

Public Works (Critical Infrastructure) Amendment Bill

Government Bill

As reported from the Transport and Infrastructure Committee

Commentary

Recommendation

The Transport and Infrastructure Committee has examined the Public Works (Critical Infrastructure) Amendment Bill and recommends by majority that it be passed. We recommend all amendments by majority.

Introduction

The bill would amend the Public Works Act 1981 (PWA) to speed up the process for acquisition of private land for certain public works. The applicable projects are listed in Schedule 2A of the bill. The list of projects is based on the public works listed in Schedule 2 of the Fast-track Approvals Act 2024 and the Roads of National Significance identified in the Government Policy Statement on land transport 2024.

The bill would remove landowners' right to object to the Environment Court when their land is being acquired for listed projects. Instead, they could make written submissions to the relevant decision-maker (the Minister for Land Information for government works or the local authority for local works). This new process would have to be followed before decision-makers could either recommend or request compulsory acquisition. Owners of protected Māori land would still be able to use the Environment Court process.

The bill would also introduce incentive payments for affected landowners to encourage early agreement, and recognition payments for landowners to acknowledge the importance of their land for building infrastructure projects for New Zealand.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Designation requirements

Clause 5 of the bill would insert new Part 2A (sections 39AA to 39AAP) into the principal Act. As introduced, proposed new section 39AAH(1AA) sets out that land required for a critical infrastructure project could not be taken unless:

- a “designation” (as defined in section 166 of the Resource Management Act 1991 (RMA)) is in place for the project—which means that provision has been made for the project in a district plan; and
- in the opinion of the Minister or local authority based on the information available at the time of giving notice, the land is required to be taken for the project.

Some submitters pointed out that the designation requirement in paragraph (a) is antithetical to the bill’s aim for quicker acquisition of land. Some submitters also noted that some projects will have a resource consent rather than a designation, and would therefore not be recognised under the bill. We agree that the designation requirement would hinder the bill’s objective of accelerating the process for land acquisition.

To address these issues, we recommend amending the designation requirement in proposed new section 39AAH(1AA)(a) to require that a notice of intention to take land must not be issued unless the Minister or local authority determines that the land is required to be taken for the project, and one of the following applies:

- the project is allowed under the Resource Management Act
- there is a designation in place for the project, under section 166(1) of the Resource Management Act
- a notice of requirement for the project has been given under section 168, 168A, or clause 4 of Schedule 1 of the Resource Management Act
- a substantive application for a designation has been lodged under section 42 of the Fast-track Approvals Act 2024.

Eligibility for compensation payments for land acquired under the Resource Management Act

The RMA allows “requiring authorities” (councils, Ministers, and approved network utility operators) to designate areas of land for public works in a district plan. Section 185 of the RMA states that the owner of land subject to a designation or requirement may, at any time, apply to the Environment Court for their land to be acquired or leased. The Court may make an order deeming the land to have been acquired by agreement under the PWA.

We do not consider that the interaction between the RMA and this bill regarding compensation payments is made sufficiently clear in the bill as introduced.

We understand that the objective of the payments in the bill was that if any land acquired under section 185 of the RMA was used for a critical infrastructure project set out in this bill, the landowner would be eligible for the 5 percent recognition payment (as outlined in proposed new section 39AAK(2)(b)). However, because the landowner had initiated the acquisition proceedings, they would not be eligible for the 15 percent incentive payment (proposed new section 39AAK(2)(c)). To achieve these aims, we recommend inserting new clause 10A, which would amend section 185 of the RMA accordingly.

Extension to time frames

In proposed new section 39AAI of the bill as introduced, landowners would have 10 days to indicate their intention to submit objections, and 20 days to make their submission. Agencies would then have 10 days to respond, and landowners would have 10 days for their right of reply to the agency. A one-off extension could be granted for up to 10 days. We heard from several submitters who raised concerns about the short time frames in the submission objections process.

The intent of the bill is to speed up the process of acquiring land for public works. We understand that the usual time frame before an objection is heard by the Environment Court is estimated to be 6 to 12 months. The proposed submissions process is intended to be considerably shorter, at 60 working days. We consider that the taking of anybody's land is a very significant step, and in many circumstances the time frames provided in the bill will not allow enough time for people to indicate, make, or respond to a submission. We were advised that responding to a notice of intention may often involve the landowner needing to seek professional advice, and that this would take time that would need to be allowed for.

We therefore recommend amending the bill to allow for any time frame to be extended by a maximum of 20 working days if the decision-maker considers it reasonable to do so. This amendment would remove the existing limit for extensions to be granted only once. It would instead set a maximum length for extensions to each step.

Proposed new section 39AAI sets out alternative submissions processes that would apply—replacing sections 24 and 25 of the Act—when a process for acquiring land for critical infrastructure projects has begun under Part 2A of the bill. To reflect our suggested amendment described above, we recommend amending the alternative section 25, and inserting new section 25A, to specify the new requirements around extension requests. Our amendment would also require consequential amendments to references to “time frame permitted” described in section 24.

To reduce uncertainty for anyone making an extension request, we recommend that the decision-maker be required to respond to any extension requests as quickly as possible. To this end, our new section 25A would include a requirement that decision-makers must decide whether to grant an extension no later than 3 working days after receiving the request. They must then give notice of their decision as soon as is practicable.

We consider it important that anyone engaging with the land acquisition process is aware of their right to apply for an extension to any time frames. We therefore recommend amending section 39AAH(1AAC) and Schedule 2B to require the notice of intention to take land for critical infrastructure projects to include information about how a person may obtain an extension, and how long it can be for.

Explanation of decision to be provided with notice

Section 23 of the principal Act sets out requirements around the notice of intention to take land for any public work. Subsection (1)(b) requires a summary of reasons for land acquisition to be made publicly available.

We consider that landowners, if their land is sought for acquisition under this bill, should be provided with sufficient information to inform their decision to begin the submission objections process. We consider that although section 23 requires a summary of the decision to be published, the landowner may want more information, such as specific reasons why any one area of land is sought. This information may include specific personal information related to the landowner's personal or commercial circumstances and would perhaps not be appropriate for publication.

Proposed new section 39AAH(1) would require that section 23 of the Act be read as if subsection (1) were replaced with new subsections set out in 39AAH, in cases where land is being acquired for critical infrastructure projects. This subsection outlines requirements for when land is required to be taken for any public work. We recommend amending the alternate section 23(1) to include subsection (1)(d), which would include a requirement for the Minister or local authority to provide the landowner with reasons why the land is required to be taken for the project. Publication requirements through section 23 would separately also apply.

Other matters considered

Relationship with the Resource Management Act

We are aware of upcoming plans to reform the resource management system by replacing the RMA with two new Acts: the Planning Act and the Natural Environment Act. These reforms are intended to establish a clear distinction between land-use planning and natural resource management, while still putting an emphasis on private property rights.

We are concerned that the regime set up through this bill may be at odds with enhancements to property rights in the proposed RMA reforms. We are interested in making sure that either piece of legislation does not undermine the other, leading to an ongoing debate about their application.

We consider it incredibly important that any changes to the RMA factor in the interaction with the PWA, as both Acts are intended to work hand-in-hand.

Current interaction between the RMA and the PWA

The RMA's purpose is to manage how land is used. The PWA provides the mechanism to acquire land for public works. Once a public works project has commenced, a land selection process begins. This often involves community consultation, though there are no statutory requirements for this.

Once a preferred route or location has been identified, two processes must occur: securing land-use consents and/or designations (through the RMA), and acquiring interests in the land needed for the project (through the PWA). Often these processes occur concurrently, and there is no requirement in the PWA to have RMA approval for a project before the land acquisition process can begin.

Removal of appeal rights*Comments from submitters*

We heard from many submitters who raised concerns about the lack of appeal rights to the Environment Court set up through this bill. Some submitters raised concerns that the removal of the Environment Court would increase power imbalances between landowners and the Government, and does not provide for natural justice. Some were concerned that the new process would result in limited oversight, reduced rights for landowners, procedural risks, and limit landowners' ability to negotiate and seek advice. We acknowledge that the removal of appeal rights to the Environment Court is a legitimate concern for many submitters.

Some submitters, while providing in-principle support for the bill, expressed concern about "information asymmetry" in the submission process, as the Government would likely have access to more resources than landowners. Other submitters supported the new submissions objections process on the basis that it would enable direct engagement between landowners and decision-makers, and avoid delays caused by litigation.

Safeguards for private property

We note that a number of safeguards for private property under the PWA are retained through this bill. This includes:

- requirements that the Minister or local authority must first attempt to acquire the land by agreement with the owner
- requirements that the Minister or local authority must make every endeavour to negotiate in good faith with the landowner for at least three months before issuing a notice of intention to take land
- requirements that the Minister or local authority must consider the objectives of the project and the consideration given to alternative sites, routes, or other methods for achieving the objectives, and whether it would be fair, sound, and reasonably necessary for achieving its objectives for the land to be taken
- the ability for landowners to seek judicial review, which is the normal safeguard for statutory decision making, to provide independent oversight of the decision-making process.

We note that, while there is no exact data available on judicial review time frames, advisers estimate that it takes between 6 and 12 months for a judicial review to be heard by the High Court. If unsuccessful, a landowner can appeal.

