

PWA system objective:

To deal with the right of the Crown and local authorities to acquire or take private land for a public work, the procedures for acquiring the land, and the disposal of land when it is no longer needed for public works.

Premise of the Public Works Act 1981 (PWA)

- The authority for the Crown and local authorities to acquire or take interests in land needed for a public work is paramount
- The legislative procedures are fair and transparent for all parties, ensuring good faith negotiation and full compensation to leave landowners no better or worse off following PWA action
- There is an independent judicial check on the Crown's powers to take interests in land
- Where land is no longer required for a public work, the Crown and local authorities must consider offering the land back (offer back) to former owners.

Whenua Māori PWA Bill

Purpose: Better recognise the strong association of Māori with land and improve fairness for Māori landowners. Introduce principles to support the retention of protected Māori land.

Scope

Cabinet has agreed to:

- ✓ **improve the offer back processes** to increase transparency and certainty, and improve opportunities for Māori to buy their former land via the offer back process
- ✓ **improve the compensation regime** to reduce Māori land owners being under-compensated compared to other land owners
- ✓ **introduce principles** to promote the retention of protected Māori land in relation to the exercise of land acquisition powers.

Out of scope

- Māori land acquisition provisions
- Feedback from iwi policy technicians/other agencies outside scope of the Bill

PWA Process review

Purpose: The Process review presents a way to explore tangible process improvements to modernise the PWA through operational and/or legislative changes, given the PWA has only had minor amendments in the last 40 years.

Scope

Making process improvements within the current premise of the Act including...

- ✓ Negotiations
 - ✓ Acquisition
 - ✓ Disposal
 - ✓ Objectives
 - ✓ Compensation
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- ✓ Māori Land acquisition provisions
 - ✓ Feedback from iwi policy technicians/other agencies outside scope of the Whenua Māori Bill

Scope will be refined through targeted engagement

Out of scope

- Fundamentally reviewing the premise of the Act and the objectives of land acquisition in New Zealand

Objectives

Objectives of the review could look like...

- **Efficiency:** Improve the efficiency of the PWA to reflect modern practice
- **Clarity:** Provide greater clarity for all involved in the PWA process
- **Fairness:** Achieve better alignment with Act's premise that owners are left no better or worse off after acquisition
- **Recognise and respect the Crown's responsibility to give effect to the principles of the Treaty**

These will need to be refined through targeted consultation during scope refinement

Improvements

There are a range of areas the review could address including...

- Recognising that works are now undertaken by multiple parties in collaboration
- Providing better protections for Māori land, and simplified processes for returning land
- Providing more process certainty in the objections process which is uncertain, expensive and confusing
- Improving the process to transfer land between agencies, which is unnecessarily complicated and inefficient
- Ensure affected owner compensation is fair, especially in current housing market

Risks

- **Managing stakeholder expectations** – expect a pull towards a fundamental review to address all issues
- **Not adequately address fundamental tension** - if a Process review is not able to better reconcile or balance the taking of land for public works with Treaty of Waitangi principles and broader Māori interests, fundamental tensions will continue to harm Māori-Crown relations and will continue to be the subject of Waitangi Tribunal criticism
- **Capacity of stakeholders** – given competing government priorities like the RM reform