

Standard for disposal of land held for a public work

LINZS15000

Crown Estate Regulation

Acceptance

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Contents

Terms and definitions	5
Foreword	8
Introduction	8
Purpose of standard	8
Superseded documents.....	8
References.....	8
1 Scope	10
2 Intended use of standard	10
3 General Provisions	10
3.1 Who may make commitments on behalf of the Crown	10
3.2 Provision of work.....	11
3.3 Conflict of interest	11
3.4 Records of disposal process	11
3.5 Resource Management Act subdivision consent	12
4 Commencement of disposal	13
4.1 Vendor agency no longer requires land for a public work.....	13
4.2 Identification of competing public works	15
4.3 No agreement on terms of transfer.....	15
4.4 Setting apart under s 52 of the PWA	15
4.5 Transfer to local authority under s 50 of the PWA	16
5 Right of offer back	18
5.1 Identification of person for offer back.....	18
5.2 Exemptions to offer back under s 40(2) of the PWA.....	19
5.3 Sale of land to adjacent owner	20
5.4 Date and valuation of offer back	21
5.5 Terms and conditions of offer back.....	21
5.6 Making an offer back.....	23
5.7 Offer back for former Māori land	24
5.8 Concluding the offer back process	25
5.9 Application to the Land Valuation Tribunal.....	26
6 Disposal of gifted land	27

6.1	General	27
6.2	Identification of gifted land	27
6.3	Approval to return land for nil consideration	27
6.4	Seeking appropriation.....	28
6.5	Offer to donor	28
6.6	Concluding the gifted land policy process	29
6.7	Ngāti Whakaue gifted lands policy.....	29
7	Treaty settlement obligations	31
8	Sale under s 42 of the PWA	32
8.1	Market or reserve price.....	32
8.2	Methods of sale under s 42 of the PWA.....	32
8.3	Marketing and advertising	33
8.4	Agreement for sale and purchase	34
9	Transfer and settlement.....	36
9.1	Authority and Instruction.....	36
9.2	Settlement.....	36
	Appendix A: Required fields for report on land for disposal.....	37
	Appendix B: Special conditions for offer of sale under s 40 of the PWA	40
	Appendix C: Covering letter for offer back	42
	Appendix D: Clearances required	43
	Appendix E: Disposal of railway land held by Toitū Te Whenua	46
	Right of offer back under s 23 NZRCRA	46
	Exemptions to offer back under s 23 of the NZRCRA.....	46
	Application to the Land Valuation Tribunal	47

Terms and definitions

For the purposes of this standard the following terms and definitions apply.

Term/abbreviation	Definition
acquiring agency	a Crown agency asking the Minister to acquire or take land under the PWA, and includes a Crown property accredited supplier contracted by an acquiring agency
ASP	Agreement for Sale and Purchase of Real Estate – the Auckland District Law Society Inc. and Real Estate Institute of New Zealand Inc. current edition
Authority and Instruction Form	a form approved by the New Zealand Law Society and Registrar-General of Land for electronic transactions to meet requirements of s 30 of the Land Transfer Act 2017
beneficially entitled person	the donor of gifted land, or, where the donor has died, the person who benefits from the donor’s estate at the time of death or subsequently, including those determined as entitled successors by the Māori Land Court
Chief Executive	Te Tumu Whakarae/Chief Executive of Toitū Te Whenua Land Information New Zealand, including an authorised delegate
Assessment - Clearances	business group of Toitū Te Whenua Land Information New Zealand’s Regulatory Practice and Delivery team charged with making statutory decisions on work received from Crown property accredited suppliers
CMV	current market value
conveyancing practitioner	as defined in s 6 of the Lawyers and Conveyancers Act 2006
Crown	His Majesty the King
Crown agency	a statutory entity and includes former government agencies, now private entities, that have obligations under s 40 of the PWA
Crown entity	an entity as defined in s 7(1) of the Crown Entities Act 2004
Crown property accredited supplier	a private sector supplier of Crown property services, accredited by Toitū Te Whenua Land Information New Zealand, and contracted by a vendor or acquiring agency

Term/abbreviation	Definition
disposal process	the process for disposing of land, including all relevant legislative and government policy requirements, that must be complied with once land is no longer required for a public work
DOC	Department of Conservation
donor	with reference to the GLP, the donor is the person who gifted the land, or if that person has died, is the beneficially entitled person who benefits from that person's estate at the time of death or subsequently, including those entitled successors as determined by the Māori Land Court.
Fenton Agreement	an agreement under which Ngāti Whakaue gifted areas of land to the Crown in the 1880's for the Rotorua township
FENZ	Fire and Emergency New Zealand
former owner	the person from whom the land was acquired for a public work
Gazette	the <i>New Zealand Gazette - Te Kāhiti o Aotearoa</i> , published under the authority of the Government of New Zealand
GLP	gifted land policy
GST	goods and services tax
Kāinga Ora	Kāinga Ora – Homes and Communities
lawyer	as defined in s 6 of the Lawyers and Conveyancers Act 2006
local authority	as defined in s 2 of the PWA
LVT	Land Valuation Tribunal
Māori land	as defined in Te Ture Whenua Maori Act 1993
marginal strip	as defined in s 2 of the Conservation Act 1987
Minister	Minister for Land Information, including an authorised delegate
NZRCRA	New Zealand Railways Corporation Restructuring Act 1990
offer back	the requirement under s 40(2) of the PWA to offer to sell land that is no longer required for a public work by private contract to the person from whom it was acquired or the successor of that person
party	includes all natural and legal persons and other organisations and entities

Term/abbreviation	Definition
PWA	Public Works Act 1981
record of title	as defined in s 5 of the Land Transfer Act 2017 and created by the Registrar-General of Land under s 12 of that Act ; formerly known as a computer register
Registrar-General of Land	the Registrar-General of Land appointed under s 5 of the Land Transfer Act 2017
right of first refusal	in Treaty settlements this is the right of a governance entity to receive the first offer to purchase land, before it is disposed of on the open market
RMA	Resource Management Act 1991
s 40	section 40 of the PWA , including the requirement under s 40(2) of the PWA to offer to sell land that is no longer required for a public work by private contract to the person from whom it was acquired or the successor of that person
SOE	State-Owned enterprise
successor	as defined in s 40(5) of the PWA
successor in title	the current owner of land that remains after part of its original title has been acquired for public works and subsequently become surplus
Te Arawhiti	Te Arawhiti – The Office for Māori Crown Relations
territorial authority	as defined in s 5(1) of the Local Government Act 2002
Toitū Te Whenua	Toitū Te Whenua Land Information New Zealand
TPK	Te Puni Kōkiri
Treaty	Te Tiriti o Waitangi/Treaty of Waitangi
Treaty settlement	an agreement between the Crown and a Māori claimant group to settle all that claimant group's historical claims against the Crown. The key documents that form the agreement are the Treaty settlement legislation, the deed of settlement, and protocols
vendor agency	a Crown agency disposing of land under the PWA and includes a Crown property accredited supplier contracted by a vendor agency

Foreword

Introduction

The [PWA](#) sets out the procedures for disposing of land that is held for a public work but is no longer required for that public work. It ensures that those who have a recognised interest in the land are given priority when the land is disposed of.

Purpose of standard

The purpose of this standard is to ensure that all those with a recognised interest in land held for a public work are considered when that land is disposed of.

Superseded documents

This standard supersedes the previous version of this standard, listed below:

Land Information New Zealand, Crown Property Regulatory. *2009. Standard for disposal of land held for a public work – LINZS15000.*

References

The following documents are necessary for the application of this standard.