We understand that between 2014 and 2024 there were 49 objections lodged with the Environment Court in relation to land acquired for NZTA projects. This represents about 3 percent of total properties acquired by NZTA over that period.

We also note that the processes in this bill are intended to be reviewed by the Minister three years after enactment, to ensure that the amendments are fit for purpose and working in practice.

Land Information New Zealand has a regulatory role in the PWA process. For Crown acquisitions, this includes advising the Minister for Land Information on whether requirements for issuing a notice of intention to take land have been met. This would involve assessing whether good faith negotiations have taken place, and if the process has been conducted in a way that meets Land Information New Zealand's standards and guidance. Land Information New Zealand will raise concerns about non-compliance with Crown agencies if it has not. We understand that many local authorities also treat the standards and guidelines as best practice guidance.

While not currently a legal requirement, in practice we consider that before PWA processes commence, it is very important that there has been authentic dialogue with affected communities on the scope and options for any given project so that even if RMA consent or designation has not been obtained, the compulsory acquisition process does not come as an abrupt surprise. We encourage the Minister to consider what level of preliminary RMA or designation engagement should occur in advance of actions under the PWA.

Independence of decision-makers in the submissions process

Many submitters also raised concerns about the independence of decision-makers during the submissions objections process, including issues of conflicts of interest and bias, political pressure, misuse of the process, and limited oversight. Submitters noted that in some instances, the decision-maker may also be responsible for the initial proposal to acquire the land.

We heard from a number of submitters who were concerned about the Minister's role in the decision-making process. We recommend that the Minister could consider whether an independent panel could be set up, akin to the independent panel under the Fast-track Approvals Act process. We also heard from submitters who suggested that landowners should have the opportunity for face-to-face engagement with the decision-makers, which we ask the Minister to consider.

While we do not ultimately recommend any amendments to the decision-making process, we do note that the submissions process is intended to provide a process for the landowner to make their case to the decision-maker. The bill would require that the decision-maker must have regard to every submission. Judicial review would still be available to provide independent oversight of the decision-making process.

Protected Māori land

Protected Māori land would be exempt from the submission objections process set out in this bill. If protected Māori land were required for any critical infrastructure project, the landowners would be able to use the Environment Court process. Owners of protected Māori land would be eligible for the incentive and recognition payments if their land is acquired for a critical infrastructure project.

“Protected Māori land” is a defined term in the PWA, and uses the definition from section 11 of the Infrastructure Funding and Financing Act 2020. This definition includes:

- Māori freehold land (as defined under Te Ture Whenua Maori Act 1993)
- Māori reserves
- general land owned by Māori that was previously Māori freehold land
- land held by a post-settlement governance entity and acquired under a Treaty settlement
- land held by an iwi or hapū if land was transferred to return to mana whenua
- natural features that are a legal entity or person
- Māori reservations
- Māori customary land
- areas with customary marine title or protected customary rights.

We note also that Māori reservations and customary land are both exempt from any acquisition under the PWA. Areas with customary marine title or protected customary rights are also exempt, as PWA powers do not apply to marine and coastal areas.

We understand that the New Zealand Transport Agency does not require any land defined as protected Māori land for its first three projects likely to use the process under this bill. Land requirements for any further projects have not yet been confirmed.

Green Party of Aotearoa New Zealand differing view

The Green Party of Aotearoa New Zealand does not support this bill. The majority of submissions, including those from individuals, iwi and Māori groups, and community and other groups, opposed the bill. We have concerns about the rights of Māori and other landowners to appeal against a Government decision to take their land. This bill was developed in a short time frame, with limited pre-consultation and a truncated select committee process, in order to assist the fast-tracking of projects named in Schedule 2. Reducing greenhouse gas emissions has not been a criterion used to determine these projects, and we believe most will be counterproductive to that goal.

Appendix

Committee process

The Public Works (Critical Infrastructure) Amendment Bill was referred to this committee on 15 May 2025. The House instructed us to report the bill back no later than 16 September 2025.

We called for submissions on the bill with a closing date of 13 June 2025. We received and considered submissions from 2,781 interested groups and individuals. We heard oral evidence from 18 submitters at hearings in Wellington and via video-conference.

Advice on the bill was provided by Land Information New Zealand and the Ministry of Transport. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting. The Regulations Review Committee reported to us on the powers contained in clause 5.

Committee membership

Andy Foster (Chairperson)

Dan Bidois

Dr Carlos Cheung

Hon Julie Anne Genter

Mariameno Kapa-Kingi

Cameron Luxton

Dr Tracey McLellan

Tangi Utikere

Hon Damien O'Connor participated in our consideration.

Related resources

The documents we received as advice and evidence are available on the Parliament website.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Chris Penk

Public Works (Critical Infrastructure) Amendment Bill

Government Bill

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Part 2

Related and consequential amendments

6	Section 72A amended (Amount of compensation to be paid under section 72)	20
7	New sections 72F and 72G inserted	20
	72F Additional compensation for protected Māori land acquired or taken for critical infrastructure project	20
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8	Schedule 1AA amended	24
9	New Schedules 2A and 2B inserted	25

Amendments to Resource Management Act 1991

10	Principal Act	25
<u>10A</u>	<u>Section 185 amended (Environment Court may order taking of land)</u>	<u>25</u>
11	Section 186 amended (Compulsory acquisition powers)	25

Schedule 1 26

New Part 2 inserted into Schedule 1AA

Schedule 2 29

New Schedules 2A and 2B inserted

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Public Works (Critical Infrastructure) Amendment Act **2025**.

2 Commencement

This Act comes into force on the day after Royal assent.

3 Principal Act

This Act amends the Public Works Act 1981.

Part 1

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Amendments relating to acquisition or taking of land for critical infrastructure projects

4 Section 2 amended (Interpretation)

In section 2, insert in its appropriate alphabetical order:

critical infrastructure project is defined in **section 39AAB**

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5 New Part 2A inserted

After Part 2, insert:

Part 2A

Acquisition or taking of land for critical infrastructure projects

39AA How this Part works

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- (1) This Part applies (with some exceptions) if the Minister or a local authority requires land for a public work that is a critical infrastructure project (*see section 39AAC*).
- (2) The Minister or local authority, as the case may be, must attempt to acquire the land by agreement with the owner of the land (*see section 39AAF*).
- (3) If unsuccessful, the Minister or local authority may proceed to take the land using a modified form of the process set out in Part 2 of this Act (*see section 39AAG*).
- (4) In all other aspects, the acquiring or taking of ~~the~~ land under this Part must be undertaken in accordance with the provisions of this Act as modified expressly or by necessary implication (*see section 39AAO*).
- (5) In certain circumstances, additional compensation is payable to owners of land for the acquiring or taking of their land under this Part (*see section 39AAK*).
- (6) This section is only a guide. It does not affect the provisions to which it refers.

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39AAB Interpretation

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In this Part, unless the context otherwise requires,—

critical infrastructure project means a project listed in **Schedule 2A**

Crown body has the meaning given in section 11(2) of the Infrastructure Funding and Financing Act 2020

department means—

- (a) an agency listed in Part 1 of Schedule 2 of the Public Service Act 2020:
- (b) the New Zealand Defence Force:
- (c) the New Zealand Police

Government work includes an undertaking described in section 224(1) if the Minister is responsible for acquiring the land for the undertaking

local work includes an undertaking described in section 224(1) if a local authority is responsible for acquiring the land for the undertaking

Minister means the Minister for Land Information

responsible department or Crown body means the department or Crown body responsible for the construction and execution of a Government work that is a critical infrastructure project.

When this Part applies

39AAC When this Part applies

- (1) The Minister must use this Part (instead of Part 2) to acquire or take under this Act any land required for a critical infrastructure project that is a Government work.
- (2) A local authority must use this Part (instead of Part 2) to acquire or take under this Act any land required for a critical infrastructure project that is—
 - (a) a local work for which it has financial responsibility:
 - (b) a local SPV work for which it is the responsible infrastructure authority.
- (3) This section is subject to the exceptions in **sections 39AAD and 39AAE**.

Exceptions to when this Part applies

39AAD Exception for protected Māori land

To the extent that any protected Māori land is required for a critical infrastructure project, this Part does not apply to the acquiring or taking of that land by the Minister or a local authority.

39AAE Exception if Part 2 process preferable in circumstances

- (1) The Minister must use Part 2 (instead of this Part) to acquire or take under this Act land required for a critical infrastructure project if the responsible department or Crown body informs the Minister in writing that, in its opinion, ~~taking into account the time frames and costs of the project,~~ it would be preferable to use the process under that Part.

