



# Standard for the acquisition of land under the Public Works Act 1981

LINZS15005

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## Terms and definitions

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

<b>Term/abbreviation</b>	<b>Definition</b>
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
acquisition agreement	an agreement to acquire land under s 17 of the PWA
chief executive	chief executive of Land Information New Zealand
computer register	as defined in s 4 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 and created by the Registrar-General of Land under ss 7 to 14 of that Act
Crown 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 a Crown acquiring agency
government work	as defined in s 2 of the PWA
Environment Court	as defined in s 2 of the RMA
guideline	LINZG15703: Guideline to the standard for the acquisition of land under the Public Works Act 1981
land	as defined in s 2 of the PWA
LINZ	Land Information New Zealand
local authority	as defined in s 2 of the PWA
local work	as defined in s 2 of the PWA
Minister	Minister for Land Information including an authorised delegate
network utility operator	as defined in s 166 of the Resource Management Act 1991
owner	includes any authorised representative of the owner
public work	as defined in s 2 of the PWA
PWA	Public Works Act 1981
registered valuer	a valuer registered under the Valuers Act 1948
requiring authority	as defined in s 166 of the Resource Management Act 1991
RMA	Resource Management Act 1991
RGL	Registrar-General of Land
Treaty settlement	an agreement between the Crown and a Māori claimant group to settle all of that claimant group's historical claims against the Crown, and includes Treaty settlement legislation and a Deed of Settlement.

## Foreword

### Introduction

The Public Works Act 1981 (PWA) sets out the requirements for the acquisition of land for government and local works. It ensures that both land owners and acquiring agencies are treated fairly by the process of land acquisition.

### Purpose

The purpose of this standard is to set out the:

- (a) processes and procedures to be followed, and
  - (b) minimum levels of information that must be provided,
- to enable the Minister to assess whether land acquisitions comply with the law.

### Brief history of standard

This standard supersedes *LINZS2001: Standard for the acquisition of land under the Public Works Act 1981*, published in 2005.

### References

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

- Land Information New Zealand, Crown Property Regulatory Group. 2010, *Landowner's rights – When the Crown requires your land for a public work*, Crown Property Regulatory Group, LINZ, Wellington: LINZ.
- Land Transfer Act 1952
- Public Works Act 1981
- Resource Management Act 1991
- Te Ture Whenua Māori Act 1993

The following document may assist in the application of this standard.

- Land Information New Zealand, Crown Property Regulatory Group. 2014. *LINZG15703: Guideline for the acquisition of land under the Public Works Act 1981*. Wellington: LINZ.

# 1 Scope

This standard applies to:

- (a) acquisition of land for a government work under the PWA, and
- (b) compulsory acquisition and setting apart of land undertaken by local authorities where the approval or decision of the Minister is required.

# 2 Intended use of standard

- (a) Any Crown acquiring agency must use this standard when applying to the Minister to exercise powers under the acquiring provisions under the PWA.
- (b) Any network utility operator that is a requiring authority must use paragraph 3.6 and [Appendix A](#): Information required in an application under section 186 of the Resource Management Act 1991 of this standard when applying to the Minister under s 186 of the Resource Management Act 1991 (RMA).
- (c) Any local authority must use;
  - (i) paragraph 12 and [Appendix B](#): Information required for acquisition reports of this standard when asking the Minister and Governor-General to compulsorily acquire land for local works, and
  - (ii) paragraph 15.2 and [Appendix B](#): Information required for acquisition reports of this standard when asking the Minister to set apart land under s 52 of the PWA.<sup>1</sup>

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<sup>1</sup> While local authorities may use the standard to assist determining requirements for actions where the Local Authorities Chief Executive is acquiring or taking land under the PWA, care should be taken in such cases as the standard is mandatory only for those actions or decisions that the Minister is required to take under the PWA.

## 3 General provisions

### 3.1 Who may make commitments on behalf of the Crown

Only the Minister can execute acquisition agreements or give contractually binding commitments on behalf of the Crown.

### 3.2 Provision of work

The Crown acquiring agency must submit all actions, including reports and conclusions seeking the Minister's decision, to the Manager Crown Property Clearances at Land Information New Zealand (LINZ).

### 3.3 Conflict of interest

In the event of any conflict of interest, or any potential conflict of interest, any person involved in the acquisition process on the Crown's behalf must:

- (a) immediately disclose a conflict or potential conflict of interest to LINZ, and
- (b) not act in the matter unless written approval has been given by LINZ and all parties who could reasonably object to the conflict of interest.

### 3.4 Authority to act

The Crown acquiring agency must provide the Minister with:

- (a) evidence of the authority to act in respect of the acquisition, and
- (b) confirmation that the purpose of acquisition is a public work as defined in the PWA.

### 3.5 Records of acquisition process

#### 3.5.1 Maintenance of records

The Crown acquiring agency must record and maintain the following information in the manner approved by LINZ:

- (a) evidence that it has authorised its accredited supplier's to act on its behalf;
- (b) records of relevant communication and negotiations between the Crown acquiring agency and the owner, including:
  - (i) details and minutes of meetings,
  - (ii) letters and email correspondence between the parties,
  - (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 requirements of the PWA and this standard in respect of every action taken; and
- (d) evidence obtained in assisting with the assessment of compensation, including copies of all valuations and assessments.



### 3.5.2 Requests for information

The Crown acquiring agency must advise LINZ as soon as possible if it receives a request for a document or other information related to an acquisition, in order for LINZ to determine the responsibility for answering that request under the Official Information Act 1982.