Reference

[Administration Act 1969](#)

[Conservation Act 1987](#)

[Crown Minerals Act 1991](#)

[Health Sector \(Transfers\) Act 1993](#)

Land Information New Zealand, Crown Property Regulatory. [Standard for the acquisition of land under the Public Works Act 1981 – LINZS15005](#). LINZ: 2017.

Land Information New Zealand, Crown Property Regulatory. [Standard for resumption and stopping of road, - LINZS15002](#). LINZ:2009.

[Local Government Act 1974](#)

Reference

[New Zealand Railways Corporation Restructuring Act 1990](#)

[Public Service Act 2020](#)

[Public Works Act 1981](#)

[Resource Management Act 1991](#)

[Te Ture Whenua Maori Act 1993](#)

Toitū Te Whenua Land Information New Zealand, Crown Property Regulatory. 2022. [LINZ OP S 01288: Interim standard for Acquisition of Land for Kāinga Ora under the Urban Development Act 2020](#). Toitū Te Whenua: Wellington.

Toitū Te Whenua Land Information New Zealand, Crown Estate Regulation. [Standard for Treaty settlement requirements for disposal of Crown-owned land – LINZS15001](#). Toitū Te Whenua: 2023.

[Urban Development Act 2020](#)

1 Scope

- a) This standard sets out:
 - (i) the procedures to be followed, and
 - (ii) the minimum level of information that must be provided,to enable Toitū Te Whenua to assess whether a land disposal complies with the law and whether all those with an interest in the land have been considered.
- b) This standard applies to land owned by the Crown or a Crown agency that must be disposed of under the [PWA](#).
- c) This standard does not apply to Crown land held under the [Land Act 1948](#).
- d) This standard does not set out the requirements for complying with Treaty settlement obligations that apply to a disposal.¹

[LINZG15700: Guideline for disposal of land held for a public work](#) complements this standard and provides guidance on best practice when disposing of land under the [PWA](#) and [NZRCRA](#). The guideline is intended to assist vendor agencies regarding the information required by Toitū Te Whenua referred to in this standard.

2 Intended use of standard

Vendor agencies and Crown property accredited suppliers must use this standard when disposing of land under the [PWA](#).

3 General Provisions

3.1 Who may make commitments on behalf of the Crown

Only the Minister or the Chief Executive, can execute agreements or give contractually binding commitments on behalf of the Crown for disposal of land under the [PWA](#).

¹ Requirements for disposal of land affected by Treaty settlements are specified in [LINZS15001: Standard for Treaty settlement requirements for the disposal of Crown-owned land](#).

3.2 Provision of work

The vendor agency must submit all actions, including reports and recommendations seeking the Minister's or Chief Executive's decision to Assessment - Clearances Toitū Te Whenua.

3.3 Conflict of interest

- a) In the event of any conflict of interest or any potential conflict of interest, any party involved in the disposal process on the Crown's behalf must:
 - (i) immediately disclose any actual or potential conflict of interest to Toitū Te Whenua, and
 - (ii) not act in the matter unless written approval has been given by Toitū Te Whenua and all parties who could reasonably object to the conflict of interest.
- b) The party managing the disposal process and the party carrying out a sale under [s 42 of the PWA](#) must not be the same.

3.4 Records of disposal process

3.4.1 Maintenance of records

The vendor agency must record and maintain the following information in the manner advised by Toitū Te Whenua:

- (a) evidence that it has authorised its Crown property accredited suppliers to act on its behalf,
- (b) records of relevant communication and discussions between the vendor agency and other parties relating to the disposal, and
- (c) evidence of compliance with the requirements of the [PWA](#) and this standard in respect of every action taken.

3.4.2 Requests for information

The vendor agency must advise Toitū Te Whenua as soon as possible if it receives a request for a document or other information related to land proceeding through the disposal process, for Toitū Te Whenua to determine the responsibility for answering that request under the [Official Information Act 1982](#).

3.5 Resource Management Act subdivision consent

Where any disposal of land used for a public work requires a subdivision, any document presented for execution by Toitū Te Whenua must be accompanied by evidence that the relevant provisions of the [RMA](#) have been complied with.²

² Refer to section 2 of [LINZG15700: Guideline for disposal of land held for a public work](#) for guidance on exemptions to the requirement for [RMA](#) consent.

4 Commencement of disposal

4.1 Vendor agency no longer requires land for a public work

4.1.1 General

A vendor agency that decides it no longer requires land for a public work must:

- a) identify its obligations under the [PWA](#), and all clearances required, including those in Appendix D, before beginning the disposal process,
- b) identify whether there have been any expressions of interest from another Crown agency or local authority requiring the land for another public work³,
- c) make reasonable endeavours to identify whether the land was Māori land or general land owned by Māori at the time it was first acquired for a public work,
- d) document clear reasons for the disposal, and
- e) provide written confirmation signed by an authorised officer of the vendor agency that:
 - (i) states the purpose for which the land is held, and if land has been used for successive public works, the vendor agency must ascertain when the land was first held for a public work,
 - (ii) confirms that the land is no longer required for the purpose for which it is held, either by virtue of a formal decision made by the vendor agency or by the vendor agency's conduct,
 - (iii) provide advice addressing whether the land may objectively be considered to be surplus at an earlier date, and of any consequences regarding [s 40](#) decision-making if so, and
 - (iv) confirms the date of that decision, action, or change in situation that determined that the land was no longer required.

4.1.2 Disposal actions

When a vendor agency decides it no longer requires the land, the report to Toitū Te Whenua for disposal under the [PWA](#) may include:

³ Refer to section 2 of [LINZG15700: Guideline for disposal of land held for a public work](#) for guidance on how to assess whether land is required for another public work.

- a) setting the land apart under [s 52 of the PWA](#),
- a) transferring the land to a local authority under [s 50 of the PWA](#),
- b) transferring the land to Kāinga Ora under the [Urban Development Act 2020](#),⁴
- c) an exchange under [s 105 of the PWA](#)⁵,
- d) complying with [s 40](#) or [41 of the PWA](#), or
- e) an application to the Māori Land Court under [s 134 of Te Ture Whenua Maori Act 1993](#).

4.1.3 Decision from Toitu Te Whenua

- a) A vendor agency must seek a decision from the Chief Executive under [s 40\(1\) of the PWA](#) as soon as possible where it considers that any of the situations below apply:
 - (i) there is doubt of whether the land is no longer required for a public work,
 - (ii) there is doubt of when the land was no longer required for a public work,
 - (iii) any disposal, including a setting apart or transfer of the land for another public work, may be outside a reasonable timeframe for undertaking that action (and therefore triggering the requirement to address [s 40](#)).
- b) The report to Toitū Te Whenua seeking a decision under [s 40\(1\)](#) must include:
 - (i) the information specified in Appendix A,
 - (ii) details and analysis about why there is doubt whether or when the land was no longer required for a public work, and
 - (iii) advice on whether and how the tests in [s 40\(1\) of the PWA](#) are to be applied.

4.1.4 Withdrawal or change in circumstances

- a) Once a vendor agency decides it no longer requires land for a public work it cannot withdraw land from the [s 40](#) process.
- b) Any change in circumstances affecting the [s 40](#) process must be notified to Toitū Te Whenua immediately in writing.

⁴ Refer to [LINZ OP S 01288: Interim standard for Acquisition of Land for Kāinga Ora under the Urban Development Act 2020](#) for requirements relating to transfers of public works land to Kāinga Ora.

⁵ Refer to [LINZS15005: Standard for the acquisition of land under the Public Works Act 1981](#) for requirements relating to exchange of land under [s 105 of the PWA](#).