- (1A) In forming an opinion for the purposes of **subsection (1)**, the responsible department or Crown body—
- (a) must consider the time frames and costs of the project; and
 - (b) may consider any other matters that it considers relevant.
- (2) A local authority must use Part 2 (instead of this Part) to acquire or take under this Act land required for a critical infrastructure project if it informs the Minister in writing that, in its opinion, ~~taking into account the time frames and costs of the project,~~ it would be preferable to use the process under that Part. 5
- (2A) In forming an opinion for the purposes of **subsection (2)**, the local authority— 10
- (a) must consider the time frames and costs of the project; and
 - (b) may consider any other matters that it considers relevant.
- (3) If the Minister receives a notification under **subsection (1) or (2)**, the acquiring or taking under this Act of all land required for the project must proceed in accordance with Part 2, and the Minister must publicly notify a statement to that effect. 15
- (4) A decision under this section to use Part 2 instead of this Part—
- (a) is irreversible; and
 - (b) is only available if the Minister receives a notification under **subsection (1) or (2)** before any notice of desire to acquire any land required for the project is served under section 18; and 20
 - (c) takes effect from the date of the public notification under **subsection (3)**.
- (5) In this section, **publicly notify** means to publish a notice on an internet site maintained by or on behalf of the department responsible for the administration of this Act. 25

Acquisition by agreement

39AAF Minister or local authority must attempt to acquire land by agreement

- (1) The Minister or a local authority, as the case may be, must attempt to acquire land required for a critical infrastructure project by agreement with the owner of the land. 30
- (2) For that purpose, sections 17 and 18 of Part 2 apply with the following modifications:
- (a) any reference to a public work must be read as a reference to a critical infrastructure project; and 35
 - (b) any notice served or lodged by the Minister or local authority under section 18(1)(a) or (b) must specify that the notice relates to a critical infrastructure project; and

(c) the references in section 18(2) and (7) to proceeding to take the land under this Act must be read as references to proceeding to take the land under **section 39AAG**.

(3) To avoid doubt, the estimated amount of compensation required to be provided to the owner under section 18(1)(c) must be an estimate of the compensation to which the owner would be entitled under **section 39AAK**.

Compulsory ~~taking~~ acquisition

39AAG Minister or local authority may proceed to take land if negotiations unsuccessful

(1) This section applies if the Minister or a local authority, as the case may be, is unsuccessful in acquiring land required for a critical infrastructure project under **section 39AAF** because—

- (a) no agreement has been reached with the owner; or
- (b) section 18(7) applies.

(2) The Minister or local authority may proceed to take the land.

(3) For that purpose, sections 23 to 26 of Part 2 apply with the modifications set out in **sections 39AAH to 39AAJ**.

39AAH Notice of intention to take land

(1) Section 23 must be read as if subsection (1) were replaced with the following subsections:

(1) When land (other than land owned by the Crown) is required to be taken for a critical infrastructure project, the Minister or the local authority, as the case may be, must—

- (a) cause a survey to be made and a plan to be prepared, and lodged with the Chief Surveyor, showing the land required to be taken and the names of the owners of the land so far as they can be ascertained; and
- (b) cause a notice to be published in the *Gazette* and twice publicly notified that includes the information prescribed in **subsection (1AAC)**; and
- (c) serve a notice in the form set out in **Schedule 2B** on the owner of, and persons with a registered interest in, the land of the intention to take the land; and
- (d) separately, but at the same time as serving the notice under paragraph (c), provide to the owner of, and persons with a registered interest in, the land the reasons on which their or its opinion referred to in subsection (1AA)(b) is based.

(1AA) However, the Minister or local authority must ~~not do anything referred to in~~ not give or serve notice under subsection (1)(b) or (c) unless—

- (a) ~~a designation (as defined in section 166 of the Resource Management Act 1991) is in place for the project; and~~
- (a) 1 or more of the following apply:
- (i) the project is allowed under the Resource Management Act 1991:
 - (ii) a designation (as defined in section 166(1) of the Resource Management Act 1991) is in place for the project: 5
 - (iii) a notice of requirement for the project has been given under section 168 or 168A or clause 4 of Schedule 1 of the Resource Management Act 1991:
 - (iv) a substantive application has been lodged under the Fast-track Approvals Act 2024 for a designation or an alteration to an existing designation and the project will be carried out under that designation or altered designation; and 10
- (b) in the Minister's or local authority's opinion, based on the information available to the Minister or local authority at the time the Minister or local authority decides to ~~give and serve notices under **subsection (4)**~~ give or serve the notice under **subsection (1)(b) or (c)**, the land is required to be taken for the project. 15
- (1AAB) ~~For the purposes of forming an opinion under~~ In forming an opinion for the purposes of **subsection (1AA)(b)**,— 20
- (a) the Minister must ~~consider~~ have regard to the matters in **section 26(1B)(a)(i) to (iii)** (as modified by **section 39AAJ(1)**);
 - (b) the local authority must ~~consider~~ have regard to the matters in **section 26(1B)(b)(i) to (iii)** (as modified by **section 39AAJ(1)**).
- (1AAC) A notice for the purposes of **subsection (1)(b)** must include the following information: 25
- (a) a general description of the land required to be taken (including the street address or some other readily identifiable description of the place where the land is situated); and
 - (b) a statement that the land is required for a critical infrastructure project (and that specifies the name of the project); and 30
 - (c) a summary of the Minister's or local authority's reasons for the opinion the Minister or local authority is required to form under **subsection (1AA)(b)**; and
 - (d) the period within which a person (other than a person served with a notice under **subsection (1)(c)**) may— 35
 - (i) provide a written indication of their intention to make a submission; and
 - (ii) make a written submission; and

- (da) information about how a person may seek an extension to the period in which those indications and submissions may be submitted; and
- (e) the address or addresses to which those indications and submissions must be sent, which must be,—
- (i) in the case of indications and submissions provided or made to the Minister, the addresses of the Minister and the responsible department or Crown body; and
 - (ii) in the case of indications and submissions provided or made to the local authority, its address.
- (2) Section 23 must be read as if subsection (3) were replaced with the following subsections: 10
- (3) Every person having an estate or interest in the land intended to be taken may make a submission on the taking of the land—
- (a) to the Minister, if the land is required for a critical infrastructure project that is a Government work: 15
 - (b) to the local authority, if the land is required for a critical infrastructure project that is a local work.
- (3A) An indication of an intention to make a submission, and a submission, must be made in accordance with—
- (a) the notice given under **subsection (1)(b)**; or 20
 - (b) if the submitter is the owner of, or a person with a registered interest in, the land, the notice served under **subsection (1)(c)**.
- (3) Section 23 must be read as if subsection (4)(c) were replaced with the following paragraph:
- (c) the intention to take the land is the subject of a submission to the Minister or local authority, or an inquiry by the Ombudsman, or any application for a judicial review, in which case the notice of intention remains valid for 3 months after, as the case may be,— 25
 - (i) the date of the Minister's or local authority's written notice on which the Minister or local authority provided each submitter with a copy of their or its decision under **section 26(1D)** (as modified by **section 39AAJ(1)**); or 30
 - (ii) the date on which the Minister or local authority receives written notice of the withdrawal of the submission; or
 - (iii) the completion of any inquiry by the Ombudsman; or 35
 - (iv) the date of the judicial decision.
- (4) Section 23 must be read as if the following subsections were inserted after subsection (9):

- (10) For the purposes of **subsection (1AAC)(d)(i)**, the period must be 10 working days from the date on which the notice of intention to take the land is publicly notified for the second time.
- (11) For the purposes of **subsection (1AAC)(d)(ii)**, the period must be 20 working days from the end of the period specified under **subsection (10)**.

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39AAI Submission process

Sections 24 and 25 must be read as if replaced with the following sections:

24 Process if no indications of submissions received by Minister or local authority

- (1) **Subsection (2)** applies if the Minister or a local authority, as the case may be,— 10
- (a) gives and serves notice under section 23 (as modified by **section 39AAH**) of an intention to take land required for a critical infrastructure project; and
- (b) does not receive, in the time frame permitted under subsection (3), a written indication from any person with an estate or interest in the land of their intention to make a submission in relation to the taking of the land. 15
- (2) The land may be taken in accordance with section 26 (as modified by **section 39AAJ**). 20
- (3) ~~In this section, For the purposes of **subsection (1)(b)**, the~~ the time frame permitted means,—
- (a) in relation to a person with an unregistered estate or interest in the land,— 25
- (i) the period for indicating an intention to make a submission stated in the notice given under **section 23(1)(b)** (as modified by **section 39AAH(1)**); or
- (ii) ~~if the Minister or local authority, as the case may be, considers it reasonably necessary to do so, any extension to that period, not exceeding 10 working days, the Minister or local authority grants in writing;~~ 30
- (ii) that period plus any extension granted to the person under **section 25A** (as inserted by operation of **section 39AAI**):
- (b) in relation to the owner of, and persons with a registered interest in, the land,— 35
- (i) 10 working days from the date on which the notice of intention to take the land is served under **section 23(1)(c)** (as modified by **section 39AAH(1)**); or