## 3.6 Application to the Minister by network utility operators

- (a) If a network utility operator that is a requiring authority wishes to have land acquired or taken under the PWA, it must apply directly to the Minister under s 186 of the RMA.
- (b) The network utility operator's submission to the Minister must include the information specified in [Appendix A](#).<sup>2</sup>

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<sup>2</sup> Refer to '*Use of PWA by network utility operators*' in the guideline.

## 4 Commencement of acquisition process

### 4.1 Confirmation of ownership

The Crown acquiring agency must confirm the ownership of any land, registered interests, and required natural materials before sending the initial letter to the owner under paragraph 5.<sup>3</sup>

### 4.2 Application for an agent for Māori freehold land

Where the Crown acquiring agency proposes to apply to the Māori Land Court for the appointment of an agent for Māori freehold land, the Crown acquiring agency must provide an application to the Māori Land Court for the Minister to execute. This application must contain:

- (a) details of the land,
- (b) details of the owners of the land, as far as they can be ascertained,
- (c) confirmation that s 18(5) of the PWA applies to the Māori freehold land,
- (d) provision for execution by the Minister, and
- (e) a request that the Māori Land Court make an order under the provisions of Part 10 of Te Ture Whenua Māori Act 1993 and appoint an agent.<sup>4</sup>

### 4.3 Dealings with owners

The Crown acquiring agency must ensure that any dealings with the owner, including negotiations, are undertaken in good faith.<sup>5</sup>

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<sup>3</sup> Refer to '*Acquisition of natural material*' in the guideline.

<sup>4</sup> Refer to '*Acquisition of Māori land*' in the guideline.

<sup>5</sup> Refer to '*Negotiations*' in the guideline.

## 5 Initial letter to owner

At the outset of negotiations, the Crown acquiring agency must provide the owner with an initial letter which:<sup>6</sup>

- (a) identifies the land that the Crown acquiring agency wishes the Minister to acquire;
- (b) explains the public work requirement, timing of the work, and the effect of the work on the owner's land;
- (c) advises that the Crown acquiring agency will contact the owner to arrange to:
  - (i) meet with them or their representative to discuss the acquisition,
  - (ii) inspect the land,
  - (iii) carry out a valuation or other assessment;
- (d) advises that once the valuation or other assessment has been obtained, the Crown acquiring agency will:
  - (i) advise the owner of the estimated amount of compensation for the land to which it believes the owner would be entitled, and
  - (ii) seek to negotiate an agreement to purchase the land;
- (e) invites the owner to engage a registered valuer to value the land;
- (f) invites the owner to seek legal advice from a lawyer regarding the owner's rights over the land and any conveyancing services;
- (g) advises that any reasonable costs in (e) and (f) incurred by the owner may, on presentation of an invoice, be reimbursed provided that the Crown is satisfied the costs are reasonable;
- (h) advises that if the owner considers it necessary to engage any other consultants (such as, accountants, planners, surveyors, and negotiators), the Minister may agree to reimburse reasonable fees, subject to the Crown acquiring agency obtaining approval in writing from the Minister before any consultant is engaged;
- (i) advises that the owner can claim compensation under Part 5 of the PWA if they are unable to reach agreement with the Minister;
- (j) advises that only the Minister or LINZ staff acting under delegation from the Minister can execute acquisition agreements or give contractually binding commitments; and
- (k) includes a copy of:
  - (i) the LINZ publication *Landowner's Rights – when the Crown requires your Land for a Public Work*, or a link to this document, and
  - (ii) a plan identifying the land required.

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<sup>6</sup> Refer to 'Initial letter to owner' in the guideline.

## 6 Occupation of or entry onto land

### 6.1 Temporary occupation by agreement

#### 6.1.1 Form of occupation agreement

Where the Crown acquiring agency proposes to occupy land for investigation, construction or other purposes it must formalise any agreement with the owner:

- (a) where the Crown acquiring agency requires rights that do not require exclusive occupation, either by:
  - (i) a contractual licence and right to occupy between the Minister and the owner under the PWA, or
  - (ii) a written agreement between the Crown acquiring agency and the owner, outside the PWA, or
- (b) where the Crown acquiring agency requires rights including exclusive occupation of the land, by the acquisition of a leasehold interest in the land under s 17 of the PWA.<sup>7</sup>

#### 6.1.2 Submission to LINZ

The Crown acquiring agency must submit an agreement for a lease or licence under s 17 of the PWA for execution by the Minister (see paragraph 8). The agreement and the report and conclusion must specify the:

- (a) commencement date for the lease or licence,
- (b) term of the lease or licence,
- (c) termination date, and
- (d) rent that is proposed to be paid to the owner.

### 6.2 Entry under section 110

#### 6.2.1 Submission to LINZ

The Crown acquiring agency that wishes the Minister to authorise persons to enter land for survey under s 110 of the PWA, must provide LINZ with:

- (a) a report and conclusion that:
  - (i) includes the information required in [Appendix B](#),
  - (ii) includes the owner or occupiers' address for service to ensure that reasonable notice, where practical, is given of the exercise of entry powers,

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<sup>7</sup> Refer to '*Negotiation of entry or occupation*' in the guideline.

- (iii) details any conditions limiting the times of entry and the type of assistance that should be permitted, and
  - (iv) seeks authorisation from the Minister to enter the land under s 110 of the PWA;
- (b) a copy of a notice for execution by the Minister, detailing:
- (i) the identification and legal description of the land,
  - (ii) the public work or proposed public work,
  - (iii) the Crown acquiring agency undertaking the work,
  - (iv) the reason for entry (the making of a survey under the Cadastral Survey Act 2002),
  - (v) the agency (or person) authorised for entry, any limitations on that authorisation, and their contact details,
  - (vi) how and when entry is to be made (date and time) and whether any assistance including vehicles and equipment will be used,
  - (vii) the likely period of entry and any re-entry,
  - (viii) other information relevant to the entry, and
  - (ix) a plan illustrating the work locations, including where entry will be made on the land.

