

BRF 25 -117 Appendix 1: PWA objections options summary

	Policy issues and context	Options	Panel support	Key trade off	Cabinet-mandated criteria				Indicate your preferred options
					Effective	Efficient	Clarity	Feasible	
Objections - grounds	1. Objections to land acquisition: Delivery agencies advised that landowner objections under the PWA are a source of frustration, as a single objection can delay an entire project and in practice there is often duplication of the evidence presented at objections hearings with that previously considered under the RMA designation process.	1A. Refine the grounds for objections and make procedural improvements Specify that the Court must not consider whether adequate consideration has been given to alternative sites, routes or other methods if there is a designation (in line with the Fast-Track Approvals Bill model). Retain the "fair, sound and reasonably necessary test" but introduce specific considerations focused on the specific property. Introduce requirements to improve efficiency so the objector must state the grounds for their objection when it is filed, specify compensation matters must be excluded from consideration, and require mediation before proceeding to an Environment Court hearing.		Reduces the overlap of considerations with the RMA designation process and makes proceedings more focussed. Objections under the PWA still have the potential to slow down infrastructure projects, but proceedings will be more targeted and efficient.	+	+	++	++	<input type="checkbox"/>
	While there is overlap in some RMA designation processes and an objection hearing in the Environment Court under the PWA, the legal tests are not the same, even though similarly worded, as the purposes of the two statutes are different.	1B. Integrate PWA objection test with the RMA designation process Remove objections under the PWA where there is an RMA designation process and amend the RMA to give adequate consideration of land acquisition and address landowners' access to justice. The objections process would remain for acquisitions where there is no designation, and the landowner can object to procedural matters during the acquisition process.	✓	Requires system level change to the RMA to preserve the right to natural justice for landowners. Will shift detailed land acquisition considerations into the designation process, adding complexity which may be less inefficient.	0/+	0/+	-	--	<input type="checkbox"/>
		1C. Remove the right to object Judicial review would remain available. 1. 2(7) incl. current test, for min. to decide		This option was not contemplated by the Panel. It would increase the risk of judicial review. Objections are an important check on the use of compulsory acquisition power. The Critical Infrastructure proposals remove the right to object for certain projects. However, those proposals rely on an objection right remaining in the PWA, because agencies can choose to opt-out (to manage the risks of legal challenge and judicial review), it is subject to a statutory review period, and landowners of protected Māori land retain the right to object.	+/-	+/-	-	+	<input type="checkbox"/>
Objections - body	2. Body that hears objections: If you select option 1A or 1B, and objections are retained, the Environment Court can continue to hear objections, or a new body could be established which provides a faster process. The Panel suggested a Canadian-style inquiry process where a minister appoints an inquiry officer who can make a non-binding recommendation to the minister.	2A. Retain the Environment Court as the body hearing PWA objections Status quo, but the Environment Court would be considering a narrower objections test (options 1A) or objections where there is no designation (option 1B).	✓	Would maintain the fundamental principle of the PWA of a judicial check on decision-making. The Court process supports consistent decision-making by providing judicial precedent guiding the system, and the Environment Court is an appropriate body for considering land acquisition matters.	0	0	0	0	<input type="checkbox"/>
		2B. LINZ to further investigate a different body for hearing PWA objections Any objections will be made to the Minister, rather than the Environment Court, who will appoint an individual or panel to consider the objection. Judicial review would remain available. If you prefer this option, LINZ can provide further advice on detailed options and can discuss implications for timeframes.	✓	The Panel viewed this option as out of scope of the PWA review by not providing a judicial check on decision-making. It would require creating a new process or institution which would be a significant change to the system and is not feasible to deliver within the scope and timing of the targeted PWA review. Feasibility challenges include funding a new institution and designing it to work for local authority takings. A Ministerial inquiry process has potential to resolve objections significantly faster and at lower costs to parties than the Environment Court process. The Panel also noted benefits for landowners, who are often left worse off by protracted litigation (including through the financial costs incurred) than if they had not objected.	+	+	-	--	<input type="checkbox"/>