	(ii) if the Minister or local authority, as the case may be, considers it reasonably necessary to do so, any extension to that time frame, not exceeding 10 working days, the Minister or local authority grants in writing. (ii) <u>that period plus any extension granted to the owner or person under section 25A (as inserted by operation of section 39AAI).</u>	5
25	Process if submissions received by Minister or local authority	
(1)	Subsection (2) This section applies if—	
	(a) the Minister or local authority, as the case may be, gives and serves notice under section 23 (as modified by section 39AAH) of their or its intention to take land required for a critical infrastructure project; and	10
	(b) in response, the owner or any other person with an estate or interest in the land—	
	(i) indicates, in writing and in the time frame permitted under section 24 (as modified by section 39AAI), their intention to make a submission to the Minister or local authority; and	15
	(ii) in the time frame permitted under subsection (11), makes a submission.	
(2)	The—	
	(a) Minister must deal with submissions in accordance with subsections (3) and (4) and (6) to (9).	20
	(b) local authority must deal with submissions in accordance with subsections (5) to (9).	
	<i>Submissions received by Minister</i>	
(3)	The responsible department or Crown body must, no later than 10 working days after the latest date on which submissions to the Minister may be received, <u>or within any extension to that period granted to it under section 25A</u>, provide the Minister with—	25
	(a) a written response to the submissions received; and (b) any new information it holds in relation to the matters raised in each submission and <u>that it</u> has not previously supplied to the Minister.	30
(4)	The Minister must send to a submitter a copy of any information received from the department or Crown body in response to their submission, and the submitter has a right to respond to the Minister, with 1 further written submission, no later than 10 working days after receiving the information, <u>or within any extension to that period granted to them under section 25A.</u>	35

Submissions received by local authority

- ~~(5) The local authority must send each submitter a written response to their submission, and the submitter has a right to respond, with 1 further written submission, no later than 10 working days after receiving the information.~~

- (5) Subject to **section 25A(6)**, the local authority must, no later than 10 working days after the latest date on which submissions to it may be received, send each submitter a written response to their submission, and the submitter has a right to respond to the local authority with 1 further written submission no later than 10 working days after receiving the information, or within any extension to that period granted to them under **section 25A**.

General provisions applying to all submissions

- (6) A submitter may withdraw a submission or further submission at any time before the Minister or local authority considers it for the purposes of forming an opinion under **section 26(1)** (as modified by **section 39AAJ(1)**).

- (7) No submitter has a right to an oral hearing by the Minister or local authority under this section.

- ~~(8) Subject to **subsection (9)**, the Minister or local authority, as the case may be, may extend, by no more than 10 working days, any time frame specified or referred to in this section, if the Minister or local authority considers it reasonably necessary to do so, by giving written notice to all affected parties. (For example, for a critical infrastructure project that is a Government work, the Minister must give written notice to both the submitter and the responsible department or Crown body.)~~

- ~~(9) The Minister or local authority must not extend any time frame specified or referred to in this section that has already been extended. (For example, if a local authority has already extended the time by which a submitter may indicate their intention to make a submission, the local authority must not further extend that period for the purposes of **subsection (1)(b)(i)**.)~~

- ~~(10) In **subsection (1)(b)(i)**, the time frame permitted has the meaning given in section 24(3) (as modified by **section 39AAI**).~~

- ~~(11) In For the purposes of **subsection (1)(b)(ii)**, the ~~the~~ time frame permitted means,—~~

- (a) in relation to a person with an unregistered estate or interest in the land,—

- (i) the period for making a submission stated in the notice given under **section 23(1)(b)** (as modified by **section 39AAH(1)**); or

- ~~(ii) if the person was granted an extension to the period for indicating their intention to make a submission, 20 working days from the end date of that extension.~~

- (ii) that period plus any extension granted to the person under **section 25A** (calculated from the end date of the period in which that person may indicate their intention to make a submission):
- (b) in relation to an owner of, or a person with a registered interest in, the land,— 5
- (i) 20 working days from the date referred to in ~~section 24(3)(b)(i)~~ **section 24(3)(b)** (as modified by **section 39AAI**); or
- (ii) ~~if the owner or other person was granted an extension to the period for indicating their intention to make a submission, 20 working days from the end date of that extension.~~ 10
- (ii) that period plus any extension granted to the person under **section 25A** (calculated from the end date of the period in which the owner or person may indicate their intention to make a submission).
- (12) In this section, a reference to **section 25A** must be read as a reference to **section 25A** as inserted by operation of **section 39AAI**. 15
- 25A Extensions to submission procedure time frames**
- (1) An interested person may request the Minister or a local authority, as the case may be, to grant 1 or more extensions to 1 or more of the following time frames specified in a notice given or served under section 23 (as modified by **section 39AAH**): 20
- (a) the period within which the interested person may provide a written indication of their intention to make a submission;
- (b) the period within which the interested person may make a submission;
- (c) the period within which the interested person may make a further submission. 25
- (2) A responsible department or Crown body may request the Minister to grant 1 or more extensions to the time frame specified in **section 25(3)** (as modified by **section 39AAH**).
- (3) A request must be in writing. 30
- (4) The Minister or local authority, as the case may be, may grant a request if,—
- (a) in the Minister's or local authority's opinion, it is reasonable to do so; and
- (b) the extension will not increase the specified time frame for that step of the submission procedure by more than 20 working days (whether of itself or in combination with any other extensions previously granted under this section for that step). 35
- (5) The Minister or local authority must—

- (a) decide whether to grant a request as soon as practicable, but no later than 3 working days after receiving the request; and
- (b) as soon as practicable, give written notice of that decision to the interested person, responsible department or Crown body, or local authority, as the case may be. 5
- (6) If the decision relates to a request under **subsection (2)**, the Minister must also give written notice of their decision to all interested persons who have made a submission.
- (7) A local authority may extend the time by which it must send written responses to submitters under **section 25(5)** (as modified by **section 39AAI**)— 10
 - (a) by no more than 20 working days; and
 - (b) if it considers it reasonable to do so; and
 - (c) provided it gives written notice of that fact to all interested persons who have made a submission.
- (8) In this section, **interested person** means a person with an estate or interest in the land described in a notice referred to in **subsection (1)**. 15

39AAJ When Proclamation may issue

- (1) Section 26 must be read as if subsection (1) were replaced with the following subsections:
- (1) **Subsection (1C)** applies if— 20
 - (a) the Minister or a local authority has given and served notice under section 23 (as modified by **section 39AAH**) of an intention to take land required for a critical infrastructure project; and
 - (b) either—
 - (i) **section 24(2)** (as modified by **section 39AAI**) applies; or 25
 - (ii) the applicable time frame permitted for submissions and further submissions under **section 25** (as modified by **section 39AAI**) has expired; and
 - (c) the Minister or local authority, as the case may be, is of the opinion that— 30
 - (i) the land should be taken for the critical infrastructure project; and
 - (ii) no private injury will be done for which due compensation is not provided in this Act.
- (1A) ~~For the purposes of forming the opinions referred to in~~ In forming an opinion for the purposes of **subsection (1)(c)(i) and (ii)**,— 35
 - (a) the Minister must have regard to—

- (i) every submission and further submission that is made within the applicable time frame permitted under **section 25** (as modified by **section 39AAI**) and not withdrawn; and
- (ii) the responses and other information provided to the Minister under ~~section 25(3) (as modified by section 39AAI)~~ that section: 5
- (b) the local authority must have regard to every submission and further submission that is made within the applicable time frame permitted under **section 25** (as modified by **section 39AAI**) and not withdrawn.
- (1B) ~~For the purposes of forming the opinion referred to in~~ In forming an opinion for the purposes of **subsection (1)(c)(i)**,— 10
- (a) the Minister must also have regard to—
- (i) the objectives of the responsible department or Crown body; and
- (ii) the adequacy of the consideration given to alternative sites, routes, or other methods of achieving those objectives; and
- (iii) whether, in the Minister's opinion, it would be fair, sound, and reasonably necessary for achieving the objectives of the department or Crown body for the land to be taken: 15
- (b) the local authority must also have regard to—
- (i) its objectives; and
- (ii) the adequacy of the consideration given to alternative sites, routes, or other methods of achieving those objectives; and 20
- (iii) whether, in its opinion, it would be fair, sound, and reasonably necessary for achieving its objectives for the land to be taken.
- (1C) The land intended to be taken may be taken in the following manner:
- (a) subject to ~~the provisions of~~ section 32,— 25
- (i) a survey plan must be prepared showing accurately the position and extent of the land proposed to be taken; and
- (ii) the plan must be signed by the Chief Surveyor as evidence of its accuracy; and
- (iii) a duplicate print of the title plan must be prepared, ~~and;~~ 30
- (b) in the case of a Government work, the Minister must recommend the Governor-General to issue a Proclamation taking the land:
- (c) in the case of a local work,—
- (i) the local authority must submit to the Governor-General a request to take the land proposed to be taken, together with the title plan unless ~~the provisions of section 32 apply~~ section 32 applies: 35
- (ii) the request must be signed by the chief executive of the local authority, and need not be under seal:

- (iii) a statutory declaration by the ~~chairperson or mayor or the chairperson, mayor, or~~ chairperson, mayor, or chief executive of the local authority, in the form set out in Schedule 2, may be accepted by the Governor-General as sufficient without making further inquiry.
- (1D) The Minister or the local authority must ~~give written notice to all submitters~~ provide each submitter with a copy of their or its decision in relation to whether to proceed under **subsection (1C)**. 5
- (2) For the purposes of the statutory declaration required under **section 26(1C)(c)(iii)** (as modified by **subsection (1)**), Schedule 2 must be read as if paragraph 5 were omitted. 10