4.2 Identification of competing public works

If a vendor agency receives more than one request to use the same land for another public work, it must advise Toitū Te Whenua immediately.

4.3 No agreement on terms of transfer

If the vendor and acquiring agencies cannot reach agreement on the terms and conditions (including value) of a transfer or setting apart within six months of notification of the requirement for another public work, the vendor agency must advise Toitū Te Whenua immediately, for Toitū Te Whenua to confirm the process for resolution of this matter.

4.4 Setting apart under s 52 of the PWA

- a) When requesting the Minister to set apart land for another Government work under [s 52\(1\)\(d\) of the PWA](#), and for the land to be transferred to another Crown agency, the vendor agency must provide the following advice to the Minister⁶:
 - (i) advice on the significance of the land to Māori,⁷ together with any proposed actions to mitigate the impacts on Māori, where the land was Māori land when it was taken or acquired for a public work, and
 - (ii) advice on any situation that might question whether the land is still held for a public work or might require the right to an offer under [s 40](#) to be addressed before setting apart the land.
- b) The agency requiring the land must comply with section 15 of [LINZS15005: Standard for the acquisition of land under the Public Works Act 1981](#).

COMMENTARY

While most setting apart under [s 52 of the PWA](#) occurs when another Crown agency identifies a public works requirement for the land, there may also be situations where the agency that holds the land wishes to change the public work that applies. In such cases, the above process for a setting apart will apply, even though there is no disposal or transfer to another agency taking place.

⁶ Where the land is subject to the Ngāti Whakaue gifted lands policy see section 6.7 of this standard for further requirements.

⁷ Refer to [LINZS15001: Standard for Treaty settlement requirements for disposal of Crown-owned land](#) for consideration of Māori interests in land required for another public work.

4.5 Transfer to local authority under s 50 of the PWA

4.5.1 Application to Toitū te Whenua

If a vendor agency proposes to transfer land to a local authority for a public work under [s 50 of the PWA](#)⁸, it must submit the following to Toitū Te Whenua:

- a) a report containing:
 - (i) the information specified in Appendix A,
 - (ii) the requirements and assessment of the public interest,
 - (iii) the nature of the proposed work and its importance to the community,
 - (iv) advice on the significance of the land to Māori,⁹ together with any proposed actions to mitigate the impacts on Māori, where the land was Māori land when it was taken or acquired for a public work,¹⁰
 - (v) advice on any situation that might question whether the land is still held for a public work or might require the right to an offer under [s 40](#) to be addressed before it is transferred for another public work,
 - (vi) details of the availability of other sites for the work, and
 - (vii) evidence of compliance with any relevant requirements of section 3 of [LINZS15001: Standard for Treaty Settlement requirements for disposal of Crown-owned land](#), and
- b) the agreement to transfer the land to a local authority, for execution by the Minister; and
- c) copies of supporting documentation including:
 - (i) evidence that all clearances required by the vendor agency have been obtained,
 - (ii) where the land was former Māori land; details of the original taking or acquisition for a public purpose,
 - (iii) a spatial map showing the land and surrounding parcels,

⁸ See also [s 114 of the PWA](#) for requirements for declaring Crown-owned land to be road.

⁹ Refer to [LINZS15001: Standard for Treaty settlement requirements for disposal of Crown-owned land](#) for consideration of Māori interests in land required for another public work.

¹⁰ Where the land is subject to the Ngāti Whakaue gifted lands policy see section 7.7.1 of this standard for further requirements.

- (iv) a copy of the current record of title holding the land, where available, and
- (v) the relevant survey plan, where required.

4.5.2 Document to effect transfer of land

If the Minister approves a transfer under 4.5.1, the vendor agency must submit to Toitū Te Whenua, for execution by the Minister either:

- a) the Authority and Instruction form for a transfer instrument specified in 9.1, stating the new purpose of the land, or
- b) a declaration under [s 20 of the PWA](#), stating the new purpose of the land, to be published in the Gazette.

5 Right of offer back

5.1 Identification of person for offer back

5.1.2 General

A vendor agency must make reasonable efforts to identify and locate the former owner or their successor, at the time the offer back right became definite.

5.1.3 Identification of successor for offer back

- a) Where the former owner is not alive at the time the offer back right became definite, a vendor agency must make all reasonable efforts to locate that person's successor within the meaning of [s 40\(5\) of the PWA](#).
- b) If the former owner has died, the vendor agency must provide Toitū Te Whenua with:
 - (i) verification of the death of the former owner, and
 - (ii) a copy of the will and an interpretation of the will of the former owner, prepared by a lawyer, taking into account the definition of successor in [s 40\(5\) of the PWA](#), or
 - (iii) if the former owner died intestate, an interpretation of the provisions of the [Administration Act 1969](#) or that Act that applied at the date of the death of the former owner, considering the statutory test of successor in [s 40\(5\) of the PWA](#); and
 - (iv) the identity of their successor(s), which may include a will, grant of probate, birth and death certificates, or other evidence.

5.1.4 The former owner was a company or other legal entity

If the former owner was a company removed from the register of companies or other legal entity¹¹ that is no longer registered or no longer exists, the vendor agency must provide evidence of:

- a) what is known about the company or other legal entity, and
- b) the steps required to restore the company or other legal entity to a registered or other legal status under the relevant legislation, and

¹¹ Such as an incorporated society or trust.

- c) whether any shareholders or directors, members or trustees wish to restore the company or other legal entity to receive an offer back right.

5.1.5 More than one successor is identified

If more than one successor is identified, a simultaneous offer back of the land must be made to all successors.

5.1.6 Successor in title

If only part of an original title was acquired for a public work, and the former owner has died, the vendor agency must:

- a) identify the successor in title for that person to receive an offer of the land, and
- b) provide information and analysis that will enable Toitū Te Whenua to decide the priority to a right to an offer back under the statutory test of [s 40\(5\) of the PWA](#); successors by will or intestacy, and the successor in title.

5.1.7 There is no person to make an offer back to

If there is no person to make an offer back to, the vendor agency must provide evidence of this to Toitū Te Whenua and seek confirmation from the Chief Executive that the obligation under [s 40\(2\) of the PWA](#) has been satisfied.

5.2 Exemptions to offer back under s 40(2) of the PWA

5.2.1 Consideration of grounds for exemption¹²

5.2.1.1 Submission to Toitū Te Whenua

A vendor agency must consider whether there are grounds for exemption under [s 40](#), and submit the following to the Chief Executive:

- a) a signed report
 - (i) containing the information specified in Appendix A,
 - (ii) addressing all grounds for or against exemption under [s 40\(2\) of the PWA](#),
 - (iii) providing an analysis of any proposed exemption, including advice on the current legal interpretation of [s 40](#),

¹² Refer to section 4 of [LINZG15700: Guideline for disposal of land held for a public work](#) for examples of the grounds for exemption.

- (iv) advice on the significance of the land to Māori, together with any proposed actions to mitigate the impacts on Māori, where the land was Māori land when it was taken or acquired for a public work, and
 - (v) recommending whether the Chief Executive exercise a statutory discretion in relation to the exemptions under [s 40\(2\) of the PWA](#) to exempt the land from offer back; and
- b) copies of supporting documentation including
- (i) evidence that all clearances required by the vendor agency have been obtained; see Appendix D,
 - (ii) an aerial photo and spatial map showing the land and surrounding parcels,
 - (iii) a copy of the current and historic record of title for the land, where available,
 - (iv) the relevant survey plan, where required, and
 - (v) vendor agency confirmation that the property is surplus to requirements, if required

5.2.1.2 Land acquired by separate acquisitions

If land was acquired by separate acquisitions, the vendor agency must provide the information specified in 5.2.1.1 for each acquisition.

