

Critical Infrastructure Land Acquisition – Guide for Crown Agencies and Local Authorities

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Regulatory Practice and Delivery



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This is a guide for Crown agencies and local authorities on the key changes to the Public Works Act 1981 (PWA) for critical infrastructure projects.

Introduction

The Government has changed the PWA to make it faster and easier to acquire land for specified major infrastructure projects. In August 2025, changes to the law were made to introduce an accelerated process for compulsory land acquisition.

The changes provide for:

- an accelerated acquisition process for specifically identified critical infrastructure projects,
- a new written submission process for landowners or others with a legal interest in land in this process who object to the land being taken,
- new incentive payments for landowners who reach agreement early and sell their land before a notice of intention is served,
- new compensation payments in recognition of this land being acquired or taken for critical infrastructure.

The Public Works (Critical Infrastructure) Amendment Act 2025 came into force on 27 August 2025. It adds a new accelerated process, set out in the new Part 2A of the PWA, that applies to the acquisition of land for these critical infrastructure projects.¹

Much of the acquisition process for critical infrastructure projects is the same as for other acquisitions under the PWA. This guide is intended to identify the key changes to process and compensation that apply.

References

- Part 2A, s72F and Schedule 1AA Part 2 of the [Public Works Act 1981](#) (added by the Public Works (Critical Infrastructure) Amendment Act 2025.)
- [LINZS15025 Standard for the acquisition of land for critical infrastructure projects under the Public Works Act 1981](#)
- [LINZG15026 Guideline for the acquisition of land for critical infrastructure projects under the Public Works Act 1981](#)
- [Opt-Out Process – Guide for Agencies](#)

¹ Part 2A of the PWA will apply provided that no section 23 Notice of Intention was served for that critical infrastructure project prior to the Act.

What are critical infrastructure projects?

Eligibility criteria for critical infrastructure

For the critical infrastructure provisions to be used, the following must be met:

- the land is required for a public work, and
- it is being acquired for a project recognised as a **critical infrastructure project** (but is not protected Māori land or common marine and coastal area),
- the notifying authority has not opted out of the accelerated process and mandatory critical infrastructure payments.

Critical Infrastructure Projects

The critical infrastructure amendments to the PWA will accelerate the acquisition of land needed for specified critical infrastructure projects that are listed in [Schedule 2A of the PWA](#).

These projects are public works that were in either:

- [Schedule 2](#) of the Fast-track Approvals Act, or
- the [Roads of National Significance listed in the Government Policy Statement on land transport 2024](#).

Further information, including those projects that have opted out of the accelerated process is available on the LINZ website, [here](#).

Agencies that can access the accelerated process

There is no change to the agencies or entities that can access critical infrastructure provisions. Only those entities that could use the PWA before the critical infrastructure amendments will be able to use the accelerated process.

Protected Māori land cannot be acquired under the accelerated process

Protected Māori land, as defined under the PWA, cannot be acquired under the new critical infrastructure accelerated process. However, if protected Māori land is acquired for critical infrastructure projects through the standard PWA process, landowners will be eligible for the incentive payment and recognition payment.

See [section 39AAD of the PWA](#).

Opt-out Process

Agencies with critical infrastructure projects can opt-out of the legislation, and using the accelerated process, on a project-by-project basis. They instead use the standard process in Part 2 of the PWA, which means the landowner will be able to object to the Environment Court but will not be eligible for the critical infrastructure incentive payment or recognition payment as part of their compensation.

An agency must inform the Minister for Land Information (Minister) in writing of the decision to opt-out. This opt-out will take effect once it is published on LINZ's website and is irreversible.

The discretion to opt out for the project is:

- irreversible, and
- only available if the Minister receives a notification before any notice of desire to acquire land for the project is served (excluding the transitional rules for notices of desire served before 27 August 2025), and
- takes effect from the date it is notified on the LINZ website.

A **Guide to the Opt-Out Process** is available [here](#).

See [section 39AAE of the PWA](#).

Acquisition by Agreement

Agencies will still need to seek to reach agreement with landowners before seeking compulsory acquisition. If landowners agree to sell their land under section 17, and it is a qualifying critical infrastructure project, they will receive:

- usual PWA compensation payments,²
- new payments that have been specifically introduced for critical infrastructure – a recognition payment and incentive payment.

Amendments to section 17 and section 18 provisions

The rules in sections 17 and 18 of the PWA will be used for critical infrastructure projects, but with some changes:

- any mention of a public work in these sections will apply to the critical infrastructure project,

² Except for the incentive payment available under usual PWA provisions and the discretionary payment if circumstances warrant it: section 72A(1)(b) and (c).

- any notice of desire under section 18 of the PWA to acquire land, given by the Minister or local authority, or filed with the Registrar-General of Land, must clearly state that it is for a critical infrastructure project,
- when the Minister or local authority takes action to acquire land (as described in sections 18(2) and 18(7)), the specific rules for critical infrastructure projects are detailed in section 39AAG.