Compensation payable under this Part

39AAK Compensation payable under this Part

- (1) The compensation specified in **subsection (2)** must be paid to an owner of land if—
- (a) the Minister or a local authority, as the case may be, has sought agreement with them to acquire their land; and 15
 - (b) the land is acquired or taken under this Part; and
 - (c) the payment of compensation is not excluded by **section 39AAL**.
- (2) The compensation to be paid is—
- (a) compensation to which the owner is entitled under Part 5 for the acquiring or taking of the land, except any compensation payable under section 72A(1)(b) or (c); and 20
 - (b) compensation in recognition of the land being acquired or taken for a critical infrastructure project; and
 - (c) compensation in recognition of the benefit to the Crown or local authority in not having to take the land compulsorily, if the owner is party to an agreement by which the land is acquired before a notice of intention to take the land is given or served under section 23 (as modified by **section 39AAH**). 25
- (3) The compensation paid under **subsection (2)(b)** must— 30
- (a) equal 5% of the total land value of the land; or
 - (b) be \$92,000 if 5% of the total land value is equal to or more than \$92,000.
- (4) The compensation paid under **subsection (2)(c)** must— 35
- (a) equal 15% of the total land value of the land; or
 - (b) be \$5,000 if 15% of the total land value ~~of the land~~ is equal to or less than \$5,000; or

- (c) be \$150,000; if 15% of the total land value ~~of the land~~ is equal to or more than \$150,000.
- (5) However, the compensation paid—
- (a) under **subsection (2)(b)** must not in total exceed \$92,000 regardless of—
- (i) the number of owners of the land; and
- (ii) the nature of the estate or interest each ~~owner~~ owner of the owners has in the land:
- (b) under **subsection (2)(c)** must not in total exceed \$150,000 regardless of—
- (i) the number of owners of the land; and
- (ii) the nature of the estate or interest each ~~owner~~ owner of the owners has in the land.
- (6) If compensation is payable under **subsection (2)(b) or (c)** for land that is owned by more than 1 person, the compensation must be—
- (a) paid only to those owners of land who qualify under **subsection (1)**; and
- (b) apportioned between those qualifying owners in proportion to the individual value each owner has in the land.
- ~~(7) To avoid doubt, this section does not limit or affect any entitlement to compensation under this Act that an owner of land to which **subsection (1)** does not apply may have. (For example, if the Minister seeks agreement only with the fee simple owner of a parcel of land and the land is acquired or taken under this Part, an owner of any other estate or interest in that same parcel is entitled to compensation under this Act if the Act so provides for it.)~~
- (8) For the purposes of this section, an owner of land referred to in section 18(7)(c), (d), or (e) must be treated as if they were a party to an agreement by which the land is acquired before a notice of intention to take the land is given or served under section 23.
- (9) In this section,—
- owner** has the same meaning as in section 59
- total land value** has the same meaning as in section 72B.
- (10) In **subsection (6)(b)**, **individual value** means the portion of total land value for each category of interest or estate in land (for example, all leasehold interests in land) that is payable to an owner described in **subsection (6)(a)**, determined by the percentage of the relevant category of interest or estate that the owner holds.
- (11) To avoid doubt, this section does not limit or affect any entitlement to compensation under this Act that an owner of land to which **subsection (1)** does not apply may have. (For example, if the Minister seeks agreement only with the

fee simple owner of a parcel of land and the land is acquired or taken under this Part, an owner of any other estate or interest in that same parcel is entitled to compensation under this Act if the Act so provides for it.)

39AAL Circumstances in which compensation must not be paid under section 39AAK(2)(b) and (c)

- (1) Compensation must not be paid to an owner of land under **section 39AAK(2)(b)** unless the owner gives vacant possession of the land and all buildings and structures on the land to the Minister or local authority, as the case may be,—
 - (a) on or before the vacant possession date, or any later date that the Minister or local authority allows, if the land is acquired under an agreement that specifies a vacant possession date: 10
 - (b) within 1 month after the date on which the Minister or local authority serves notice on the ~~owner of the land~~ vendor or person from whom the land is taken (as the case may be) that vacant possession is required, or within any longer period that the Minister or local authority allows, if— 15
 - (i) the land is acquired under an agreement that does not specify a vacant possession date; or
 - (ii) no agreement for sale is entered into and the land is taken by Proclamation. 20
- (2) Compensation must not be paid to an owner of land under **section 39AAK(2)(c)** unless that owner gives vacant possession of the land and all buildings and structures on the land to the Minister or local authority, as the case may be,—
 - (a) on or before the vacant possession date, or any later date that the Minister or local authority allows, if the land is acquired under an agreement that specifies a vacant possession date; or 25
 - (b) within 1 month after the date on which the Minister or local authority serves notice on the ~~owner of the land~~ vendor or person from whom the land is taken (as the case may be) that vacant possession is required, or within any longer period that the Minister or local authority allows, if the land is acquired under an agreement that does not specify a vacant possession date. 30
- (3) Compensation must not be paid to an owner of land under **section 39AAK(2)(b)** unless the owner— 35
 - (a) is not a willing party to the acquisition of the land; or
 - (b) is a willing party to the acquisition principally because the Minister or local authority, as the case may be, sought agreement with them to acquire the land under this Part.

- (4) Compensation must not be paid to an owner of land under **section 39AAK(2)(c)** unless the owner is a willing party to the acquisition principally because the Minister or local authority, as the case may be, sought agreement with them to acquire the land under this Part.
- (5) Compensation must not be paid to an owner of land under **section 39AAK(2)(b) or (c)** if the land is— 5
- (a) transferred under section 50 for another public work that is a critical infrastructure project:
 - (b) owned by a Crown body and acquired or taken by the Minister or a local authority: 10
 - (c) owned by a local authority and acquired or taken by the Minister or another local authority.
- 39AAM Adjustment of compensation payable under this Part and ~~section 72F~~**
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend ~~sections 39AAK and 72F~~ **section 39AAK** by doing 15
- (a) increasing or decreasing the percentages in ~~any of sections 39AAK(3) and (4) and 72F(3) and (4)~~ **section 39AAK(3) and (4)**:
 - (b) increasing or decreasing the compensation limits in ~~any of sections 39AAK(3)(b) and (4)(b) and (e) and 72F(3)(b) and (4)(b) and (e)~~ **section 39AAK(3)(b) and (4)(b) and (c)**. 20
- (2) The Minister must not recommend the making of an Order in Council under this section unless the Minister is of the opinion that it is necessary or desirable to do so having regard to the following:
- (a) the purposes of the compensation payable under ~~sections 39AAK and 72F~~ **section 39AAK**; and 25
 - (b) the matters in section 72E(2)(b) to (e); and
 - (c) the affordability of the compensation for the relevant departments, Crown bodies, and local authorities; and
 - (d) comments received in response to public consultation under **subsection (3)**. 30
- (3) Before recommending the making of an Order in Council under this section, the Minister must publicly consult about the proposed changes.
- (4) An Order in Council cannot be made under this section more than once every 5 years irrespective of whether amendments are made to only some of the relevant provisions in the order. 35
- (5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

*Other matters***39AAN Adjustment to critical infrastructure project descriptions**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend **Schedule 2A** by doing either or both of the following:
 - (a) amending the project description in the second column of that schedule for any item: 5
 - (b) amending the location description in the third column of that schedule for any item.
- (2) The Minister must not recommend the making of an Order in Council under this section unless the Minister is satisfied that the scope of each project concerned will not be substantially different as a result of the amendment, taking into account— 10
 - (a) the purpose of the project; and
 - (b) the location, scale, and nature of the works involved in the project.
- (3) To avoid doubt, no new items may be inserted into **Schedule 2A** by an order made under this section. 15
- (4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

39AAO Modifications to this Act for purposes of this Part

- (1) For the purposes of this Part, this Act applies— 20
 - (a) with the modifications made by this Part; and
 - (b) with the modifications set out in the rest of this section; and
 - (c) with any other necessary modifications.
- (2) ~~A reference in this Act to a public work or work must be read as a reference to a critical infrastructure project that is a public work.~~ 25
- (3) Section 4(6)(a)(iii) must be read as if the reference to objections included a reference to any rights to make a submission under **section 23(3)** (as modified by **section 39AAH(2)**) or further submission under **section 25** (as modified by **section 39AAI**).
- (4) A notice under this Part may also be served or given— 30
 - (a) by sending it to the last known electronic address of the person on whom it is to be served or to whom it is to be given; or
 - (b) by sending it to the last known electronic address of any agent or attorney of that person.

39AAP Review of this Part and sections 72F and 72G

- (1) The Minister must— 35

- (a) review the operation of this Part and **sections 72F and 72G** 3 years after the date on which this Part commences; and
- (b) prepare a report on that review.
- (2) The Minister must ensure that, during the review, the people that the Minister thinks appropriate are consulted. 5
- (3) The Minister must present the report to the House of Representatives as soon as practicable after it has been completed.

Part 2

Related and consequential amendments

6 Section 72A amended (Amount of compensation to be paid under section 72) 10

After section 72A(2), insert:

- (3) The amount of compensation determined under subsection (1) is subject to—
 - (a) **section 39AAK(2)(a)** in relation to a person described in **section 39AAK(1)**: 15
 - (b) **section 72F(10)** in relation to a person described in **section 72F(1) or (7)**.