5.3 Sale of land to adjacent owner

5.3.1 Information for decision

Where a vendor agency considers that sale under [s 40\(4\) of the PWA](#) is applicable, it must submit the following to the Chief Executive:

- a) A report containing the information and supporting documentation specified in 5.2.1.1 of this standard, and
- b) a summary of the views of the landowners of the parcel of Māori land from which the land was acquired, on the proposed application of [s 40\(4\)](#), if the land was Māori land at the time it was acquired.¹³

¹³ Where the parcel from which the land was acquired is no longer Māori land, the vendor agency should consider whose views might appropriately be sought given the cultural associations with the land when it was acquired.

5.3.2 Execution of sale agreement

If the Chief Executive exercises a statutory discretion to apply the test of [s 40\(4\) of the PWA](#) to the land, the vendor agency must subsequently submit an ASP for the land, signed by the adjacent owner, to Toitū Te Whenua for execution.

5.4 Date and valuation of offer back

5.4.1 Reasons for effective date

The vendor agency must state fully the reasons for proposing the effective date of valuation in the report accompanying the offer back document for execution by Toitū Te Whenua.¹⁴

5.4.2 Preparation of valuation

The valuation must be prepared by an appropriately selected and instructed independent registered valuer.

5.5 Terms and conditions of offer back

5.5.1 Form of offer back

5.5.1.1 Form

An offer back must:

- a) be in the ASP form, and
- b) include the special conditions required for a [s 40](#) offer as specified in Appendix B.

5.5.1.2 Offer back of land owned by SOE's and Crown entities

Where an offer back is of land held in the name of a State-owned enterprise or Crown entity, including Health New Zealand, the special conditions in Appendix B must be amended by:

- a) referring to the legislation under which Toitū Te Whenua is acting, in addition to [s 40 of the PWA](#).
- b) substituting the appropriate statutory authority for disposal of the land after [s 40](#), and
- c) striking out the reference to [s 11 of the Crown Minerals Act 1991](#).

¹⁴ Refer to section 6 of [LINZG15700: Guideline for disposal of land held for a public work](#) for guidance on the effective date of valuation.

5.5.1.3 Offer back of land owned by Chorus New Zealand Limited

Where an offer back is of land owned by Chorus New Zealand Limited, the special conditions in Appendix B must be amended by:

- a) adding a reference to [s 69XH of the Telecommunications Act 2001](#) as the legislation under which Toitū Te Whenua is acting, in addition to [ss 40](#) and [41 of the PWA](#),
- b) adding Chorus New Zealand Limited as the 'Offeror's Nominee' to the parties named on the offer back,
- c) appending the offer back with a certificate of non-revocation of power of attorney for Chorus New Zealand Limited, and
- d) providing if the offer is not accepted or after the determination of the LVT within the time specified, that Chorus New Zealand Limited may sell the land as it sees fit.

5.5.2 Offer back submitted to Toitū Te Whenua for execution

The vendor agency must submit the offer for execution by the Chief Executive along with:

- a) a signed report containing:
 - (i) the information specified in Appendix A,
 - (ii) evidence used to identify the offeree,
 - (iii) advice on how the effective date of valuation was determined,
 - (iv) advice identifying and justifying the grounds for any proposal to offer the land at less than CMV, under [s 40\(2\)\(d\) of the PWA](#),
 - (v) advice whether the vendor agency proposes to include land to the offer back which is not subject to [s 40 of the PWA](#),
 - (vi) advice on any changes that have been made to the standard terms and conditions of the ASP,
 - (vii) advice where the vendor agency is proposing a special condition in addition to those set out in Appendix B; and
- b) a copy of the valuation,
- c) a copy of the current record of title,
- d) copies of any easements or encumbrances to be registered against the title, and
- e) evidence of the vendor approval to the offer back price.

5.6 Making an offer back

5.6.1 Covering letter

An offer back must be accompanied by a covering letter that contains the requirements in Appendix C. The vendor agency must retain evidence of the offer.

5.6.2 Ngāti Tūrangitukua Treaty Settlement

If the land is covered by the Ngāti Tūrangitukua Treaty settlement, the vendor agency must comply with the Ngāti Tūrangitukua Treaty settlement protocol.¹⁵

5.6.3 Counteroffer from former owner or successor

If a counteroffer is received from an offeree the vendor agency must:

- a) if the counteroffer includes a different price to be paid for the land, ask the offeree to provide a copy of any valuation that the offeree has obtained from a registered valuer to support the counteroffer, and
- b) inform Toitū Te Whenua immediately and provide written advice, including:
 - (i) a copy of any valuation received from the offeree,
 - (ii) advice on the impact of any changes to any non-price terms as proposed by the offeree, and
 - (iii) a recommendation on whether the Chief Executive should accept the counteroffer.

5.6.4 No assignment of offer back

- a) The vendor agency can only offer the land to the persons entitled under [s 40 of the PWA](#).
- b) The offer back cannot be assigned.

¹⁵ Toitū Te Whenua evidence requirements when the Crown is disposing of land covered by the Ngāti Tūrangitukua Treaty Settlements are set out in [LINZS15001: Standard for Treaty of Waitangi Settlement requirements for disposal of Crown-owned land](#).

5.6.5 Extension to the offer back period

- a) The vendor agency must forward to Toitū Te Whenua without delay any request for an extension to the offer back period, which should be before the offer back period expires (see [s 42\(1\) of the PWA](#)).
- b) The request must include the grounds for the request and be accompanied by written advice and a recommendation from the vendor agency.

5.7 Offer back for former Māori land

5.7.1 Determination of mechanism to effect offer back

- a) Where the land was former Māori land, the vendor agency must provide advice to Toitū Te Whenua on whether to:
 - (i) comply with s 40 of the PWA, or
 - (ii) apply to the Māori Land Court under [s 41\(1\)\(e\) of the PWA](#) for an order under [s 134 of Te Ture Whenua Maori Act 1993](#) to vest the land as Māori freehold land, or
 - (iii) consider exemption from offerback and instead make an application under [s 134 of Te Ture Whenua Maori Act 1993](#) to vest the land as Māori freehold land.¹⁶
- b) This advice must include:
 - (i) where it can be ascertained, the views of the former owners or their descendants or whānau as to their preferred action under 5.7.1(a) above, including whether they wish to have the land returned as general or Māori freehold land, and
 - (ii) the reasonable price and terms of an offer under s 40 of the PWA or application under [s 134 of Te Ture Whenua Maori Act 1993](#), accounting for the circumstances of the offerees.

¹⁶ Note that [section 324](#) and [325 of Te Ture Whenua Maori Act 1993](#) may also be applicable when dealing with unformed roads over Māori land.

5.7.2 Application for vesting order

If the Chief Executive decides to apply for a vesting order under [s 134 of Te Ture Whenua Māori Act 1993](#), the vendor agency must provide to Toitū Te Whenua:

- a) A draft application form, that complies with [Form 1 of the Māori Land Court Rules 2011](#),
- b) a list of former owners and their successors, descendants and whānau with supporting documentation, including copies of the relevant Māori Land Court records,
- c) the proposed conditions of the vesting, including any provisionally agreed purchase price, terms and conditions and settlement date,
- d) records of any hui or kōrero with the representatives of the former owners or their successors, descendants and whānau, and
- e) confirmation of agreement with the representatives on the vesting and the agreed purchase price and terms and conditions for the sale of the land.

