

Interim Standard for Acquisition of Land for Kāinga Ora under the Urban Development Act 2020

LINZ OP S 01288

Crown Property Regulatory



Acceptance

Role	Name	Signed	Date
Commissioner of Crown Lands	Craig Harris		30.06.2022

Regulatory attributes

LINZ OP S 01288	
Type	Standard
Date	30 June 2022
Review	5 years

Revision history

Date	Version	Revision	Author	Description
31 September 2021	1.0		CP Regulatory	Initial Draft
26 January 2022	1.1		CP Regulatory	Include other acquisitions
30 March 2022	1.2		CP Regulatory	Corrections

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Terms and Definitions

For the purposes of this Standard, the following terms and definitions apply.

Term/Abbreviation	Definition
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 Public Works Act 1981 and related legislation
Crown land	as defined in s 2 of the PWA
former Māori land	as defined in s 9 of the UDA
<i>Gazette</i>	New Zealand Gazette
joint Ministers	the responsible Minister (defined s 9 of the UDA) and the Minister of Finance, acting jointly
Kāinga Ora	Kāinga Ora-Homes and Communities including an accredited supplier contracted by Kāinga Ora
Land	as defined in s 2 of the PWA
LINZ	Toitu Te Whenua Land Information New Zealand
local authority	as defined in s 2 of the PWA
Minister	Minister for Land Information including an authorised delegate
protected land	as defined in s 17 of the UDA
public work	as defined in s 2 of the PWA
PWA	Public Works Act 1981
record of title	as defined in s 5 of the Land Transfer Act 2017
Registrar	means the Registrar-General of Land
Tāmaki Makaurau Protocol	as defined in s 257(4) of the UDA
specified work	as defined in s 252 of the UDA
UDA	Urban Development Act 2020

Foreword

Introduction

The UDA establishes a specified development project process, a streamlined process for complex urban development projects. The UDA sets out a comprehensive establishment process that specified development projects must go through before they can access the urban development powers.

The UDA also provides Kāinga Ora with a set of powers to acquire (either through agreement or by compulsory acquisition through the Minister) and transfer land when it initiates, facilitates, or undertakes any work for the purpose of urban development. This will enable Kāinga Ora to use these powers when undertaking both specified development projects and other urban development projects. These powers can be used for the purpose of acquiring land in future development areas prior to any uplift in land values following an urban development project's announcement.

Kāinga Ora may request that the Minister do one or more of the following for the purpose of a specified work that is (or is to be) initiated, facilitated, or undertaken by Kāinga Ora:

- (a) transfer an existing public work to Kāinga Ora (*see* s 254 of the UDA):
- (b) set apart Crown land or a part of the common marine and coastal area (*see* s 255 of the UDA):
- (c) transfer to Kāinga Ora former reserve land that has been set apart under s 138(1) of the UDA (*see* section 257 of the UDA):
- (d) acquire or take any other land for Kāinga Ora (*see* section 256 of the UDA).

Purpose

The purpose of this Standard is to set out the:

- Processes and procedures to be followed, and
- Minimum levels of information that must be provided,

to enable the Minister to assess whether to acquire land to Kāinga Ora for a specified work.

Brief History of standard

This is the first standard on this matter.

References

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

- *LINZS15005: Standard for the acquisition of land under the Public Works Act 1981*, Crown Property Regulatory Group, LINZ, Wellington: LINZ.
- *LINZG15703: Guideline for the acquisition of land under the Public Works Act 1981*, Crown Property Regulatory Group, LINZ, Wellington: LINZ.
- Public Works Act 1981
- Urban Development Act 2020

1 Scope

This standard applies to the acquisition or transfer to Kāinga Ora for specified works of:

- (a) land held by the Crown for a public work:
- (b) land held by Crown agents:
- (c) Crown land under the Land Act 1948:
- (d) common marine and coastal area:
- (e) land held by a local authority:
- (f) private or other land.

2 Intended use of standard

Kāinga Ora must use this standard when applying to the Minister to exercise powers to acquire land under the UDA.

3 Provision of work

Kāinga Ora must submit all actions, including reports and conclusions seeking the Minister's decision under this Standard, to the Manager Crown Property Clearances at LINZ.