7 New sections 72F and 72G inserted

After section 72E, insert:

72F Additional compensation for protected Māori land acquired or taken for critical infrastructure project 20

Mandatory payments

- (1) The compensation specified in **subsection (2)** must be paid to an owner of protected Māori land if—
 - (a) the Minister or a local authority, as the case may be, has sought agreement with them to acquire their land for a critical infrastructure project; and 25
 - (b) the land is acquired or taken under ~~this Act~~ **Part 2**; and
 - (ba) except for any other protected Māori land, all other land acquired or taken, or to be acquired or taken, for the project (if any) has, or will be, acquired or taken under **Part 2A**; and 30
 - (c) the payment of compensation is not excluded by **section 72G**.
- (2) The compensation to be paid is—
 - (a) compensation in recognition of the land being acquired or taken for a critical infrastructure project; and 35

- (b) compensation in recognition of the benefit to the Crown or local authority in not having to take the land compulsorily; if the owner is party to an agreement by which the land is acquired before a notice of intention to take the land is given or served under section 23.
- (3) ~~The compensation paid under **subsection (2)(a)** must —~~ 5
- (a) ~~equal 5% of the total land value of the land; or~~
- (b) ~~be \$92,000 if 5% of the total land value is equal to or more than \$92,000.~~
- (4) ~~The compensation paid under **subsection (2)(b)** must —~~ 10
- (a) ~~equal 15% of the total land value of the land; or~~
- (b) ~~be \$5,000 if 15% of the total land value of the land is equal to less than \$5,000; or~~
- (c) ~~be \$150,000, if 15% of the total land value of the land is equal to or more than \$150,000.~~
- (5) ~~However, the compensation paid —~~ 15
- (a) ~~under **subsection (2)(a)** must not in total exceed \$92,000 regardless of —~~
- (i) ~~the number of owners of the land; and~~
- (ii) ~~the nature of the estate or interest each owner has in the land;~~
- (b) ~~under **subsection (2)(b)** must not in total exceed \$150,000 regardless of —~~ 20
- (i) ~~the number of owners of the land; and~~
- (ii) ~~the nature of the estate or interest each owner has in the land.~~
- (3) The compensation paid under **subsection (2)(a)** — 25
- (a) must be the amount calculated in accordance with **section 39AAK(3)**; and
- (b) must not exceed the amount specified in **section 39AAK(5)(a)** regardless of —
- (i) the number of owners of the land; or
- (ii) the nature of the estate or interest each owner has in the land. 30
- (4) The compensation paid under **subsection (2)(b)** —
- (a) must be the amount calculated in accordance with **section 39AAK(4)**; and
- (b) must not exceed the amount specified in **section 39AAK(5)(b)** regardless of — 35
- (i) the number of owners of the land; or
- (ii) the nature of the estate or interest each owner has in the land.

(6) If compensation is payable under **subsection (2)(a) or (b)** for land that is owned by more than 1 person, the compensation must be—

- (a) paid only to owners who qualify under **subsection (1)**; and
- (b) apportioned between those qualifying owners in proportion to the individual value each owner has in the land.

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Discretionary payments

~~(7) **Subsection (8)** applies to an owner of protected Māori land if their land is acquired or taken under this Act for a critical infrastructure project after notice of intention to take the land is given and served under section 23.~~

~~(8) The Minister or local authority, as the case may be, may, in their discretion, pay compensation to the owner after having regard to—~~

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- ~~(a) the legal and practical constraints on the owner in reaching a decision to sell the land; and~~
- ~~(b) any other matters relating to the nature of the landholding or its ownership structure that affect the practicality of selling the land; and~~
- ~~(c) whether, because of constraints or matters referred to in **paragraph (a) or (b)**, the owner supported the land being taken by Proclamation as the most practical means of executing the acquisition.~~

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~~(9) Compensation offered under **subsection (8)** must be equivalent to the amount that would be payable were it payable under **subsection (2)(b)** unless the payment is excluded under **section 72G**.~~

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~~(7) **Subsection (8)** applies to an owner of protected Māori land if—~~

- ~~(a) the circumstances in **subsection (1)(a) to (ba)** apply to the owner and their land; but~~
- ~~(b) the owner is not entitled to the compensation payable under **subsection (2)(b)** because the land is acquired or taken after a notice of intention to take the land is given or served under section 23.~~

25

~~(8) The Minister or local authority, as the case may be, may, in their or its discretion, pay compensation to the owner if—~~

- ~~(a) the Minister or local authority has had regard to—~~
 - ~~(i) the legal and practical constraints on the owner in reaching a decision to sell the land; and~~
 - ~~(ii) any other matters relating to the nature of the landholding or its ownership structure that affect the practicality of selling the land; and~~
 - ~~(iii) whether, because of constraints or matters referred to in **paragraph (i) or (ii)**,—~~

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- (A) the land was acquired by agreement to which the owner was a party after a notice of intention to take the land was given or served under section 23; or
- (B) the owner supported the taking of the land by Proclamation as the most practical means of executing the acquisition; 5
and
- (b) the payment of compensation is not excluded by **section 72G**.
- (9) Compensation paid under **subsection (8)** must be equivalent to the amount that would be paid if it were payable under **subsection (2)(b)**.
- (9A) If compensation is paid under **subsection (8)** for land that is owned by more than 1 person, the compensation must be— 10
- (a) paid only to the owners who qualify under **subsection (7)**; and
- (b) apportioned between the owners in proportion to the individual value each owner has in the land.
- Matters that apply to both categories of ~~compensation~~ payment* 15
- (10) If an owner of land is paid compensation under **subsection (2)(b) or (8)**, the owner is not entitled to any compensation under section 72A(1)(b) or (c) for the land.
- (11) For the purposes of this section, an owner of protected Māori land who is an owner of land referred to in section 18(7)(c), (d), or (e) must be treated as if they were a party to an agreement by which the land is acquired before a notice of intention to take the land is given or served under section 23. 20
- (12) In this section, **critical infrastructure project** has the meaning given in **section 39AAB**.
- (13) In **subsection (6)(b)**, **individual value** means the portion of total land value for each category of interest or estate in land (for example, all leasehold interests in land) that is payable to an owner described in **subsection (6)(a)**, determined by the percentage of the relevant category of interest or estate that the owner holds. 25
- (14) See **section 39AAP** in relation to the Minister for Land Information's obligation to review this section. 30
- 72G Circumstances in which compensation must not be paid under section 72F(2) or ~~(9)~~ (8)**
- (1) Compensation must not be paid to an owner of land under ~~section 72F(2)(a)~~ **section 72F(2)(a) and (b) or (8)** unless ~~that~~ the owner gives vacant possession of the land and all buildings and structures on the land to the Minister or local authority, as the case may be,— 35
- (a) on or before the vacant possession date, or any later date that the Minister or local authority allows, if the land is acquired under an agreement that specifies a vacant possession date: 40

- (b) within 1 month after the date on which the Minister or local authority serves notice on the ~~owner of the land~~ vendor or person from whom the land is taken (as the case may be) that vacant possession is required, or within any longer period that the Minister or local authority allows, if—
- (i) the land is acquired under an agreement that does not specify a vacant possession date; or
 - (ii) no agreement for sale is entered into and the land is taken by Proclamation.
- (2) ~~Compensation must not be paid to an owner of land under **section 72F(2)(b) or (9)** unless that owner gives vacant possession of the land and all buildings and structures on the land to the Minister or local authority, as the case may be,—~~
- (a) ~~on or before the vacant possession date, or any later date that the Minister or local authority allows, if the land is acquired under an agreement that specifies a vacant possession date; or~~
 - (b) ~~within 1 month after the date on which the Minister or local authority serves notice on the owner of the land that vacant possession is required, or within any longer period that the Minister or local authority allows, if the land is acquired under an agreement that does not specify a vacant possession date.~~
- (3) Compensation must not be paid to an owner of land under **section 72F(2)(a)** unless the owner—
- (a) is not a willing party to the acquisition of the land; or
 - (b) is a willing party to the acquisition principally because the Minister or local authority, as the case may be, sought agreement with them to acquire the land for a critical infrastructure project.
- (4) Compensation must not be paid to an owner of land under **section 72F(2)(b) or (9)** unless the owner is a willing party to the acquisition principally because the Minister or local authority, as the case may be, sought agreement with them to acquire the land for a critical infrastructure project.
- (5) Compensation must not be paid to an owner of land under **section 72F(8)** unless the owner is a willing party to the taking principally because the Minister or local authority, as the case may be, sought agreement with them to acquire the land for a critical infrastructure project.

8 Schedule 1AA amended

In Schedule 1AA,—

- (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

9 New Schedules 2A and 2B inserted

After Schedule 2, insert **Schedules 2A and 2B** set out in **Schedule 2** of this Act.

*Amendments to Resource Management Act 1991***10 Principal Act**

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~~Section 44~~ amends **Sections 10A and 11** amend the Resource Management Act 1991.

10A Section 185 amended (Environment Court may order taking of land)

After section 185(7), insert:

(8) **Subsection (9) applies if the designation or requirement to which the order relates is for a critical infrastructure project—**

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(a) within the meaning of section 2 of the Public Works Act 1981; and

(b) in relation to which the requiring authority may use **Part 2A** of that Act to acquire the owner's land.