5.8 Concluding the offer back process

5.8.1 Offer back accepted

When an offer is accepted, the vendor agency must provide Toitū Te Whenua with:

- a) evidence that all eligible parties were made an offer back,
- b) an Authority and Instruction form to transfer the land and a land transfer tax statement that comply with section 9 of this standard, and
- c) a deed of assignment or nomination signed by every offeree that accepted the offer where the offeree wishes to transfer the land to a third party.

5.8.2 Offer back declined or lapsed

- a) If an offer back is declined or lapses, the vendor agency must provide Toitū Te Whenua with a report containing sufficient information to enable the Chief Executive to determine whether the offer back requirements have been satisfied.
- b) The report must provide evidence that:
 - (i) all eligible parties were made an offer back, including copies of the covering letters provided to each party under section 5.6.1 of this standard, and
 - (ii) all eligible parties have declined the offer back, or
 - (iii) the offer back was served and lapsed.

5.9 Application to the Land Valuation Tribunal

The vendor agency under [s 40\(2A\) of the PWA](#) must gain approval from the Chief Executive¹⁷ before any matter is referred to the LVT.

¹⁷ Refer to section 7 of [LINZG15700: Guideline for disposal of land held for a public work](#) for guidance on conducting negotiations over price.

6 Disposal of gifted land

6.1 General

A vendor agency that wishes to dispose of land that was gifted must comply with the GLP¹⁸ and must apply to Toitū Te Whenua with the information specified in 6.2 below.

6.2 Identification of gifted land

If land was gifted, the vendor agency must provide a report to Toitū Te Whenua that sets out:

- a) the information requested in Appendix A,
- b) the circumstances and components of the gift,
- c) the name of the donor,
- d) whether there are any statutory obligations or practical considerations that would limit application of the GLP,
- e) whether the GLP should be effected by the provisions of [s 40](#). If the beneficially entitled person is the same as the successor to the former owner, then [s 40](#) must be used to effect the GLP. If the beneficially entitled person is different from the successor, [s 40](#) must be addressed first and then the GLP applied,
- f) identification of any Crown improvements, their value and how such improvements will be treated in any offer,
- g) confirmation that the donor or beneficially entitled person is interested in receiving an offer of the land and an offer to purchase the improvements, and
- h) a recommendation on the application of the GLP.

6.3 Approval to return land for nil consideration

If the GLP is effected by the provisions of [s 40](#) or [41](#), the vendor agency must, in addition to providing the information required under 6.2, seek approval to return the land for nil consideration under [s 40\(2\)\(d\) of the PWA](#).

¹⁸ Refer to section 8 of [LINZG15700: Guideline for disposal of land held for a public work](#) for further information about the GLP.

6.4 Seeking appropriation

Where a vendor agency returns gifted land at nil consideration, it must apply to The Treasury for an appropriation to reimburse it for the value of the land.

6.5 Offer to donor

6.5.1 Submission to Toitū Te Whenua

- a) A vendor agency must submit any offer to a donor to the Chief Executive with a report and recommendation containing evidence that:
 - (i) reasonable efforts have been made to locate the donor or any beneficially entitled persons, and
 - (ii) the donor or any beneficially entitled person is entitled to receive an offer.
- b) Any offer of gifted land must be made by an ASP with the following additional conditions:
 - (i) the offer is open for a specified period,
 - (ii) settlement will occur when a record of title is available, and
 - (iii) it is noted in the agreement that the land is being returned under the GLP.
- c) If an offer of gifted land is being effected by the provisions of [s 40](#), then the requirements in (b) are, when not in conflict with [s 40](#), in addition to the special conditions in Appendix B.

6.5.2 Advice to donor

- a) A covering letter must accompany any offer to a donor, including:
 - (i) reasons why the offer is being made, including the Crown's understanding of the relationship of the offeree to the donor, where applicable,
 - (ii) a brief history of the acquisition of the land and its use for a public work,
 - (iii) brief details about what is being offered, including how any improvements on the land are to be treated,
 - (iv) advice of any encumbrances or other conditions that the offer is subject to,

- (v) the period for which the offer remains open,¹⁹
- (vi) instructions on how to take up the offer, and
- (vii) a recommendation to the effect that the offeree should consult their own solicitor for advice about their rights and options.

6.6 Concluding the gifted land policy process

A vendor agency must obtain sign-off from the Chief Executive that the GLP process has been completed when a donor:

- a) cannot be located,
- b) cannot produce evidence of entitlement, or
- c) declines the offer.

6.7 Ngāti Whakaue gifted lands policy²⁰

6.7.1 Change in use of the land

- a) When requesting a change to the use of Ngāti Whakaue gifted land under [ss 50](#) or [52 of the PWA](#), a vendor agency must provide Toitū Te Whenua with evidence that:
 - (i) the Pukeroa Oruawhata Trust has been consulted and the new use contemplated is in terms of the Fenton Agreement, or
 - (ii) Ngāti Whakaue has approved the change of use if the new use is outside the Fenton Agreement.
- b) If Ngāti Whakaue does not agree to a proposed change of use that is outside the terms of the Fenton Agreement, the land must either:
 - (i) continue to be used in accordance with the gift, or
 - (ii) be offered back to Ngāti Whakaue under the Ngāti Whakaue gifted lands policy.

¹⁹ Refer also to section 8 of [LINZG15700: Guideline for disposal of land held for a public work](#) for further information about the offer period.

²⁰ Refer to Appendix B of [LINZG15700: Guideline for disposal of land held for a public work](#) for a map of the area covered by the Ngāti Whakaue gifted lands policy.

6.7.2 Where land has improvements

Where land that is offered back to Ngāti Whakaue has improvements that cannot be removed, the offer document and covering letter to Ngāti Whakaue must set out the following three options for dealing with the improvements:

- a) Ngāti Whakaue purchase the land and the improvements at the CMV of the improvements only, as determined by an independent registered valuer with appropriate qualifications and experience, given the nature of the land.
- b) The Crown sells the property on the open market and pays Ngāti Whakaue a cash amount equivalent to the CMV of the land only, as determined by an independent registered valuer with appropriate qualifications and experience, given the nature of the land.
- c) The Crown and Ngāti Whakaue enter into a ground lease for the land under the improvements, and the Crown transfers the land to Ngāti Whakaue subject to the ground lease. Under this option, the Crown is free to sell the improvements and its lessee's interest on the open market.

6.7.3 Time period for response to offer

- a) Ngāti Whakaue must respond with a preferred option from those listed in 6.7.2 no later than three months after the date of the offer.
- b) If Ngāti Whakaue does not respond within the time specified in (a), they must be advised in writing that if they do not respond within one further month, the Crown will adopt the option set out in 6.7.2(b).

6.7.4 Ngāti Whakaue disagree with offer

If Ngāti Whakaue accepts one of the options set out in 6.7.2, but does not agree with the offer, e.g. value or terms of lease, the parties should agree to be bound by the decision of an arbitrator, using the arbitration process set out in the [Arbitration Act 1996](#).

7 Treaty settlement obligations

- a) When disposing of land, the vendor agency must:
 - (i) for land subject to a Treaty claim settlement, comply with a right of first refusal under settlement legislation or a deed of settlement,
 - (ii) alternatively or additionally as may be required, comply with any relevant government policy, including the Mechanism for the Protection of Māori interests.
- b) Refer to Appendix D of this standard and [LINZS15001 Standard for Treaty settlement requirements for disposal of Crown-owned land](#) for further information on these requirements.