### **6.2.2 Service of notice**

The Crown acquiring agency must retain a copy of the notice and the record of service of the notice on the job file.

### **6.2.3 Evidence of authority to enter**

Any person exercising the power of entry under s 110 of the PWA must be able to produce:

- (a) a properly executed authorisation under paragraph 6.2.1, and
- (b) evidence of that person's identity and ability to act under the authorisation.<sup>8</sup>

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<sup>8</sup> Refer to '*Occupation of or entry onto land*' in the guideline.

## 6.3 Entry under section 111

### 6.3.1 Submission to LINZ

The Crown acquiring agency that wishes the Minister to authorise persons to enter land for other survey and investigation purposes under s 111 of the PWA, must provide LINZ with:

- (a) the information specified in 6.2.1(a), modified to reflect that the authorisation to enter the land is being sought under s 111 of the PWA, and
- (b) a copy of a notice for execution by the Minister for service on the owner and occupier (if different), detailing:
  - (i) the identification and legal description of the land,
  - (ii) the public work or proposed public work,
  - (iii) the Crown acquiring agency undertaking the work,
  - (iv) the reason for entry,
  - (v) the agency (or person) authorised for entry and their contact details, and any limitations on that authorisation,
  - (vi) how and when entry is to be made (date and time), and whether any assistance including vehicles and equipment will be used,
  - (vii) the likely period of entry and any re-entry,
  - (viii) the specific powers to be exercised,
  - (ix) a statement of the owner or occupiers' rights to object to the District Court,
  - (x) a statement that the owner or occupier may be entitled to compensation,
  - (xi) other information relevant to the entry, and
  - (xii) a plan illustrating the work location(s), including where entry is being made on the land.

### 6.3.2 Service of notice

- (a) The Crown acquiring agency must ensure that written notice, executed by the Minister, is served on the owner (and occupier if different) at least 10 working days before entry under s 111 of the PWA can occur.
- (b) The Crown acquiring agency must confirm with the District Court that no objection to the notice has been received before entry under s 111 of the PWA can occur.
- (c) The Crown acquiring agency must retain a copy of the notice and the record of service of the notice on the job file.<sup>9</sup>

### 6.3.3 Evidence of authority to enter

Any person exercising the power of entry under s 111 of the PWA must be able to produce:

- (a) a properly executed authorisation under paragraph 6.3.1, and
- (b) evidence of that person's identity and ability to act under the authorisation.<sup>10</sup>

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<sup>9</sup> Refer to '*Occupation of or entry onto land*' in the guideline.

<sup>10</sup> Refer to '*Occupation of or entry onto land*' in the guideline.

## 7 Valuation and assessment of compensation

### 7.1 Valuation or assessments required

#### 7.1.1 Parties that may provide valuations or assessments

The Crown acquiring agency must obtain:

- (a) an assessment of the value for the interest in land to be acquired under the PWA in the form of:
  - (i) a valuation from a registered valuer, or
  - (ii) a written assessment from another suitably qualified person, if:
    - (A) the assessment is to inform negotiations with the landowner and is not being obtained to meet the requirement of s 18(1)(c) of the PWA,
    - (B) the assessment is consistent with recent comparable sales or other relevant evidence,
    - (C) the use of the land is a permitted use under the relevant district plan,
    - (D) the value is anticipated to be less than \$10,000,
    - (E) there is no injurious affection entitlement, and
    - (F) the owner is informed about how and by whom the value will be assessed, and agrees to this process, and
- (b) a written assessment from suitably qualified persons for other items of compensation that may be claimable by the owner under Part 5 of the PWA.

#### 7.1.2 Valuations or assessments for partial acquisitions

Where only part of a property is to be acquired, and that part is of a size, shape or nature for which there is no general demand or market, a before and after valuation under s 62(1)(b)(ii) of the PWA may be carried out to assess compensation, taking into account the directions in s 62(1)(a) and (c).

#### 7.1.3 Second valuation required in certain circumstances

- (a) Where:
  - (i) the Crown acquiring agency obtains a valuation where the market value for the interest in land is \$400,000 including GST if any, or more, and
  - (ii) the owner does not obtain their own valuation within three months of being advised in writing of that market value,

the Crown acquiring agency must obtain a second valuation under paragraph 7.1.1(a)(i) from a registered valuer who is independent of the registered valuer who prepared the original valuation.<sup>11</sup>

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<sup>11</sup> The second valuation should be assessed at the same date as the original valuation, unless the Crown acquiring agency considers that circumstances warrant the valuation being determined at another date.



- (b) Once this second valuation is finalised, the Crown acquiring agency must:
  - (i) advise the owner of the market value in the second valuation, and
  - (ii) provide details of the second valuation in any report and conclusion submitted to LINZ.

## 7.2 Instructions to registered valuers

The Crown acquiring agency must instruct the registered valuer in writing<sup>12</sup>. The instruction must include:

- (a) a request for a required scope of works in accordance with valuation standards and any relevant PWA principles,
- (b) a statement that the valuation will comply with the New Zealand Institute of Valuers Code of Ethics,
- (c) a plan identifying the land required,
- (d) other relevant background information,
- (e) an explanation of any timetable for the work,
- (f) any special conditions or requirements<sup>13</sup>, and
- (g) any other relevant matters.

## 7.3 Provision of the valuation instruction to owner

The Crown acquiring agency must provide to the owner:

- (a) a copy of the instruction in 7.2,
- (b) a copy of the confirmed scope of works received from the valuer, and
- (c) a copy of the current best practice template for PWA valuation reports, if available.