(9) The owner must be paid compensation in recognition of the land being acquired for a critical infrastructure project and, for that purpose, must be treated as if they were an owner of land entitled to the compensation specified in **section 39AAK(2)(b)** of that Act unless the exclusion in **section 39AAL(1)** applies.

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11 Section 186 amended (Compulsory acquisition powers)

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(1) Replace section 186(1) with:

(1) A network utility operator that is a requiring authority may apply to the Minister for Land Information to have land required—

(a) for a project or work that is a critical infrastructure project within the meaning of **section 39AAB** of the Public Works Act 1981 acquired or taken under **Part 2A** of that Act, and, if the Minister for Land Information agrees, that land may be taken or acquired:

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(b) for any other project or work acquired or taken under Part 2 of the Public Works Act 1981 as if the project or work were a Government work within the meaning of section 2 of that Act, and, if the Minister for Land Information agrees, that land may be taken or acquired.

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(2) In section 186(5), replace “Minister of Lands” with “Minister for Land Information”.

(3) In section 186(6), replace “Minister of Lands” with “Minister for Land Information”.

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Schedule 1

New Part 2 inserted into Schedule 1AA

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Part 2	
Provisions relating to Public Works (Critical Infrastructure)	
Amendment Act 2025	
6	Definitions In this Part,— amendment Act means the Public Works (Critical Infrastructure) Amendment Act 2025 critical infrastructure project has the meaning given in section 39AAB Part 2A means the Part 2A inserted by section 5 of the amendment Act responsible department or Crown body has the meaning given in section 39AAB.
7	Application of Part 2A if section 18 notice served before amendment Act commences (1) This clause applies if, before the amendment Act commences,— (a) the Minister or a local authority, as the case may be, has served a notice under section 18 of the Minister’s or local authority’s desire to acquire land for a public work that falls within the definition of a critical infrastructure project but has not yet given and <u>or</u> served notices of intention under section 23 to take that land; and (b) no notices of intention under section 23 have been given or served for any other land required for that public work. (2) The Minister must proceed with any subsequent acquiring or taking of the land in accordance with Part 2A unless— (a) the land is protected Māori land; or (b) the responsible department or Crown body informs the Minister in writing that, in its opinion, taking into account the time frames and costs of the project <u>and any other matters that it considers relevant</u>, it would be preferable to complete the process under Part 2. (3) The local authority must proceed with any subsequent acquiring or taking of the land in accordance with Part 2A unless— (a) the land is protected Māori land; or (b) it informs the Minister in writing that, in its opinion, taking into account the time frames and costs of the project <u>and any other matters that it con-</u>

siders relevant, it would be preferable to complete the process under Part 2.

- (4) If the Minister receives a notification under **subclause (2)(b) or (3)(b)**, the acquiring or taking under this Act of all land required for the project must proceed in accordance with Part 2, and the Minister must publicly notify a statement to that effect. 5
- (5) A decision under this clause to use Part 2 instead of **Part 2A**—
 - (a) is irreversible; and
 - (b) takes effect from the date of the public notification under **subclause (4)**. 10
- (6) To avoid doubt, if this clause applies (and the option under **subclause (2)(b) or (3)(b)** to proceed in accordance with Part 2 is not exercised),—
 - (a) the Minister or local authority, as the case may be, must comply with **section 39AAG** in relation to taking the land compulsorily; and
 - (b) no person has a right to object to the Environment Court to the taking of the land under section 23(3) (as that section read before the amendment Act commenced), but every person with an estate or interest in the land is entitled to make a submission to the Minister or local authority in accordance with **section 39AAI**; and 15
 - (c) the owner of the land from whom the Minister or local authority sought agreement to acquire the land is entitled to the compensation described in **section 39AAK(2)**. 20
- (7) Any estimated amount of compensation previously provided to an owner of land affected by this clause must be adjusted to take account of the compensation to which the owner of land is entitled under **section 39AAK(2)**, and written notice of the adjusted estimate must be given to the owner together with an explanation of why the estimate has been adjusted, including that the land is required for a critical infrastructure project. 25
- (8) The adjusted estimate does not affect the validity of the relevant notice of desire to acquire land previously served on the owner under section 18. 30
- (9) In **subclause (4)**, **publicly notify** has the same meaning as in **section 39AAE(5)**.

8 No breach of good faith

~~The alterations made by **Part 2A** to the process of acquiring or taking certain land under this Act are not a breach of any good faith obligation imposed on the Minister or a local authority in relation to the acquisition or taking of that land, including the obligation expressly referred to in section 18(1)(d).~~ 35

The following apply if the Minister or a local authority proceeds to acquire or take land described in **clause 7(1)(a)** in accordance with **Part 2A**:

- (a) of itself, the acquiring or taking of the land is not a breach of the good faith obligation referred to in section 18(1):
- (b) the Minister or local authority is not required to repeat any of the prior negotiations required by that section before giving or serving notices of intention to take the land under section 23 (as modified by **section 39AAH**).

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Schedule 2

New Schedules 2A and 2B inserted

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Schedule 2A

Critical infrastructure projects

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s 39AAB

Project name	Project description	Approximate geographical location
Airport to Botany Bus Rapid Transit	Construct and operate a Bus Rapid Transit facility, and walking and cycling facilities, connecting the Auckland International Airport Precinct to Botany Town Centre through Manukau Central	Botany Town Centre to Auckland International Airport via Te Irirangi Drive, Great South Road, Ronwood Avenue, Osterley Way, Manukau Station Road, Lambie Drive, Puhinui Road, and State Highway 20B ending at Orrs Road
Alternative to the Brynderwyn Hills	Develop a road and associated infrastructure between Te Hana and State Highway 15 (Port Marsden Highway) or 1 or more sections of road between those 2 points	Between Te Hana and the State Highway 1 and State Highway 15 (Port Marsden Highway) intersection
Ashburton Second Urban Bridge	Construct a second urban bridge over the Ashburton River / Hakatere connecting Ashburton and Tinwald, including— - providing for vehicles, pedestrians, and cyclists: - a new roundabout at the South Street and Chalmers Avenue intersection, Ashburton: - a new intersection in Tinwald	Chalmers Avenue, Ashburton to Grahams Road, Tinwald, Canterbury
Auckland Level Crossings Removals	In stages, remove and grade-separate approximately 42 level crossings	Auckland
Carrington Residential Development	Develop approximately 4,000 to 4,500 residential dwellings of mixed typologies	40 hectares at 1A to 139 Carrington Road, Mt Albert, Auckland
Central Park Resilience	Develop a secondary indoor substation with line connections to the existing substation and line	92 and 96 Nairn Street, 67 Brooklyn Road, Wellington
Cross-town (Avondale–Southdown) Corridor	Complete a cross-isthmus rail corridor connecting Avondale and Westfield Junction, via Onehunga, by— constructing an approximately 13-kilometre, 2-track, railway	Between Avondale (PAK’nSAVE New North Road) and Westfield Junction, Auckland

Project name	Project description	Approximate geographical location
	from Avondale via Wesley, Mt Roskill, and Onehunga to KiwiRail's Southdown freight hub: connecting the corridor to the existing North Island Main Trunk via Westfield Junction	
East–West link	Develop a road and associated infrastructure on the northern side of the Mangere Inlet from State Highway 20 at the Onehunga interchange to State Highway 1 in the vicinity of the Mount Wellington interchange	Between State Highway 20 at Onehunga and State Highway 1 at Mt Wellington
End of Life Bridge Replacement	Replace 8 end-of-life State highway bridges	State Highway 25 Boundary Creek Bridge, Te Mata, Coromandel State Highway 3 Manapepeki No 2 Culvert, between Mt Messenger and Tongapōrutu, New Plymouth, Taranaki State Highway 43 Kururau Stream Water Drive, Aukopae, King Country, Manawatū–Wanganui State Highway 36 Hauraki Stream Culvert, Hamurana, Bay of Plenty State Highway 25 Ramarama Stream Bridge, Whiritoa, Waikato State Highway 82 Waihao North Bridge, Waimate, Waihao Downs, Canterbury State Highway 27 Ohinekaia Stream Bridge, Tahuna–Patetonga Road, Waikato State Highway 6 Coal Creek Overbridge, Greymouth, West Coast
Four-Tracking Westfield to Pukekohe	Widen the existing rail corridor and expand the North Island Main Trunk between Westfield Junction (Newmarket) and Pukekohe (approximately 38 kilometres) from a 2-track to 4-track railway, including— - grade-separating Westfield Junction: - widening bridges, removing level crossings, and changing the configuration of station platforms:	38 kilometres of the North Island Main Trunk between Westfield Newmarket and Pukekohe