Compulsory Acquisition

New prerequisites for notices of intention

Before a notice of intention to take land can be given and served, one or more of the following must apply to the project:

- the project is allowed under the Resource Management Act 1991 (RMA),
- a designation as defined in section 166(1) of the RMA is in place for the project,
- a notice of requirement for the project has been given under section 168 or 168A of the RMA,
- 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 alteration, or
- a notice of requirement was lodged under the Natural and Built Environment Act 2023 for a designation or an alteration to an existing designation and the project will be carried out under that designation or altered designation,³ and
- in the Minister's or local authority's opinion, the land is required to be taken for the critical infrastructure project (based on information available to them at the time the Minister or local authority decides to give and serve notice of intention).

Opinion on whether land should be taken

In considering whether the land is required to be taken, the Minister or local authority must have regard to the same criteria considered by the Environment Court if they receive an objection to a PWA standard process notice of intention to take land.

In forming their opinion on whether the land is required for the project, the Minister or local authority must consider:

- the objectives of the responsible department or Crown body or local authority;
- the adequacy of the consideration given to alternative sites, routes, or other methods of achieving those objectives; and

³ See Part 1 of Schedule 1 of the Fast-track Approvals Act 2024, which continues a fast-track consenting process begun under the Natural and Built Environments Act 2023.

- whether it would be fair, sound, and reasonably necessary for achieving the objectives for the land to be taken:

See [section 39AAH of the PWA](#).

Notices of intention for critical infrastructure projects

If the Minister or local authority is satisfied that the land is required to be taken for the critical infrastructure project (and the project has a qualifying status under the RMA), the Minister or local authority must (section 39AAH (1)):

- get a survey done and prepare and lodge a plan with LINZ,
- publish a notice in the Gazette and twice publicly notify. The notice must contain the information required by section 23(1AAC) as modified by section 39AAH. This includes new requirements, including:
 - a statement that the land is required for a critical infrastructure project,
 - the timeframe a person (except for those already served with a notice of intention to take land) may provide a written indication to the Minister or local authority of their intention to make a submission and make a written submission,
 - the address or addresses to which such indications and submissions must be sent, being:
 - in the case of government work, the address of the Minister and address of the responsible department or Crown body and
 - in the case of a local work, the address of the local authority
 - information about how a person may seek an extension to the periods in which those indications and submissions may be submitted
- serve a notice of intention on the landowner and others with a registered interest in the land intended to be taken. This notice must be in the form set out in in Schedule 2B of the PWA.

See [section 39AAH\(1\)](#) and [Schedule 2B of the PWA](#).

Providing detailed reasons

There is a new requirement to provide information about how the Minister or local authority made their decision. This is intended to ensure the landowner and others with a registered interest in the land intended to be taken have full information before they decide to submit on the taking of the land. This information is sent to the registered owner or person with registered interest at the same time as they are served the notice of intention to take land.

This must include the reasons why:

- taking their land meets the objectives of the responsible department or Crown body or local authority, and

- the Minister or local authority considers that adequate consideration has been given to alternative sites, routes, or other methods of achieving those objectives available, and
- they think it would be fair, sound, and reasonably necessary for the achieving the objectives of the department or Crown body or local authority to take this land.

If a person who has an unregistered interest in the land makes contact to make a submission, they must be provided with the reasons why land is required to be taken as soon as possible.

See [section 23\(1\)\(d\) as modified by section 39AAH\(1\) of the PWA](#).

Objecting to taking land for a critical infrastructure project

There is a new written submission process to oppose the taking of the land for critical infrastructure projects where the responsible department or Crown body or local authority has not opted out. For qualifying critical infrastructure projects, the right to object to the Environment Court has been replaced with a process that allows written submissions to the Minister for Land Information or the Chief Executive of the local authority opposing the acquisition of the land.

Landowners and every person having an estate or interest in the land, is given the opportunity to provide a written submission to the Minister or the Chief Executive of the local authority following the issuing of a section 23 notice of intention to take land outlining why, in their view, the land should not be taken.

Submission Process

There are five steps to the submission process:

1. **Owner or person with estate or interest in the land advises their intention to make a submission** – they have 10 working days from when they are served a notice of intention, or when the notice is published for the second time (in the case of an unregistered interest).
2. **Owner or person with estate or interest makes a submission** – they have 20 working days to send their full submission. This countdown starts after the 10-day notification period in step 1 ends, even if they have notified the Minister or local authority earlier.
3. **Agency/local authority responds** – the Crown agency or local authority has 10 working days to respond in writing to the submission. This response will be forwarded to the person who made the submission. For Crown acquiring agencies, this response must come from the agency itself and cannot be submitted by the accredited supplier. The accredited supplier may assist the Crown acquiring

agency in preparing the response.