## 7.4 Exchange of valuation reports

If the owner provides their valuation report, the Crown acquiring agency must provide a copy of its valuation report once completed.

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<sup>12</sup> Refer to 'Assessment of compensation' in the guideline.

<sup>13</sup> Refer to 'Valuation of land' in the guideline.

## 7.5 Pre-approval to reinstatement under section 65

The Crown acquiring agency must seek the Minister's approval to provide reinstatement under s 65 of the PWA. This must be done before commencing negotiations with the owner on the reinstatement as part of the compensation for the acquisition. The Crown acquiring agency must provide LINZ with a report and conclusion that includes:

- (a) the information in [Appendix B](#),
- (b) the information required by s 65 of the PWA,
- (c) analysis supporting this form of compensation.<sup>14</sup>

## 7.6 Reimbursement of owner's costs

Where an owner makes a claim to the Minister for any disturbance costs incurred during the acquisition, the Crown acquiring agency must submit to LINZ, within a reasonable period of time from receipt of the claim:

- (a) a written request from the owner for the reimbursement of the cost incurred,
- (b) the invoice from the service provider to the owner, and
- (c) advice on whether the Crown acquiring agency considers the costs to be reimbursed to be reasonable.

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<sup>14</sup> Refer to '*Other forms of compensation*' in the guideline.

## 8 Acquisition agreement (section 17)

### 8.1 Form of acquisition agreement

#### 8.1.1 Preparation of agreement

The Crown acquiring agency must use an appropriate form of a written agreement according to the following requirements.<sup>15</sup>

#### 8.1.2 Specific requirements

The Crown acquiring agency must ensure that the acquisition agreement:

- (a) is between the owner and the Minister;
- (b) references the purposes for which the land is being acquired;
- (c) states that the agreement is not binding until executed by the Minister;
- (d) includes a clause, if early occupation has been agreed with the owner, entitling the Crown acquiring agency to enter and occupy land ahead of settlement; and
- (e) identifies:
  - (i) all payments and other undertakings that have been agreed between the parties, or
  - (ii) where payments or other matters are still to be determined:
    - (A) how they will be determined, or
    - (B) that the owner will claim compensation under Part 5 of the PWA.

### 8.2 Execution by owner

The Crown acquiring agency must ensure that the acquisition agreement is executed by the owner in the form of 'an offer' to the Minister.

### 8.3 Submission to LINZ

The Crown acquiring agency must submit a report and conclusion to LINZ, along with the acquisition agreement for execution under s 17 of the PWA. The submission to LINZ must include:

- (a) a report and conclusion that includes:
  - (i) the information required in [Appendix B](#);
  - (ii) advice that:
    - (A) summarises the negotiations between the Crown acquiring agency and the owner,

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<sup>15</sup> Refer to 'Acquisition Agreements' in the guideline.

- (B) assesses how the payments proposed in the acquisition agreement compare to what it is estimated the owner would be entitled to under Part 5 of the PWA,
  - (C) explains any proposed non-monetary undertakings, if applicable,
  - (D) details how all costs that may be incurred by the owner will be dealt with, including assessing any risk of overpayment where costs will not be identified until after the agreement has been executed,
  - (E) details and explains any special conditions in the agreement,
  - (F) details and explains requirements on the owner or the Crown acquiring agency that must be completed before settlement;
- (b) written confirmation from the Crown acquiring agency that it:
- (i) has funding to meet the purchase price and other payments specified in the acquisition agreement, and
  - (ii) will meet all non-monetary undertakings specified in the acquisition agreement, if applicable;
- (c) a plan of the land to be acquired,
- (d) a copy of the initial letter provided under paragraph 5, and
- (e) a compensation certificate, in the form set out in Appendix C, for execution by the Minister where the Crown acquiring agency anticipates that there will be a significant delay between the acquisition agreement and settlement.<sup>16</sup>

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<sup>16</sup> See paragraph 13

## 9 Granting of land in lieu of compensation

### 9.1 Granting of land under section 105 of the PWA

Where the Crown acquiring agency proposes in an acquisition agreement to grant land as compensation where equivalent land is not readily available, it must provide in addition to the requirements of paragraph 8.3 the following information in the submission to LINZ:

- (a) details of the land that the Crown acquiring agency proposes to exchange for the land being acquired, including:
  - (i) advice on the current status of the land,
  - (ii) details of the market value of the land or other assessment,
  - (iii) evidence confirming that any right of first refusal provisions of a Treaty settlement have been complied with<sup>17</sup>, or
  - (iv) where a Treaty settlement has not been reached, written confirmation from the Office of Treaty Settlements that the land has not been identified as being required for settlement redress,
  - (v) advice from the Department of Conservation under Part IVA of the Conservation Act 1987 and the requirements relating to conservation values,
  - (vi) evidence that any other relevant government policies relating to the disposal of Crown-owned land have been complied with,
- (b) written approval from the agency administering the land,
- (c) consent from the Minister under s 105(4) of the PWA, if relevant, and
- (d) evidence that the criteria in s 105 of the PWA apply.

