

To: Minister for Land Information

## Public Works (Whenua Māori) Amendment Bill: Draft and consultation approach

<b>Rā / Date</b>	18 June 2020	<b>Kōmakatanga / Classification</b>	In confidence
<b>LINZ reference</b>	BRF 20-614	<b>Whakaarotau / Priority</b>	Medium

### Ngā mahi e hiahiatia ana / Action sought

<b>Minita / Minister</b>	<b>Hohenga / Action</b>	<b>Suggested Deadline</b>
Hon Eugenie Sage, Minister for Land Information	<p><b>Note</b> the approach to consultation and the indicative timeframes for introducing the Bill into the House.</p> <p><b>Agree</b> to sponsor the Bill with the intention of introducing (tabling) it on the Order Papers before the House rises on 6 August 2020.</p>	24 June 2020

### LINZ Contacts

<b>Ingoa / Name</b>	<b>Tūnga / Position</b>	<b>Contact number</b>	<b>First contact</b>
Ruth Fischer-Smith	Manager Policy	027 275 6448	<input checked="" type="checkbox"/>
Leanne Boulton	Policy Advisor	04 494 2525	<input type="checkbox"/>

### Te Tari o te Minita ki te Whakaoti / Minister's office to complete

1 = Was not satisfactory		2 = Fell short of my expectations in some respects		3 = Met my expectations	
4 = Met and sometimes exceeded my expectations			5 = Greatly exceeded my expectations		
<b>Overall Quality</b>	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
<b>Comments</b>					
<input type="checkbox"/> Noted <input type="checkbox"/> Seen <input type="checkbox"/> Approved <input type="checkbox"/> Overtaken by events <input type="checkbox"/> Withdrawn <input type="checkbox"/> Not seen by Minister <input type="checkbox"/> Referred to:					

## Pūtake / Purpose statement

To update you on the progress of the Public Works (Whenua Māori) Amendment Bill, including an indicative timeframe for next steps required to introduce it before the House rises.

## Pānui whāinga / Key messages

1. The Parliamentary Counsel Office (PCO) has drafted a Public Works (Whenua Māori) Amendment Bill ('the Bill') to progress changes to the offer back, principles and compensation provisions in the Public Works Act 1981 (PWA). This was agreed by Cabinet in December 2019.
2. In February 2020 you and Hon Nanaia Mahuta agreed to progress two separate bills: one in 2020 on offer back, compensation and principles, a second in 2021 on land acquisition. Hon Mahuta has invited you to sponsor the offer back, compensation and principles Bill, as the Minister responsible for the PWA. If you agree, we can support you to have a version ready for introduction (tabling) from 28 July. The House rises on 6 August.
3. The offer back provisions have strong support from Māori land owners. Local authorities were also supportive. Introducing a Bill now containing offer back, principles and compensation provisions will ensure the agreed matters progress. It will allow further work to be done at a later date on the land acquisition provisions, likely in conjunction with a future PWA review.
4. We have already consulted key agencies (Te Arawhiti and the Department of Internal Affairs) on the Bill and are now ready for wider departmental consultation. The timeframe for introducing the Bill before the House rises is tight, so we are working closely with the Parliamentary Counsel Office (PCO) and keeping the Whenua Māori Public Works Act Technical Advisory Group informed.
5. We will provide you an updated draft Bill and LEG paper in early July, to enable you to consult your Ministerial colleagues.

## Tohutohu / Recommendations

It is recommended that you:

- |   |                       |
|---|-----------------------|
| 1. <b>manatu / note</b> the approach to consultation and the indicative timeframes for introducing the Bill into the House.                             | <b>Noted</b>          |
| 2. <b>āmine / agree</b> to sponsor the Bill with the intention of introducing (tabling) it on the Order Papers before the House rises on 6 August 2020. | <b>Agree/Disagree</b> |