8 Sale under s 42 of the PWA

8.1 Market or reserve price

- a) The market or reserve price for disposal of any land under [s 42\(1\)\(d\) of the PWA](#) must be based on a valuation prepared by an independent registered valuer with appropriate qualifications and experience, given the nature of the land.
- b) A vendor agency must be able to provide the valuation specified in (a) to Toitū Te Whenua on request.

8.2 Methods of sale under s 42 of the PWA

8.2.1 Private treaty

8.2.1.1 General

When disposing of land, the private treaty method of sale may only be used:

- a) if there is a prior commitment to give someone the right to acquire the land before it goes on the open market, or
- b) in special circumstances, or
- c) to allow land to be listed for sale with a real estate agent, lawyer or conveyancing practitioner.

8.2.1.2 Pre-approval required for private treaty sales

Before negotiating any private treaty sale resulting from a prior commitment or due to special circumstances (see 8.2.1.1(a) and (b)), the vendor agency must provide a report to the Chief Executive for pre-approval of the sale. The report must include:

- a) details of the prior commitment to give someone the right to acquire the land or the nature of the special circumstances that would justify the sale by private treaty sale, and
- b) a copy of the valuation by a registered valuer for the land being sold by private treaty.

8.2.2 Public application at a specified price

Where the method of sale for disposing of land is by public application at a specified price, the report accompanying the ASP for execution must provide evidence of how this method was applied, including:

- a) the period for which applications were open,

- b) any issues that arose during the application process,
- c) assurance that no bids under the specified price have been considered, and
- d) the steps taken to ensure open competition where there is more than one applicant at the specified price.

8.2.3 Public tender or public auction

Where the method of sale for disposing of land is by public tender or public auction, the vendor agency must:

- a) ensure that the tender or auction is conducted according to standard commercial practice,
- b) advise prospective purchasers that any form of agreement under tender or auction is subject to approval by the Crown, and
- c) for public auctions only:
 - (i) submit the draft ASP and accompanying report to the Chief Executive for pre-approval before any auction, and
 - (ii) make arrangements for the Chief Executive to enter the purchase price and execute the ASP as soon as reasonably practicable after the fall of the hammer at auction.

8.3 Marketing and advertising

- a) In addition to the requirements of [s 42 of the PWA](#), a vendor agency must ensure that the marketing period is sufficient to expose the land to the market.²¹
- b) Where land is listed for sale by a real estate agent, lawyer or conveyancing practitioner, the offer must be advertised as an invitation for offers.
- c) If the land is withdrawn from sale, and subsequently put back on the market, the vendor agency must send new notices to the parties identified in [s 42\(2\) of the PWA](#).

²¹ Refer to section 10 of [LINZG15700: Guideline for disposal of land held for a public work](#) for more information on marketing and advertising a property for disposal.

8.4 Agreement for sale and purchase

8.4.1 Preparation of ASP

- a) A vendor agency must prepare and submit an ASP to Toitū Te Whenua for execution when disposing of land.
- b) Where a sale is by private treaty due to a prior commitment or special circumstances, the ASP must state the sale was by private treaty.

8.4.2 Submission to Toitū Te Whenua

When the ASP is submitted to the Chief Executive it must be accompanied by a report that includes:

- a) the information in Appendix A, updated as necessary,
- b) details of the sale process, including
 - (i) details of the market or reserve price set for the land, including the date at which the value was assessed,
 - (ii) advice on any special conditions in the ASP sought by the vendor agency or the purchaser, and the implications of those conditions,
 - (iii) evidence that the requirements of [s 42\(2\) of the PWA](#) have been met,
 - (iv) evidence that all clearances have been obtained (refer to Appendix D).
- c) details of the proposed purchaser and offer, including
 - (i) advice on any special conditions in the ASP sought by the purchaser and the implications of those conditions,
 - (ii) advice on why the purchaser's offer is proposed to be accepted,
 - (iii) evidence that the vendor agency has agreed to the sale price, terms and conditions,
 - (iv) advice whether the terms of the proposed sale are more favourable than those offered under a right of first refusal, if applicable.
- d) copies of supporting documentation including
 - (i) a plan of the land to be disposed of which identifies all adjoining owners,
 - (ii) a copy of the valuation report, if any,

- (iii) copies of the advertising, showing the date advertised and the method of sale used, and
- (iv) where a sale is by public tender, a signed and completed schedule of tenders received.

9 Transfer and settlement

9.1 Authority and Instruction

- a) A vendor agency must provide to Toitū Te Whenua for execution the Authority and Instruction form for a transfer instrument. The form must:
 - (i) address either the status of the mineral title if not owned by the Crown (refer to [s 86\(3\)\(d\) of the Crown Minerals Act 1991](#)), or the reservation of the statutory minerals in the Crown under [s 11 of the Crown Minerals Act 1991](#) where the Crown owns the mineral title,
 - (ii) include the words “Subject to Part IVA of the Conservation Act 1987,”
 - (iii) include the statutory authority for the disposal, e.g. [The transferor transfers “under section x of the Public Works Act 1981” to the transferee the above estate or interest ...], and
 - (iv) include a reference to [s 42\(6\) of the PWA](#), if it is intended that the land will be amalgamated with other land in an existing record of title.
- b) The Authority and Instruction must be accompanied by a completed tax statement under [s 78 of the Land Transfer Act 2017](#), for execution by Toitū Te Whenua as transferor.
- c) The vendor agency must keep on file the original transfer authority documents and a copy of the e-dealing for the transfer.

9.2 Settlement

A vendor agency must retain evidence that the settlement process was concluded in terms of the ASP and compliance with all statutory requirements.

Appendix A: Required fields for report on land for disposal

When disposing of land under the [PWA](#), a vendor agency must provide Toitū Te Whenua with a report containing the following information when required by this standard.

Field	Information required
1. File reference	Provide the Toitū Te Whenua file reference.
2. Details of the land	<ul style="list-style-type: none"> a) legal description b) area of the land c) record of title d) address and location e) physical description of the property, including a list of any improvements. Refer to any site plan, photos, or other graphic that are attached. f) List each current registered interest and encumbrance on the land, stating its relevance and whether it is affected by the proposed disposal, and attach a copy. Include both formalised and informal arrangements. g) List each current unregistered interest and encumbrance on the land, stating its relevance and whether it is affected by the proposed disposal. Include both formalised and informal arrangements.
3. Land status	Report on the land status, in accordance with LINZS45000: Standard to determine authority to act and record Crown Land .
4. Mineral estate	Provide information about who owns any minerals that may be in the land, if known.
5. Potential liabilities	State whether there are any issues that may hinder or prevent the disposal, such as contamination.
6. Resource Management Act 1991 issues	<ul style="list-style-type: none"> (a) Provide a statement of relevant district plan considerations, including the designation, zoning, and existing use in regard to zoning. (b) Identify any relevant consents or issues arising from the land information memorandum.
7. Cadastral survey dataset requirements	State whether a cadastral survey is required to effect the disposal.