### 9.2 Granting of land under sections 106 or 117(3) of the PWA

Where the Crown acquiring agency proposes in an acquisition agreement to grant land as compensation in cases other than those specified in 9.1, it must provide in addition to the requirements of paragraph 8.3 the following information in the submission to LINZ:

- (a) details of the land that the Crown acquiring agency proposes to exchange for the land being acquired, including:
  - (i) advice on the current status of the land,
  - (ii) details of the market value of the land, or other assessment,
  - (iii) evidence confirming that any right of first refusal provisions of a Treaty settlement have been complied with<sup>18</sup>, or

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<sup>17</sup> Refer to LINZS15000 *Standard for disposal of land held for a public work* and LINZS15001 *Interim Standard for Treaty Settlement requirements for disposal of Crown-owned land*

- (iv) where a Treaty settlement has not been reached, written advice from the Office of Treaty Settlements as to whether the land to be granted has been identified for future settlement redress,
  - (v) advice from the Department of Conservation under Part IVA of the Conservation Act 1987 and the requirements relating to conservation values,
  - (vi) evidence that any other statutory provisions or other relevant government policies relating to the disposal of the land have been complied with,
- (b) written approval from the agency administering the land, and
- (c) the relevant ministerial consent or notice, being either:
- (i) the consent from the appropriate Minister under s 106(2) of the PWA, or
  - (ii) the notice signed by the Minister under s 117(3) of the PWA.

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<sup>18</sup> Refer to LINZS15000 *Standard for disposal of land held for a public work* and LINZS15001 *Interim Standard for Treaty Settlement requirements for disposal of Crown-owned land*

## 10 Notice of desire to acquire land (section 18)

### 10.1 Submission to LINZ

Where the Crown acquiring agency seeks a notice of desire under s 18 of the PWA, it must submit to LINZ the following information:

- (a) a report and conclusion that contains:
  - (i) the information required in [Appendix B](#),
  - (ii) a chronology of all interactions with the owner<sup>19</sup>,
  - (iii) advice as to why the notice of desire is required,
  - (iv) identification of all registered interests on the land;
- (b) the notice of desire to be served on the owner and every person with a registered interest in the land<sup>20</sup>;
- (c) the notice of desire to the Registrar-General of Land (RGL) for execution by the Minister;
- (d) aerial photos; and
- (e) plans of the land to be taken showing:
  - (i) locality overview,
  - (ii) site specific overview, and
  - (iii) the design of the public work on the land to be acquired or taken.

### 10.2 Service and lodgement of the notice of desire

Following execution of the notice of desire by the Minister, the Crown acquiring agency must:

- (a) serve the notice of desire on the owner and any other person with a registered interest in the land within two weeks of receipt from LINZ,
- (b) lodge the notice of desire with the RGL for registration as soon as reasonably possible after the notice has been served, and
- (c) retain a copy of the notice and the record of service of the notice on the job file.

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<sup>19</sup> Refer to '*Identifying costs to be incurred*' in the guideline.

<sup>20</sup> Refer to '*Notice of desire (section 18)*' in the guideline.

## 10.3 Withdrawal of the notice of desire

- (a) Where the Crown acquiring agency proposes not to proceed with compulsory acquisition or the notice becomes redundant, the Crown acquiring agency must submit to LINZ:
  - (i) a report and conclusion that:
    - (A) requests that the Minister withdraw the notice of desire under s 18(3)(a) of the PWA, or
    - (B) details why the notice has been deemed to be withdrawn under s 18(3)(b) of the PWA, and
  - (ii) for a decision under s 18(3)(a) of the PWA, a draft briefing paper to the Minister, and
  - (iii) a notice under s 18(4) of the PWA for execution by the Minister.
- (b) The Crown acquiring agency must lodge the executed notice under s 18(4) with the RGL as soon as reasonably possible.<sup>21</sup>

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<sup>21</sup> Refer to '*Notice of desire*' (*section 18*) in the guideline.



## 11 Notice of intention (section 23)

### 11.1 Submission to LINZ

Where the Crown acquiring agency seeks a notice of intention to take land under s 23 of the PWA, it must submit to LINZ the following information:

- (a) a report and conclusion that contains:
  - (i) the information required in [Appendix B](#),
  - (ii) an updated chronology of all interactions with the owner<sup>22</sup>,
  - (iii) advice as to why the notice of intention is required, and
  - (iv) identification of all registered interests on the land;
- (b) a draft briefing paper to the Minister<sup>23</sup>;
- (c) the notice of intention, to be executed by the Minister and to be served on the owner and every person with a registered interest in the land, in the form specified in Schedule 1 of the PWA;
- (d) the notice of intention to be gazetted, executed by the Minister, that gives a period of 20 working days from the date of publication of the notice of intention in the *Gazette* in which objections may be made to the notice of intention (the period of notice to be consistent with clause 7 of Schedule 1 of the PWA)<sup>24</sup>;
- (e) a cadastral survey dataset of the land required to be taken, where s 32 of the PWA does not apply;
- (f) aerial photos; and
- (g) plans of the land to be taken showing:
  - (i) locality overview,
  - (ii) site specific overview, and
  - (iii) the design of the public work on the land to be acquired or taken.

### 11.2 Service of the notice of intention

The Crown acquiring agency must:

- (a) serve the notice of intention on all required parties as soon as the executed notice has been received, and
- (b) retain a copy of the notice and the record of service of the notice on the job file.

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<sup>23</sup> Refer to '*Submission to the Minister*' in the guideline.

<sup>24</sup> Refer to '*Notice of intention (section 23)*' in the guideline.

### 11.3 Gazettal and public notice

- (a) The Crown acquiring agency must ensure that the executed notice in paragraph 11.1(d) is:
  - (i) gazetted as soon as reasonably possible to coincide with service of the executed notice, and
  - (ii) published on two separate occasions in a newspaper circulating in the district where the land is situated as soon as reasonably possible.
- (b) The Crown acquiring agency must ensure that a copy of the published gazette notice is lodged with the RGL for registration as soon as reasonably possible.