Ruth Fischer-Smith  
 Manager Policy  
 Rā / Date: 18/06/2020

Hon Eugenie Sage  
 Te Minita mō Toitū te Whenua  
 Rā / Date:     /     /

## Tāpiritanga / Attachments

1. Current draft of the Public Works (Whenua Māori) Amendment Bill

## Te Horopaki / Background

6. In December 2019 Cabinet agreed to changes to the Public Works Act 1981 (PWA). Specifically, it agreed to amend the PWA by:
- introducing principles aligning with Te Ture Whenua Māori Act 1993 (TTWMA) that promote the retention of protected Māori land
  - amending the offer back provisions in the PWA to:
    - require that the interests of the former Māori land owners be explicitly considered before any transfer of land for public works;
    - remove restrictions on the circumstances in which the chief executive of LINZ or the local authority dealing with offer back cases may apply to the Māori Land Court for an order under section 134 TTWMA. An order under that section declares the land to be Māori freehold land;
    - empower the Māori Land Court to resolve disputes on price, and the terms and conditions of an offer back of former Māori land;
    - require decisions to exempt former Māori land from an offer back to be made;
    - require former Māori land offered back to be returned as Māori freehold land by default, unless the new owners request for the land to be returned in general title.
  - amending the compensation regime so where Māori freehold land is acquired for public works:
    - compensation not exceeding \$50,000 is paid for each separately-owned dwelling on a property;
    - the property is valued as if it were general land for the purposes of compensation. [MCR 19-MIN-0054].
7. However, a proposal to change the land acquisition provisions was not agreed by Cabinet. As a result, in February 2020 you and Hon Nanaia Mahuta agreed to progress two separate bills: one in 2020 on offer back, compensation and principles, a second in 2021 on land acquisition. Any second Bill could be considered alongside a wider PWA review.
8. PCO has completed a draft Public Works (Whenua Māori) Amendment Bill, and departmental consultation is ready to proceed. This meets the Cabinet recommendation to amend offer back, principles, and compensation aspects of the PWA.
9. The earlier timeframe had been to introduce a Bill in May 2020. This has been delayed by COVID-19. An updated timeframe could have a Bill ready to introduce (table) from 28 July.

## Tūranaga / Current status

### *Bill progress*

10. The current draft of the Bill is attached to this briefing. We will be sending this version of the Bill out for departmental consultation from 19 July.
11. Hon Nanaia Mahuta sent you a letter this week inviting you to sponsor the Bill as the Minister responsible for the PWA. At our discussion with you on 17 June you supported this approach. If you agree, we can support you to have a final bill ready for introduction (tabling) from 28 July.

**Tūkupu / Comment**

[ s 9(2)(h) ]

**Key issues***Consultation to date and managing scope*

15. Prior to wider departmental engagement, we have consulted with the Department of Internal Affairs and Te Arawhiti. The Department of Internal Affairs is comfortable with the proposed impact on local government and had only minor feedback on the draft Bill. Te Arawhiti feedback has been more substantive, extending beyond the agreed scope of the Bill to revisit issues that Cabinet has decided not to progress at this time.
16. We will work closely with Te Puni Kōkiri (TPK) and Te Arawhiti to ensure that only matters within the scope of what Cabinet agreed are included in the Bill. Any wider scope that Te Arawhiti wishes to see, such as around Treaty alignment, could be part of a future PWA review alongside work on land acquisition and other issues. Keeping these discussions open around a future review of the PWA will provide an avenue for Te Arawhiti's wider comments.

*Approach to consultation*

17. Further to early consultation with Te Arawhiti and the Department of Internal Affairs, we have also kept the Technical Advisory Group updated on this work. A draft Bill is now available for departmental consultation from Friday 19 June. LINZ and TPK will then work with PCO to refine the Bill.
18. You could begin Ministerial and cross-party consultation from 3 July. We will provide you with further advice on this closer to the date. In the meantime, we will ask members of the Technical Advisory Group to update their Ministers on the progress of the Bill via their weekly status reports.

**Ngā Tāwhaitanga / Next Steps**

19. The next step in progressing the Bill is for LINZ and TPK to complete departmental consultation and the Bill to be refined to take into account that feedback. At that point we will provide you with further advice, the updated draft Bill and a draft Cabinet paper for the Legislative Committee to support you in Ministerial and cross-party consultation.

**Angawā / timeframes**

20. An indicative timetable for next steps is below:

Action	Date
LINZ circulate the draft Bill for departmental consultation	Friday 19 June
Departmental consultation ends	Friday 26 June

<b>LINZ provide you with the Bill for Ministerial/cross party consultation</b>	Tuesday 30 June
<b>Papers prepared for lodgement (including responding to feedback)</b>	Monday 13 July
<b>Lodge Bill, LEG Cabinet paper, and Departmental Disclosure Statement</b>	Thursday 16 July
<b>LEG Committee</b>	Tuesday 21 July
<b>Cabinet</b>	Monday 27 July
<b>Bill introduced (tabled) to the House</b>	From Tuesday 28 July
<b>LEG Cabinet paper and RIS published</b>	Friday 31 July

### Whakatūpato / Risks

21. The timeframe for introducing the Bill before the House rises is tight. There is a risk that if finalising and lodging the Bill is delayed, we will miss the window for it to be considered by the Cabinet Legislation Committee (LEG) and Cabinet.
22. We are mitigating the risk of delay by targeting the second-to-last sittings of LEG and Cabinet prior to the House rising. Our ongoing engagement with key agencies means we are already across emerging issues. We are also working closely with the PCO to fit into its available timeframes for final drafting.

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