Project name	Project description	Approximate geographical location
Hamilton Southern Links	- new track, signals, and electrified lines Develop 1 or more roads and associated infrastructure to support Hamilton's planned southern growth, including by— - improving existing roads (including State Highways 1, 1C, and 3); and - developing new roads; including 1 or more sections of those roads	State Highway 1 from Kahikatea Drive to the Waikato Expressway at Tamahere, State Highway 1C between State Highways 23 and 3, and State Highway 3 from Hamilton Airport to central and east Hamilton
Hawke's Bay Expressway	Upgrade the existing State highway between Napier and Hastings	State Highway 2 between Napier and Hastings
<u>High Voltage Direct Current Cable Replacement and Capacity Project (HVDC)</u>	<u>Upgrade the HVDC inter-island transmission link and replace undersea cables connecting the North Island and the South Island, including—</u> <u>replacing, recovering, and disposing of 3 existing undersea cables and installing a fourth cable;</u> <u>constructing new or extended cable termination stations at the Oteranga Bay and Ōraumoa / Fighting Bay sites, and relocating existing transmission lines to connect to the termination stations;</u> <u>ancillary activities, including constructing, modifying, or upgrading access ways</u>	<u>Oteranga Bay, and associated accessways between South Makara Road and Oteranga Bay</u> <u>Fighting Bay, and the associated accessways between Tumbledown Bay Road and Ōraumoa / Fighting Bay</u>
Hope Bypass	Undertake State highway improvements from the Salisbury Road extension to south of Hope township, including a new roading section bypassing Richmond and Hope townships	Richmond Deviation and associated intersections and the new highway section parallel to existing Gladstone Road, State Highway 6, Richmond and Hope townships, Tasman
Implementation of the Ōtākaro Avon River Corridor Regeneration Plan	Install infrastructure and facilities to regenerate the Avon River / Ōtākaro, including approximately 22 kilometres of stopbank and 18 pumping stations	Avon River / Ōtākaro Corridor and surrounds including Bexley Park, eastern Christchurch
Lower North Island Integrated Rail Mobility and PBC-Stage RS4.3	Upgrade existing rail network, comprising new or extended passing loops, additional stabling (Wellington and Palmerston North), a new depot and stabling	National rail network— Wairarapa Line (between Wellington and Masterton);

Project name	Project description	Approximate geographical location
Marsden Point Rail Link	facility (Masterton), and station upgrades (north of Waikanae and Wairarapa) Construct and operate an approximately 19-kilometre rail link corridor connection	North Island Main Trunk Line (between Wellington and Palmerston North) From the North Auckland line at Oakleigh via Mata Hill, along the Ruakākā River to Northport, Marsden Point, Northland
Mill Road	Develop works between the Redoubt Road interchange on State Highway 1 in Manukau to the proposed Drury South interchange on State Highway 1 in Drury	Redoubt Road interchange on State Highway 1 in Manukau to the proposed Drury South interchange on State Highway 1 in Drury, Auckland
North-West Rapid Transit	Develop a rapid transit link between Brigham Creek and Auckland City centre, including associated infrastructure and connections	Alongside State Highway 16 north-west Auckland to Auckland Central
Papakura to Pukekohe Route Protection—Four-tracking and Active Mode Corridor	In stages, remove 6 level crossings and associated crossing interventions; and establish an active mode corridor from Pukekohe to Drury Railway Station	North Island Main Trunk railway line between Papakura and Pukekohe, Auckland
Petone to Grenada and the Cross Valley Link	Plan, design, and construct a road between Petone and Grenada (P2G) Plan, design and construct an urban arterial road (CVL)	Between Petone and Grenada Between Petone and Seaview
State Highway 1 Cambridge to Piarere— Long Term Long Term Improvements Project	Develop a road and associated infrastructure from the southern end of the Waikato Expressway at Cambridge to the intersection of State Highway 1 and State Highway 29 at Piarere	State Highway 1 Cambridge to Piarere
State Highway 1 North Canterbury—Woodend Bypass Project (Belfast to Pegasus)	Extend the State Highway 1 Christchurch Northern Corridor between Belfast and Pegasus	State Highway 1 North Canterbury
State Highway 1 Wellington Improvements	Improve State Highway 1 between the Terrace Tunnel and Kilbirnie	North of Terrace Tunnel to Kilbirnie, Wellington City
State Highway 1 Whangārei to Port Marsden Highway	Develop a road and associated infrastructure between Whangārei and State Highway 15 (Port Marsden Highway) or 1 or more sections of road between those 2 points	State Highway 1, Whangārei; to State Highway 1 and State Highway 15 (Port Marsden Highway) intersection
State Highway 16 North-West Alternative State Highway	Develop a road and associated infrastructure connecting Redhills North and State Highway 16 west of Kumeū-Huapai;	State Highway 16 Auckland (west)

Project name	Project description	Approximate geographical location
State Highway 25 Pepe Stream Bridge Replacement	Replace the existing one-way <u>1-way</u> bridge and footpath bridge with a new bridge	Pepe Stream Bridge, Tairua
State Highway 29 Tauriko Network Connections (including Omanawa Bridge replacement)	Upgrade existing, and construct new, roading corridor between the vicinity of the Omanawa Bridge and a new connection with State Highway 2 together with upgrades to connections between State Highway 29 and State Highway 36 at the intersection with Taurikura Drive and State Highway 29A at the Barkes Corner roundabout	State Highway 29 and State Highway 29A area
Takitimu North Link—Stage 2	Develop a road and associated infrastructure between Te Puna and Ōmokoroa	Between Te Puna and Ōmokoroa, Bay of Plenty
Warkworth to Te Hana	Develop a road and associated infrastructure between Warkworth and north of Te Hana, or 1 or more sections of a State highway between those 2 points	Between Warkworth and north of Te Hana

Schedule 2B**Notice of intention to take land for critical infrastructure project****s 39AAH(1)****Form**

Notice of intention to take land for [*name of project from first column of Schedule 2A*] critical infrastructure project in [*name of district*]

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To [*full name*] of [*address*]

1 The [*name of Minister or local authority*] proposes to take under the Public Works Act 1981 your interest in the land described in the Schedule of this notice.

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2 The land is required for [*insert name of project from first column of **Schedule 2A***] critical infrastructure project and it is intended to use the land for [*describe the purposes for which the land is to be used, which must include at least the description of the project in the second column of **Schedule 2A***].

3 A plan of the land intended to be taken is attached. [*It is not necessary to include this paragraph if all the land is in a surveyed lot.*]

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Reasons for taking land

4 ~~The~~ A summary of the reasons why the [*name of Minister or local authority*] considers that the land should be taken are as follows: [*give a summary of the reasons with reference to matters in **section 26(1B)(a)** (as modified by **section 39AAJ(1)**) if the Minister; or **section 26(1B)(b)** (as modified by **section 39AAJ(1)**) if the local authority, based on the information available at the time the decision is made to serve this notice, including a statement that the land is required for a critical infrastructure project*].

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Your right to make submission

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5 Your interest in the land has not yet been taken.

6 You have a right to make a submission on the taking of your interest in the land.

7 If you wish to make a submission, you must send a written indication of your intention to do so to [*names and addresses of Minister and responsible department or Crown body, or name and address of local authority*]. You must do this no later than 10 working days after this notice is served on you.

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8 You have 20 working days to then submit your submission to [*names of Minister and responsible department or Crown body, or name of local authority*]. That 20-day period begins on the day after the last day on which you can send your written indication of your intention to make a submission.

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9 You must include in your submission your reasons why the land should not be taken or why a different portion or interest in the land should be taken.

- 10 The *[name of Minister or local authority]* will consider your submission but there is no right to a hearing before the *[name of Minister or local authority]*.
- 11 If, after you make your submission, *[name of Minister or local authority]* receives any information that you have not already been provided with in relation to the taking of your land, you will be provided with a copy of that information and you will have another 10 working days from the time that you receive the information to provide 1 further submission, should you wish to do so. 5
- 12 The *[name of Minister or local authority]* will then decide whether to recommend/request* the taking of the land. As part of the process of making that decision, the *[name of Minister or local authority]* will consider your submission, and, if you make one, your further submission. 10
- *Select one.
- 12A The *[name of Minister or local authority]* may extend the time frame referred to in paragraphs 7, 8, and 11, 1 or more times, to a maximum of 20 working days in each case. If you want *[name of Minister or local authority]* to consider extending 1 or more of those time frames in relation to your submission or intended submission, you must make a written request to *[name and address of Minister or name and address of local authority]* and *[name of Minister or local authority]* must make a decision on your request no later than 3 working days after receiving it. 15 20
- 13 You will be provided with a copy of the decision of *[name of Minister or local authority]* on whether to recommend/request* the taking of the land.
- *Select one.

Your right to compensation

- 14 This notice, and the right to make a submission described above, relate to the taking of your interest in the land and not to your right to compensation. Under the Public Works Act 1981 you are entitled to full compensation if your interest in the land is taken. If that compensation cannot be agreed between you and the *[name of Minister or local authority]*, it can be determined in separate proceedings before the Land Valuation Tribunal. 25
- 15 Your right to compensation described in paragraph 14 includes a right to compensation in recognition of the land being taken for a critical infrastructure project. 30

WARNING

This notice concerns your rights over the land referred to. If you are in any doubt about its effect, you should obtain legal advice immediately. 35

Do not delay.

Schedule***~~Insert name of land district~~***

[Describe in general terms the land required to be taken, including the name of the land district and the postal address or some other readily identifiable description of the place where the land is situated, and state the legal description of the land.]

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Legal description of landDated at [*place, date*]

Signature:

for Minister for Land Information *or* chief executive of local authority**Legislative history**

12 May 2025

Introduction (Bill 149–1)

15 May 2025

First reading and referral to Transport and Infrastructure
Committee