### 11.4 Objections to the notice of intention

The Crown acquiring agency must advise LINZ immediately of any objection to the notice of intention under s 23 of the PWA.<sup>25</sup>

### 11.5 Withdrawal of the notice of intention

- (a) Where the Crown acquiring agency proposes not to proceed with compulsory acquisition, the Crown acquiring agency must submit to LINZ:
  - (i) a report and conclusion requesting that the Minister withdraw the notice of intention
  - (ii) a draft briefing paper to the Minister, and
  - (iii) a notice under s 23(8) of the PWA for execution by the Minister.
- (b) The Crown acquiring agency must lodge the executed notice under s 23(8) with the RGL.<sup>26</sup>

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<sup>25</sup> Refer to '*Notice of intention (section 23)*' in the guideline.

<sup>26</sup> Refer to '*Notice of intention (section 23)*' in the guideline.

## 12 Proclamation (section 26)

### 12.1 Submission to LINZ

Where the Crown acquiring agency seeks a proclamation from the Governor-General under s 26 of the PWA, it must submit to LINZ the following information:

- (a) a report and conclusion that contains:
  - (i) the information required in [Appendix B](#),
  - (ii) an updated chronology of all interactions with the owner<sup>27</sup>, and
  - (iii) advice as to why the proclamation is required;
- (b) evidence of the notices of desire and intention being served on the owner and any persons with a registered interest in the land,
- (c) evidence of compliance with s 23(1)(b) of the PWA,
- (d) written confirmation from the Environment Court that no objection to the notice of intention under s 23 of the PWA has been made to the Court, or that the objection has been withdrawn or disallowed,
- (e) the computer registers, evidencing registration of the notices,
- (f) a cadastral survey dataset of the land required to be taken, where s 32 of the PWA does not apply,
- (g) aerial photos,
- (h) plans of the land to be taken showing:
  - (i) locality overview,
  - (ii) site specific overview, and
  - (iii) the design of the public work on the land to be acquired or taken;
- (i) a draft briefing paper to the Minister<sup>28</sup>; and
- (j) the draft proclamation in the form specified by LINZ, subject to change from time to time.

### 12.2 Gazettal and registration of proclamation

The Crown acquiring agency must retain evidence that the executed proclamation has been:

- (a) gazetted and publicly notified in accordance with s 26(2) of the PWA, and
- (b) registered against the computer registers in accordance with s 57(1) of the PWA, unless s 58 of the PWA applies.

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<sup>27</sup> Refer to '*Notice of intention (section 23)*' in the guideline.

<sup>28</sup> Refer to '*Submission to the Minister*' in the guideline.

## 13 Compensation certificates

### 13.1 Execution of compensation certificate

If the Crown acquiring agency submits a compensation certificate for execution by the Minister under s 19 of the PWA, it must be in the form set out in [Appendix C](#).

### 13.2 Registration of compensation certificate

The Crown acquiring agency must lodge the compensation certificate with the RGL for registration against the relevant computer registers, immediately after it has been executed by the Minister.

### 13.3 Discharge of compensation certificate

The Crown acquiring agency must:

- (a) seek to discharge the compensation certificate under s 19(7) of the PWA as soon as possible after the acquisition or taking of the land has been registered or gazetted;
- (b) submit a report and conclusion to LINZ seeking discharge of the compensation certificate. The report must include:
  - (i) advice on whether the action is a full or partial discharge of the compensation certificate,
  - (ii) if a partial discharge, confirmation as to those conditions that have been completed and those that will continue to be protected by the compensation certificate,
  - (iii) if a full discharge, confirmation that all actions protected by the compensation certificate have been completed, and
  - (iv) a notice of full or partial discharge, for execution by the Minister;
- (c) lodge the notice with the RGL as soon as reasonably possible after the notice has been executed and give notice to the current owner of the land.

## 14 Legalisation of acquisition agreement

### 14.1 Declaration under section 20 of the PWA

#### 14.1.1 Submission to LINZ

If the Crown acquiring agency wishes the Minister to implement the acquisition agreement through a declaration under s 20 of the PWA, it must submit to LINZ:

- (a) a report on the acquisition, including written confirmation that:
  - (i) all actions specified in the acquisition agreement have been completed before transfer, and
  - (ii) no known private injury will arise from the acquisition;
- (b) a copy of the current computer registers;
- (c) a copy of the title plan from the approved cadastral survey dataset for the land, where applicable;
- (d) a request for a new appellation for the land, if required; and
- (e) a draft gazette notice declaring the land acquired by the Crown, for execution by the Minister.

#### 14.1.2 Registration of Declaration

The Crown acquiring agency must register the gazette notice under s 57 of the PWA as soon as reasonably possible after the gazette notice is published.

### 14.2 Transfer instrument

If the Crown acquiring agency wishes to implement the acquisition agreement through a transfer instrument under the Land Transfer Act 1952, it must submit the following to LINZ:

- (a) a report on the acquisition, including written confirmation that all actions specified in the acquisition agreement to be completed before transfer have been completed,
- (b) a copy of the executed acquisition agreement,
- (c) a copy of any compensation certificate registered against the computer register,
- (d) a copy of the current computer registers,
- (e) a copy of the title plan to the approved cadastral survey dataset for the land,
- (f) a request for a new appellation for the land, if required, and
- (g) an authority and instruction form for execution by the Minister that meets the requirements of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.

## 15 Setting apart land for another public work (section 52)

### 15.1 Setting apart land for a government work

- (a) When seeking to set land apart for another government work under s 52 of the PWA, the Crown acquiring agency must submit the following to LINZ:
  - (i) a report and conclusion containing the information in [Appendix B](#),
  - (ii) the written agreement of the agency administering the land confirming that the agency no longer requires the land for public work,
  - (iii) a copy of any ministerial consent under s 52(2) or s 52(3) of the PWA, if required, and
  - (iv) a draft gazette notice for execution by the Minister.<sup>29</sup>
- (b) The Crown acquiring agency must register the gazette notice under s 57 of the PWA or lodge the notice with the chief executive under s 58 of the PWA following publication.