Field	Information required
8. Authority	Provide evidence of the authority from the vendor agency to act in the disposal of the land.
9. Valuation	<p>(a) Provide a summary of the current market valuation and/or rating valuation, or indication of market value or reserve price or date planned for valuation, as applicable.</p> <p>(b) Provide any comment from the vendor agency on the valuation, including any variances between valuation and sale price.</p>
10. Requirement for another public work or exchange	<p>State whether there has been:</p> <p>(a) any expression of interest from another Crown agency or local authority requiring the land for another public work, or</p> <p>(b) any identification of a requirement for an exchange under s 105 of the PWA.</p>
11. Clearances	<p>Provide a response to these questions:</p> <p>(a) Is the land no longer required by vendor agency?</p> <p>(b) Does the vendor agency intend to retain an interest in the land after it is disposed of, such as a lease, licence, or easement?</p> <p>(c) Has DOC given clearances for marginal strips and conservation values?</p> <p>(d) Has Heritage New Zealand Pouhere Taonga sought any heritage protection over the land?</p> <p>(e) Are there any other clearances, including the retention of any marginal strips by the Crown, required by Appendix D?</p> <p>(f) Where marginal strips have been retained have copies of the plan been provided?</p>

Field	Information required
12. Details of acquisition	<p>(a) Provide details of the first acquisition of the land for a public work and from whom it was acquired. Include details of:</p> <ul style="list-style-type: none"> (i) circumstances of the acquisition, e.g., if there was any element of compulsion, and the Act and section(s) under which the land was acquired, (ii) compensation paid, and (iii) if Māori land: details of the taking or acquisition for a public work, the nature of ownership confirmed by Māori Land Court records if necessary, succession of public ownership, and nature of land and acquisition.²² <p>(b) Refer to copies of cadastral record print outs, folios from acquisition files, Gazette references, records of title, and similar, copies of which must be attached.</p>
13. History of use for a public work	<p>Summarise the history of the land and its use from the time it was first acquired for a public work. This includes details of:</p> <ul style="list-style-type: none"> (a) any significant construction or operations on the land, and (b) any changes in the agency that held or managed the land, including any transfers or setting apart for another public work.
14. Gifted land policy requirements	<ul style="list-style-type: none"> (a) Advice on whether the land was gifted, and whether the gifted land policy applies (refer to section 6 of this standard). (b) If the land is in the Rotorua township, provide evidence of compliance with the Ngāti Whakaue gifted lands policy (refer to section 6.7 of this standard).
15. Comments	Provide any other comments on the proposed disposal.
16. Sign-off by vendor agency	Sign-off must be by the authorised signatory of the vendor agency.
17. Sign-off by Toitū Te Whenua	Provide for approval or decline by Toitū Te Whenua, including a conclusion and a statement of the statutory authority for any decision required.

²² Note that for some acquisition of Māori land, the empowering legislation provided for land to be acquired without compensation being paid.

Appendix B: Special conditions for offer of sale under s 40 of the PWA

Field	Information required
1. Vendor	The Crown acting by and through the Chief Executive of Land Information New Zealand (the Chief Executive).
2. Authority	The ASP is to record that it is the mechanism being used for the Chief Executive to make an offer to the purchaser for the purposes of section 40 of the Public Works Act 1981.
3. Purchase Price	The purchase price is current market value set by valuation carried out by a registered valuer.
4. Offer to remain open	<p>If the Vendor and the Purchaser are unable to agree on a price following an offer made under s 40(2) of the Public Works Act 1981, the Purchaser may execute this agreement agreeing to purchase the property at the price determined by the Land Valuation Tribunal (in accordance with s 40(2A) of that Act) with settlement to follow the hearing date.</p> <p>Upon acceptance of this offer the Vendor shall where necessary apply for the issue of a record of title for the property in accordance with s 47 of the Public Works Act 1981.</p> <p>As provided in s 42(1) of the Public Works Act 1981, this offer remains open and capable of acceptance for 40 working days from the date that the offer is received. The Vendor may dispose of the property in accordance with s 42 of the Public Works Act 1981, if the offer is not accepted within that period.</p> <p>The Vendor has a discretion to extend this period if considered it reasonable to do so. Any application for an extension of the period should be made in writing prior to the offer expiring in terms of clause X (clause regarding the period the offer is open for).</p>
5. Risk and Insurance	(In the event the property is destroyed and not made good) with the effect that the statutory requirement to offer the property to the Offeree pursuant to s 40 of the Public Works Act 1981 shall be at an end.
6. Encumbrance	Upon disposition the land will be subject to Part IVA of the Conservation Act 1987 and s 11 of the Crown Minerals Act 1991.
7. Time of the essence	<p>a) offer to remain open for 40 working days and</p> <p>b) any application for extension of time. (Time for Performance)</p>

Field	Information required
8. Amalgamation	The Vendor may direct at its sole discretion that the property is to be amalgamated with all that land held in record of title [record of title number] in accordance with s 42(6) Public Works Act 1981, notwithstanding that the property may not be able to be so amalgamated.
9. Additional land	Any conditions that apply to any additional areas that have been conditionally included in the offer outside of the ambit of s 40(2) of the PWA
10. Multiple offers	Any conditions that apply where there the offer is being made to multiple successors at the same time.
11. Notices	All notices must be served and contain the content as set out in s 4 of the Public Works Act 1981.
12. Execution	Executed for and on behalf of the Vendor

Appendix C: Covering letter for offer back

The covering letter accompanying an offer back required by section 5.6.1 of this standard must contain the following:

- a) reasons why the offer back is being made, including the relationship of the offeree to the former owner, where applicable,
- b) brief history of the acquisition of the land for a public work,
- c) brief details about what is being offered including price of the property and effective date of valuation,
- d) advice of any additional areas that have been conditionally included in the offer outside of the ambit of s 40(2) of the PWA,
- e) advice on any encumbrances, the exclusion of marginal strips or other conditions to which the offer is subject,
- f) advice that the offer is personal to the offeree and is non-assignable, and if the offeree wishes to assign an accepted offer, or for the transfer to be to a third party, the offeree must provide a deed of assignment or nomination signed by all the offerees that accepted the offer,
- g) advice that acceptance by any one of the offerees will conclude an agreement, where the offer is to more than one person,
- h) the period for which the offer remains open,
- i) instructions on how to accept the offer,
- j) advice that any request for an extension to the offer back period should be made before the offer back period expires and must include the grounds for the request,
- k) advice that any counteroffer regarding price should be supported by a valuation from a registered valuer,
- l) advice that the offeree has the right to execute the contract during the period that the offer remains open, subject to the price being determined by the LVT, and
- m) a disclaimer to the effect that the offeree should consult their own lawyer for advice about their rights and options.

Appendix D: Clearances required

The table below sets out the statutory and government policy clearances that must be obtained during the disposal process. The vendor agency must provide evidence that the correct clearances have been obtained when presenting any document to Toitū Te Whenua for execution.¹

Clearances required before disposal

Clearance required	Agency	Administration of the land										
		Public works land held by Toitū Te Whenua	SOE	Crown Research Institute	Health New Zealand (ex DHB)	Tertiary institution	School Board of Trustees	FENZ	Airport Authority	Port company/ community trust	Public works land held by another agency	
Before s 40 of the PWA is considered by Toitū Te Whenua												
Marginal strip & potential conservation values	DOC	✓	✗	✗	✓ ²	✗	✗	✗	✗	✗	✗	✓
Heritage notification	Heritage New Zealand	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗	✓
Use for housing notification	MHUD & Kāinga Ora	✓	✓ ³	✓ ³	✓ ³	✗	✗	✓ ³	✗	✗	✗	✓
Appropriate Minister's consent	Various	✗ ⁴	✗	✓	✓	✗ ⁵	✓	✗	✗	✗	✗	✗ ⁶

¹ Contact Toitū Te Whenua for more information about clearances that are required for a non-government vendor agency with responsibilities under [s 40 of the PWA](#).

² This clearance is not required if the land falls into a category set out in [s 11H\(2\) of the Health Sector \(Transfers\) Act 1993](#).

³ By invitation – Ministers have invited non-core Crown agencies to comply with this process.

⁴ The consent of the Minister for State Owned Enterprises is required for disposal of land held for railways purposes.

⁵ The consent of the chief executive of the department responsible for the administration of the [Education and Training Act 2020](#) may be required. Refer to [s 282 of that Act](#).

