquisition is "fair, sound, and reasonably necessary" for the works

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

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## Compensation

- Under the PWA, landowners are entitled to **full compensation** for their land to ensure their financial position is no better or worse than before an acquisition.
- Compensation is paid on settlement (if agreement reached) or after a Land Valuation Tribunal ruling.
- The value is based on the amount the land would be expected to be sold for, if sold on the open market by a willing seller to a willing buyer on a specified date.
- Depending on the circumstances, landowners may also be compensated for:
  - If the land being acquired includes the landowner's principal residence
  - Household removal costs
  - Business or residential tenant removal costs
  - Business losses
  - Damage to land
  - Disturbance costs, including legal and valuation fees
  - Accessibility improvements
  - Other professional costs in addition to legal and valuation fees.

Objections to compensation amounts are not heard by the Environment Court but are referred to the Land Valuation Tribunal. This tribunal consists of a District Court Judge and two registered valuers

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## Processes for land disposals

**Note:** Below is the general process. Minor variations apply, for instance for disposal of land that was formerly owned by Māori

Land identified as no longer required for the public work for which it was originally acquired

Landholding entity engages other entities (Crown, local authority) to determine whether the land is required for another public work

Unless exceptions apply, land offered back to former landowner or their successors at market value, or (by agreement) at a price determined by the Land Valuation Tribunal (s40)

If the former owner or their successors do not accept an offer within 40 days, the land can be offered to the open market or neighboring landowners for purchase. Treaty of Waitangi claim settlement obligations (e.g. first right of refusal) must be addressed before an open market offer