### 15.2 Setting land apart for a local work

- (a) When seeking to set land apart for a local work under s 52 of the PWA, a local authority must submit the following to LINZ:
  - (i) a report and conclusion containing the information in [Appendix B](#),
  - (ii) the written agreement of the Commissioner of Crown Lands where the land is Crown land under the Land Act 1948,
  - (iii) a copy of any ministerial consent under s 52(2) or s 52(3) of the PWA, if required,
  - (iv) a statutory declaration under s 52(7) of the PWA, where applicable, and
  - (v) a draft gazette notice for execution by the Minister.<sup>30</sup>
- (b) The local authority must register the published gazette notice under s 57 of the PWA or lodge the notice with the Chief Executive under s 58 of the PWA following publication.<sup>31</sup>

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<sup>29</sup> Refer to 'Gazette notices setting land apart' in the guideline.

<sup>30</sup> Refer to 'Gazette notices setting land apart' in the guideline.

<sup>31</sup> For requirements for transfers of land under s 50 of the PWA, refer to paragraph 7 of LINZS1500 *Standard for disposal of land held for a public work*.

## 16 Declaring land to be road

- (a) When seeking the Minister to declare land to be road under s 114 of the PWA, the Crown acquiring agency or local authority must submit the following to LINZ<sup>32</sup>:
  - (i) a report and conclusion containing the information in [Appendix B](#),
  - (ii) a copy of the title plan from the approved cadastral survey dataset,
  - (iii) copies of all relevant consents required under s 114(2) of the PWA,
  - (iv) evidence that the requirements of any relevant Treaty claim settlement have been complied with,<sup>33</sup>
  - (v) advice as to how any land subject to s 119(1) of the PWA will be dealt with, if applicable, and
  - (vi) a draft gazette notice for execution by the Minister.
- (b) The Crown acquiring agency or local authority must register the gazette notice following publication.

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<sup>32</sup> Where the action to declare land to be road is occurring concurrently with the stopping or disposal of existing road refer to *LINZS15002: Standard for stopping or resumption of road*.

<sup>33</sup> Refer to '*Declaring land to be road*' in the guideline.

## Appendix A: Information required in an application under section 186 of the Resource Management Act 1991

A network utility operator must provide the following information in any application to the Minister under s 186 of the RMA:

Information required	Details
<b>1. Details of applicant</b>	<p>Include:</p> <ul style="list-style-type: none"> <li>(a) name of applicant, and</li> <li>(b) contact details,</li> </ul>
<b>2. Details of the land to be acquired</b>	<p>Include:</p> <ul style="list-style-type: none"> <li>(a) location;</li> <li>(b) legal description;</li> <li>(c) computer register;</li> <li>(d) owner of the land;</li> <li>(e) owner's legal representation, if any;</li> <li>(f) a general description of the land supported, where appropriate, by photos and notes of any special features, and including details of: <ul style="list-style-type: none"> <li>(i) any improvements on the land,</li> <li>(ii) zoning and designation of the land, and</li> <li>(iii) current land use;</li> </ul> </li> <li>(g) details of what the applicant wishes the Minister to acquire, including: <ul style="list-style-type: none"> <li>(i) the interest(s) to be acquired,</li> <li>(ii) the area of land to be acquired,</li> <li>(iii) mineral rights to be acquired, if any<sup>34</sup>, and</li> <li>(iv) any improvements, chattels to be acquired, if any; and</li> </ul> </li> <li>(h) a list of each current registered and known unregistered interest in the land, encumbrance and memorial, the details of the holder of that interest and summarise that interest.</li> </ul>

<sup>34</sup> Refer to 'Ascertaining ownership of natural materials' in the guideline.



Information required	Details
<b>3. Details of the project</b>	<p>Include:</p> <ul style="list-style-type: none"> <li>(a) the purpose for which the land is required;</li> <li>(b) the network utility operator's objectives for the project or work;</li> <li>(c) details of the project or works to be carried out on the land;</li> <li>(d) timing of the project or works, including any specific timeframe for access to or construction works to be carried out on the land;</li> <li>(e) advice explaining why the land is suitable for the purpose for which it is being acquired;</li> <li>(f) a copy of the gazette notice that shows the applicant is a network utility operator and a requiring authority for a project or work;</li> <li>(g) written confirmation that the applicant's requiring authority status applies to the project; and</li> <li>(h) a written undertaking from the applicant that: <ul style="list-style-type: none"> <li>(i) it agrees to meet all of the Minister's costs and expenses, including any compensation payable as provided for in s 186(6) of the RMA, and</li> <li>(ii) acknowledges the applicant's liability as a debt to the Crown.</li> </ul> </li> </ul>
<b>4. Analysis of requirement</b>	<p>Include:</p> <ul style="list-style-type: none"> <li>(a) an overview of the applicant's requirement for the land,</li> <li>(b) details of the assessment of any alternative sites, routes or methods of achieving the applicant's objectives, and</li> <li>(c) details of any public consultation undertaken by the applicant (if any) concerning the project or work and the consideration of alternative sites, routes, or solutions.</li> </ul>
<b>5. Negotiations</b>	<p>Include:</p> <ul style="list-style-type: none"> <li>(a) a full negotiation chronology, including access (if any) to the land,</li> <li>(b) advice identifying why the applicant has been unable to negotiate an agreement with the owner for the interest, and</li> <li>(c) advice on why the applicant considers it is necessary that the Minister exercise powers under s 186 of the RMA to acquire this land at this time.</li> </ul>
<b>6. Requirements of s 186 of the RMA</b>	<p>Advice on whether the requirements of s 186(3) (land subject to a heritage order) or s 186(4) (land held by the Crown or local authority) apply to the land.</p>
<b>7. Designation and consents</b>	<p>Include:</p> <ul style="list-style-type: none"> <li>(a) advice on whether all other required consents and appropriate approvals have been granted, and</li> <li>(b) details of any conditions of the designation or resource consent that apply to the land to be acquired.</li> </ul>