⁶ Exception: The consent of the Minister of Education is required for disposal of land held for a purpose set out in [s 561 of the Education and Training Act 2020](#).

Clearance required	Agency	Administration of the land									
		Public works land held by Toitū Te Whenua	SOE	Crown Research Institute	Health New Zealand (ex DHB)	Tertiary institution	School Board of Trustees	FENZ	Airport Authority	Port company/ community trust	Public works land held by another agency
Consideration of s 40 of the PWA											
Statutory offer: ss 40 & 41 of the PWA, including GLP or Ngāti Whakaue Gifted Land Policy	Toitū Te Whenua	✓	✓ ⁷	✓ ⁸	✓ ⁹	✓ ¹⁰	✓ ¹¹	✓ ¹²	✓	✗ ¹³	✓
GLP or Ngāti Whakaue Gifted Land Policy outside the statutory offer	Toitū Te Whenua	✓	✓ ¹⁴	✓ ¹⁵	✓ ¹⁵	✓ ¹⁵	✓	✓ ¹⁵	✗	✗	✓
After s 40 of the PWA has been addressed											
Treaty Settlement & right of first refusal provisions; either in statute or Deed of Settlement ¹⁵	Various	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓

7 [Sections 40 and 41 of the PWA](#) apply once land has been transferred to a State-owned enterprise. Refer to [s 24\(4\) of the State-Owned Enterprises Act 1986](#).

8 [Sections 40 and 41 of the PWA](#) apply once certain land has been transferred to a Crown Research Institute. Refer to [s 30 of the Crown Research Institutes Act 1992](#).

9 This clearance is only required if the land was subject to [ss 40 and 42 of the PWA](#) on 10 May 1993 and the land has been transferred under the [Health Sector \(Transfers\) Act 1993](#). Refer to [Schedule 1 clause 3 of that Act](#) for other provisions that modify the application of the [PWA](#).

10 Toitū Te Whenua is only involved if the land was acquired by a tertiary education provider or institution under the [Education and Training Act 2020](#). Note that universities are included in the definition of 'local authority' under the [PWA](#) and Toitū Te Whenua has no statutory decision-making role with land acquired in that capacity.

11 Toitū Te Whenua has no statutory decision-making role if the land title is not derived from the Crown.

12 This clearance is required only if the land was acquired under the provisions of the [PWA](#).

13 The provisions of [s 40](#) of the [PWA](#) apply to land transferred under the [Port Companies Act 1988](#), but Toitū Te Whenua has no statutory-decision making role.

14 By invitation – Ministers have invited non-core Crown agencies to comply with this process.

15 Land will either be subject to a Treaty settlement or the TPK Sites of Significance process/Te Arawhiti Māori Protection Mechanism. Treaty settlement provisions will only apply if (i) the land is in a settlement area, and (ii) the land is subject to the provisions of that settlement. Refer to the specific Treaty settlement legislation and Deed of Settlement to determine if the provisions of a settlement apply.

Clearance required	Agency	Administration of the land									
		Public works land held by Toitū Te Whenua	SOE	Crown Research Institute	Health New Zealand (ex DHB)	Tertiary institution	School Board of Trustees	FENZ	Airport Authority	Port company/ community trust	Public works land held by another agency
Sites of Significance ¹⁶	Te Puni Kōkiri	✓	✗	✓	✓	✓ ¹⁶	✗	✓	✗	✗ ¹⁶	✓
Māori Protection Mechanism process ¹⁵	Te Arawhiti	✓	✗	✓	✓	✗ ¹⁶	✓	✗ ¹⁶	✗	✗	✓
Private treaty, prior commitment, special circumstances or auction pre-approval	Toitū Te Whenua	✓	✗	✗	✗	✗	✗	✗	✗	✗	✓
After land is marketed for sale											
ASP	Toitū Te Whenua	✓	✗ ¹⁷	✗ ¹⁷	✗ ¹⁷	✗ ¹⁷	✗ ¹⁷	✗ ¹⁷	✗	✗ ¹⁷	✓
Execution of Authority and Instruction form	Toitū Te Whenua	✓	✗ ¹⁷	✗ ¹⁷	✗ ¹⁷	✗ ¹⁷	✗ ¹⁷	✗ ¹⁷	✗	✗ ¹⁷	✓

16 Advice on whether the Sites of Significance and Māori Protection Mechanism processes apply should be sought from TPK and Te Arawhiti respectively. The processes do not apply if the land was acquired by a tertiary education provider or institution or Fire and Emergency New Zealand and there is a resumptive memorial on the record of title.

17 Execution of the ASP and the transfer are required by the vendor agency, but they are not executed by Toitū Te Whenua.

Appendix E: Disposal of railway land held by Toitū Te Whenua

The following requirements apply for the disposal of surplus railway land held by Toitū Te Whenua. The requirements of this standard also apply, with any necessary modifications, including legislative references.

Right of offer back under s 23 NZRCRA

Identification of person for offer back

Where Toitū Te Whenua proposes to sell railway land held by the Crown under the [NZRCRA](#) it must make reasonable efforts to identify and locate the former owner or their successor.

Identification of person for offer back

- a) Where the former owner is not alive or in existence at the time the offer back right comes in to effect, a vendor agency must make all reasonable efforts to locate that person's successor within the meaning of [s 22 of the NZRCRA](#).
- b) Sections 5.1.2 and 5.1.5 of this standard must be followed, and Section 5.6, with any necessary modifications, such that the obligation under [s 23\(1\) of the NZRCRA](#) is satisfied.

Exemptions to offer back under s 23 of the NZRCRA

Consideration of grounds for exemption

A vendor agency must consider whether there are grounds for exemption under [s 23 of the NZRCRA](#), and submit the following to the Chief Executive:

- a) a signed report
 - (i) containing the information specified in Appendix A ,
 - (ii) addressing all grounds for or against exemption under [s 23\(1\) of the NZRCRA](#),
 - (iii) providing all relevant information reflecting the current legal interpretation of [s 23](#), and
 - (iv) recommending whether the Chief Executive exercise a statutory discretion in relation to the exemptions under [s 23\(1\) of the NZRCRA](#) to exempt the land from the offer back right; and

- b) copies of supporting documentation including:
 - (i) evidence that all clearances required by the vendor agency have been obtained; see Appendix D,
 - (ii) a copy of the current and historic record of title for the land, where available,
 - (iii) an aerial photo and spatial map showing the land and surrounding parcels, and
 - (iv) the relevant survey plan, where required.

Offer of land to adjacent owner

Information for decision

Where a vendor agency considers that sale under [s 23\(4\) of the NZRCRA](#) is applicable, it must submit the following to the Chief Executive:

- a) A report containing the information and supporting documentation specified in 5.2.1.1 of this standard, and
- b) a summary of the views of the landowners of the parcel of Māori land from which the land was acquired, on the proposed application of [s 23\(4\) of the NZRCRA](#), if the land was Māori land at the time it was acquired.

Execution of sale agreement

If the Chief Executive exercises a statutory discretion to apply the test of [s 23\(4\) of the NZRCRA](#) to the land, the vendor agency must subsequently submit an ASP for the land, signed by the adjacent owner, to Toitū Te Whenua for execution.

Extension to the offer back period

There is no provision for extension of the offer back period under the [NZRCRA](#) (see [s 23\(3\)\(a\)](#)).

Application to the Land Valuation Tribunal

The offeree under [s 23\(2\) of the NZRCRA](#) must refer the matter to the LVT within 20 working days of the receipt of the offer. The offeree then has 20 working days after the LVT's determination to agree to the sale of the land.