4 Records of acquisition process

4.1 Maintenance of records

Kāinga Ora must record and maintain the following information in the manner approved by LINZ:

- (a) evidence that it has authorised its accredited suppliers to act on its behalf:
- (b) records of relevant communication and negotiations between Kāinga Ora and the agency or person responsible for the land, including:
 - (i) details and minutes of meetings; and
 - (ii) letters and email correspondence between the parties; and
 - (iii) notes on contents of telephone calls; and

- (iv) a chronological summary of negotiations including dates and file notes of comments on the negotiations:
- (c) evidence of compliance with the relevant requirements of the UDA and this standard in respect of every action taken.

4.2 Requests for information

Kāinga Ora must advise LINZ as soon as possible if it receives a request for information relating to an acquisition or transfer under the UDA, for the parties to determine the responsibility for answering that request under the Official Information Act 1982.

5 Transfer of Existing Public Works

5.1 Transfer of Crown-owned land

5.1.1 Ministerial agreement

- (a) Under s 257(2)(a) of the UDA any transfer of existing public works or Crown land must be subject to an agreement between the Minister, the joint Ministers, and the Minister or Ministers who are responsible for the land; and
- (b) Kāinga Ora must ensure that the agreement includes a provision noting that it is subject to the appropriate statutory process under the UDA being undertaken to transfer ownership of the land, including the approval of the Minister.

5.1.2 Submission to LINZ

When seeking to have land held by the Crown for a public work transferred for a specified work under s 257 of the UDA, Kāinga Ora must submit the following to LINZ:

- (a) a report and conclusion containing the information in Appendix A; and
- (b) a copy of the ministerial agreement to the transfer under s 257(2)(a) of the UDA; and
- (c) evidence that the Tāmaki Makaurau Protocol has been complied with or the Limited Partnership has waived their rights under the protocol, if applicable; and
- (d) a draft declaration under s 20 of the PWA for execution by the Minister.

5.2 Local authority public works

- (a) Existing works held by a local authority are acquired by Kāinga Ora under s 256 of the UDA and Part 2 of the PWA (e.g., an agreement under section 17 of the PWA between the Minister and the local authority):
- (b) Kāinga Ora must comply with the relevant requirements of *LINZS15005 Standard for the acquisition of land under the Public Works Act 1981*. This includes submitting the following to LINZ:
 - (i) an acquisition agreement under section 17 of the PWA executed by the owner (see clauses 8.1-8.2 of *LINZS15005*); and
 - (ii) a draft declaration under section 20 of the PWA for execution by the Minister:

- (c) When seeking a decision from LINZ, Kāinga Ora must also identify and report on whether the land to be acquired is protected land or former Māori land or RFR land and apply the relevant provisions under the UDA.

6 Setting apart and transfer of Crown land

When seeking to have Crown land set apart for a specified work and transferred under the UDA, Kāinga Ora must submit the following to LINZ:

- (a) a report and conclusion containing the information in Appendix A and:
 - (i) advice on consultation with the Minister for Treaty of Waitangi Negotiations under s 253(2)(a) of the UDA; and
 - (ii) confirmation that the Crown land is not subject to a lease or licence or other estate or interest; and
 - (iii) evidence that the Tāmaki Makaurau Protocol has been complied with or the Limited Partnership has waived their rights, if applicable:
- (b) a copy of the ministerial agreement to the setting apart under s 257(2)(a) of the UDA; and
- (c) a draft declaration under section 20 of the PWA for execution by the Minister.¹

¹ While the UDA refers to setting apart, the intention under s 257, as Kāinga Ora is a Crown entity a declaration is the mechanism is to transfer the land.

7 Setting apart and transfer common marine and coastal area

When seeking to have common marine and coastal area set apart for a specified work and transferred under the UDA, Kāinga Ora must submit the following to LINZ:

- (a) a report and conclusion containing the information in Appendix A:
- (b) either:
 - (i) evidence that the development plan provides for the setting apart²; or if not
 - (ii) advice on consultation with the Minister for Treaty of Waitangi Negotiations under s 253(2)(a) of the UDA; and
- (c) a copy of the written ministerial consent under s 253(2)(b) of the UDA:
- (d) a draft declaration under section 20 of the PWA for execution by the Minister.³

² See s 253(4) of the UDA – if a development plan provides for setting apart there is no requirement for consents for Ministers (Transport or Conservation).

³ While the UDA refers to setting apart, the intention under s 257, as Kāinga Ora is a Crown entity a declaration is the mechanism is to transfer the land.