Information required	Details
<b>8. Attachments</b>	Include: <ul style="list-style-type: none"> <li>(a) copies of all computer registers for the land,</li> <li>(b) a map or other information showing the status of other negotiations, purchases, and land owned by the applicant in the vicinity of the land required,</li> <li>(c) any relevant independent expert review of the applicant's project or work plans held by the applicant, and</li> <li>(d) copies of any valuation reports obtained by the applicant identifying the value of the land to be acquired.</li> </ul>

## Appendix B: Information required for acquisition reports

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

Information required	Details
<b>1. Job details</b>	<p>Include:</p> <ul style="list-style-type: none"> <li>(a) job number, and</li> <li>(b) LINZ file number.</li> </ul>
<b>2. Details of public work project</b>	<p>Include:</p> <ul style="list-style-type: none"> <li>(a) name of the Crown acquiring agency,</li> <li>(b) authority to act,</li> <li>(c) purpose for which the land is required,</li> <li>(d) confirmation that the purpose is a public work, as defined in s 2 of the PWA,</li> <li>(e) project timeframe (eg when is the land required to enable construction of the public work), and</li> <li>(f) detailed advice explaining why the land is suitable for the purpose for which it is being acquired.</li> </ul>
<b>3. Details of the land to be acquired</b>	<p>Include:</p> <ul style="list-style-type: none"> <li>(a) location,</li> <li>(b) legal description,</li> <li>(c) computer register,</li> <li>(d) interests to be acquired, including mineral rights to be acquired, if any<sup>35</sup>,</li> <li>(e) area and survey plan description of land to be acquired,</li> <li>(f) owner of the land,</li> <li>(g) owners legal representation,</li> <li>(h) a list of each current registered and known unregistered interest in the land, encumbrance and memorial, the details of the holder of that interest and summarise that interest,</li> <li>(i) zoning/designation, and</li> <li>(j) a list of improvements and chattels to be acquired, if any.</li> </ul>
<b>4. Physical description</b>	<p>Include:</p> <ul style="list-style-type: none"> <li>(a) a general description of the land,</li> <li>(b) photos and notes supporting the description, and</li> <li>(c) a description of any improvements.</li> </ul>

<sup>35</sup> Refer to 'Ascertaining ownership of natural materials' in the guideline.

Information required	Details
<b>5. Valuations</b>	Include: <ul style="list-style-type: none"> <li>(a) details of the market value of the land or assessment, and</li> <li>(b) any comments particular to the land, arising from the valuation or assessment.</li> </ul>
<b>6. Statutory compliance</b>	Include evidence of compliance with all statutory requirements.
<b>7. General comments</b>	General comments regarding the acquisition, including any matters that the Crown acquiring agency wishes the Minister to note regarding the public work or acquisition.
<b>8. Signing Page</b>	The signing page for the report must include: <ul style="list-style-type: none"> <li>(a) a heading identifying the public work project, owner and LINZ file reference,</li> <li>(b) a conclusion stating:               <ul style="list-style-type: none"> <li>(i) the land and any interest being acquired,</li> <li>(ii) the owner,</li> <li>(iii) legal description of the land, and</li> <li>(iv) the statutory authority for the acquisition action.</li> </ul> </li> <li>(c) the signature of the author,</li> <li>(d) the signature of a peer reviewer, where it is a report for an acquisition by agreement under s 17 of the PWA or compulsory acquisition, and</li> <li>(e) provision for a delegate of the Minister to approve or decline the report and sign the report.</li> </ul>
<b>9. Attachments</b>	<ul style="list-style-type: none"> <li>(a) A copy of the initial letter to the owner under paragraph 5.</li> <li>(b) Copies of the computer registers for the land to be acquired or taken.</li> <li>(c) A copy of the title plan to the cadastral survey dataset description, if only part of the computer register is to be purchased.</li> <li>(d) Evidence, where an owner is a company, incorporated society or trust, of the authority of the person executing any document on the owner's behalf.</li> </ul>

## Appendix C: Compensation Certificate

To Registrar-General of Land  
[name] Land Registration District

### COMPENSATION CERTIFICATE UNDER SECTION 19 OF THE PUBLIC WORKS ACT 1981

**Unique Identifier(s)**      **All/Part**      **Area/Description of part or stratum**

Unique Identifier(s)	All/Part	Area/Description of part or stratum

This Compensation Certificate is forwarded to you under section 19(1) of the Public Works Act 1981 to be registered against the computer registers to all land affected by it.

<b>File reference</b> <b>Agreement reference</b> <b>Date of agreement</b> <b>Inspection location</b>  <b>Hours for inspection</b> <b>Names/addresses of affected parties</b> <i>[ie other than the Minister]</i>  <b>Brief particulars</b>	Land Information New Zealand Level 7, Radio New Zealand House 155 The Terrace, Wellington, 6145 Phone: (04) 460 0110  09.00 to 16.00, Monday to Friday (except public holidays)
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Dated at                      this                                      day of                                      [Year]

\_\_\_\_\_  
*[enter below name and designation in BLOCK letters]*

For and on behalf of  
Her Majesty the Queen  
Acting pursuant to delegated  
authority from the Chief  
Executive of Land Information NZ  
pursuant to section 41 of the  
State Sector Act 1988