8 Acquisition of private or other land

- (a) Private land is acquired by Kāinga Ora under Part 2 of the PWA (e.g., an agreement under section 17 of the PWA between the Minister and the owner).
- (b) Kainga Ora must comply with the relevant requirements of *LINZS15005 Standard for the acquisition of land under the Public Works Act 1981*. This includes submitting the following to LINZ:
 - (i) an acquisition agreement under section 17 of the PWA executed by the owner (see clauses 8.1-8.2 of *LINZS15005*), and
 - (ii) a draft declaration under section 20 of the PWA for execution by the Minister:⁴
- (c) The submission to LINZ on the acquisition must also identify and report on whether the land to be acquired is protected land or former Māori land or RFR land and apply the relevant provisions under the UDA.

⁴ For private land the declaration is not issued and published until settlement has been completed.

9 Registration of declaration

If the declaration is signed by the Minister, Kāinga Ora must:

- (a) arrange for the publication of the declaration in the Gazette, and
- (b) request the Registrar to register the gazette notice against the record of title or issue a record of title, following publication.

Appendix A: Information required for reports

The following information must be provided with all reports submitted to LINZ for decision:

Information required	Details
1. Job Details	<p>Include:</p> <ul style="list-style-type: none"> (a) job number, and (b) LINZ file number.
2. Details of specified work project	<p>Include:</p> <ul style="list-style-type: none"> (a) Kāinga Ora contact details, (b) authority to act, (c) specified work(s) for which the land is required, (d) confirmation that the purpose is a specified work, as defined in s252 of the UDA, (e) project timeframe, and (f) detailed advice explaining why the land is suitable for the purpose for which it is being acquired.
3. Details of the land to be transferred	<p>Include:</p> <ul style="list-style-type: none"> (a) location, (b) legal description, (c) record of title, where available, (d) area and survey plan description of land to be acquired, (e) owner of the land and administering agency, (g) a list of each current registered and known unregistered interest in the land, encumbrance and memorial (e.g., RFR memorials), the details of the holder of that interest and summarise that interest, and (h) zoning/designation.
4. Physical description	<p>Include:</p> <ul style="list-style-type: none"> (a) a general description of the land, (b) photos and notes supporting the description, and (c) a description of any improvements.
5. UDA specific requirements	<p>Include:</p> <ul style="list-style-type: none"> (a) advice whether any of the land to be transferred is former Māori land or RFR land, as defined in the UDA, (b) confirmation that where the land to be transferred is protected land there is an agreement under section 17 of the UDA, and (c) advice on the scope of the terms and conditions in the ministerial agreement to the transfer and how they are proposed to be protected or whether any conditions may affect the transfer to Kāinga Ora (e.g., timing), if applicable.
6. Statutory compliance	<p>Include evidence of compliance with all statutory requirements.</p>

7. General comments	General comments regarding the acquisition, including any matters that Kāinga Ora wishes the Minister to note regarding the transfer.
8. Signing Page	<p>The signing page for the report must include:</p> <ul style="list-style-type: none">(a) a heading identifying the specified work project, owner and LINZ file reference,(b) a conclusion stating:<ul style="list-style-type: none">(i) the land and any interest being acquired,(ii) the owner,(iii) legal description of the land, and(iv) the statutory authority for the acquisition action.(c) the signature of the author, and(d) provision for a delegate of the Minister to approve or decline the report and sign the report.
9. Attachments	<ul style="list-style-type: none">(a) copies of the records of title for the land to be transferred.(b) a copy of the title plan to the cadastral survey dataset description, if only part of the computer register is to be transferred, or where there is no record of title.(c) a draft declaration under the PWA, if applicable

Guideline – Gazette notices for declarations

**Example of notice
for declaration
under s 20 of the
PWA**

Land Transferred for Specified Work – The Drive, Tauranga

Pursuant to section 20 of the Public Works Act 1981, section 257 of the Urban Development Act 2020, and to a delegation from the Minister for Land Information, *[name]*, Land Information New Zealand, declares that, an agreement to that effect having been entered into, the land described in the Schedule to this notice is hereby set apart for a specified work under the Urban Development Act 2020, and shall vest in Kāinga Ora on the date of publication of this notice in the *New Zealand Gazette*.

South Auckland Land District – Tauranga City

Schedule

Area	Description
654m ²	<i>Lot 11, DP 123456, Record of title XX,123456 subject to xx created by Transfer 987654.1.</i>

Dated at Wellington this _____ day of _____.

[name], for the Minister for Land Information

(LINZ CPC/xxxx/xxxxx)