4. **Final comments from submitter** – the person who made the submission will be able to make any final comments in response to what the Crown agency or local authority has said. They will have 10 working days to provide this.
5. **Decision on whether to proceed** – the Minister or local authority must have regard to every submission and response received when deciding whether to continue with compulsory acquisition of the land. This also includes having regard to the objectives, consideration of alternatives and whether it would be fair, sound and reasonably necessary to take the land. If the Minister or local authority decides the land should be taken, they/it may then recommend/request the Governor-General issue a proclamation.

A copy of this decision is provided to the submitter.

Agency response

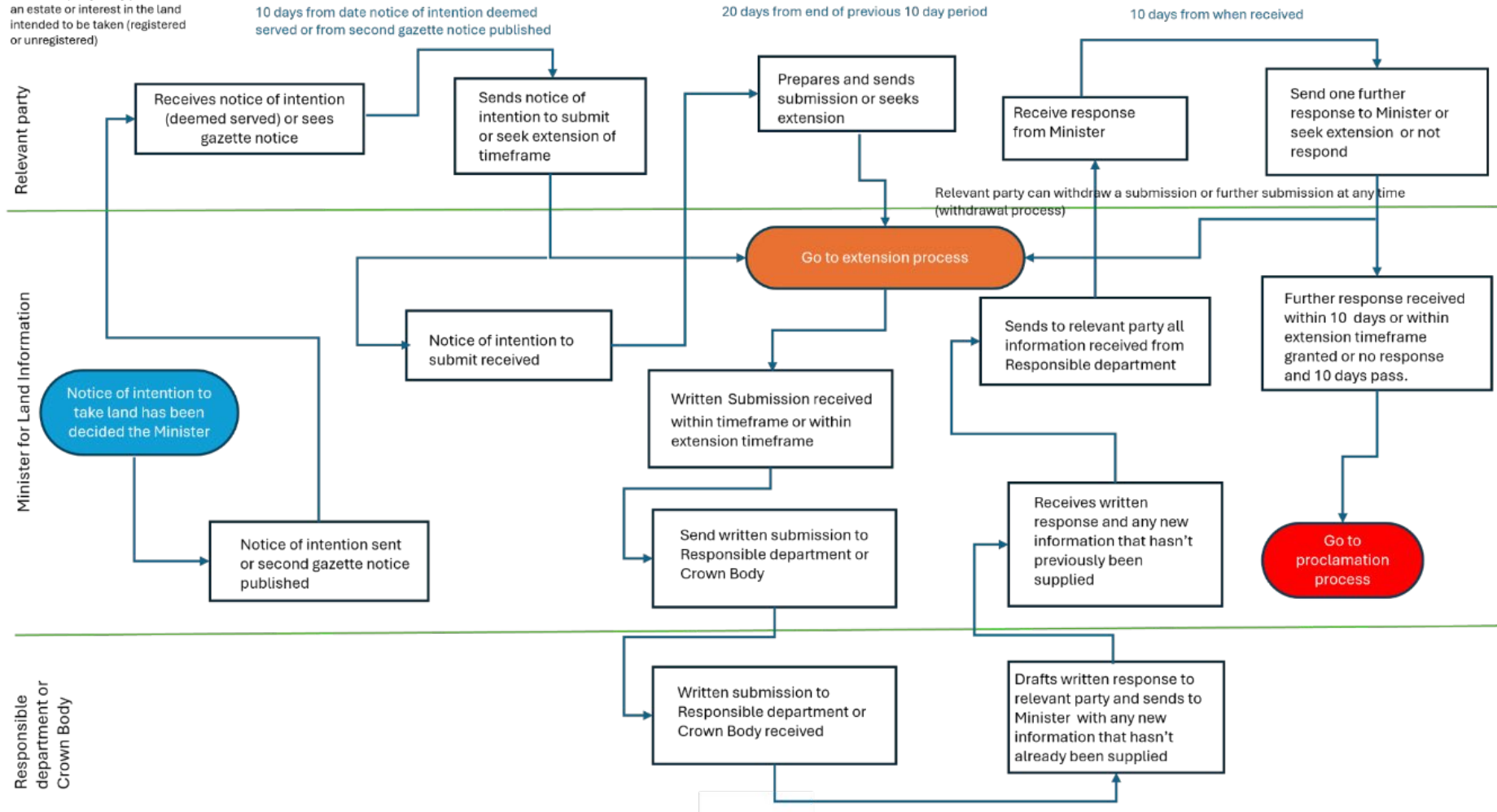
When a landowner or other person with a legal interest in the land makes a submission on the acquisition of their land, the responsible department, Crown body or local authority must provide the Minister with a written response and in the case of the responsible department or Crown body, any new relevant information within 10 working days after the final submission deadline. The Minister must then send this information to the submitter, who has the right to reply with one final written submission within 10 working days of receiving it.

In preparing a response to a submission, the responsible department or Crown body or local authority should ensure that:

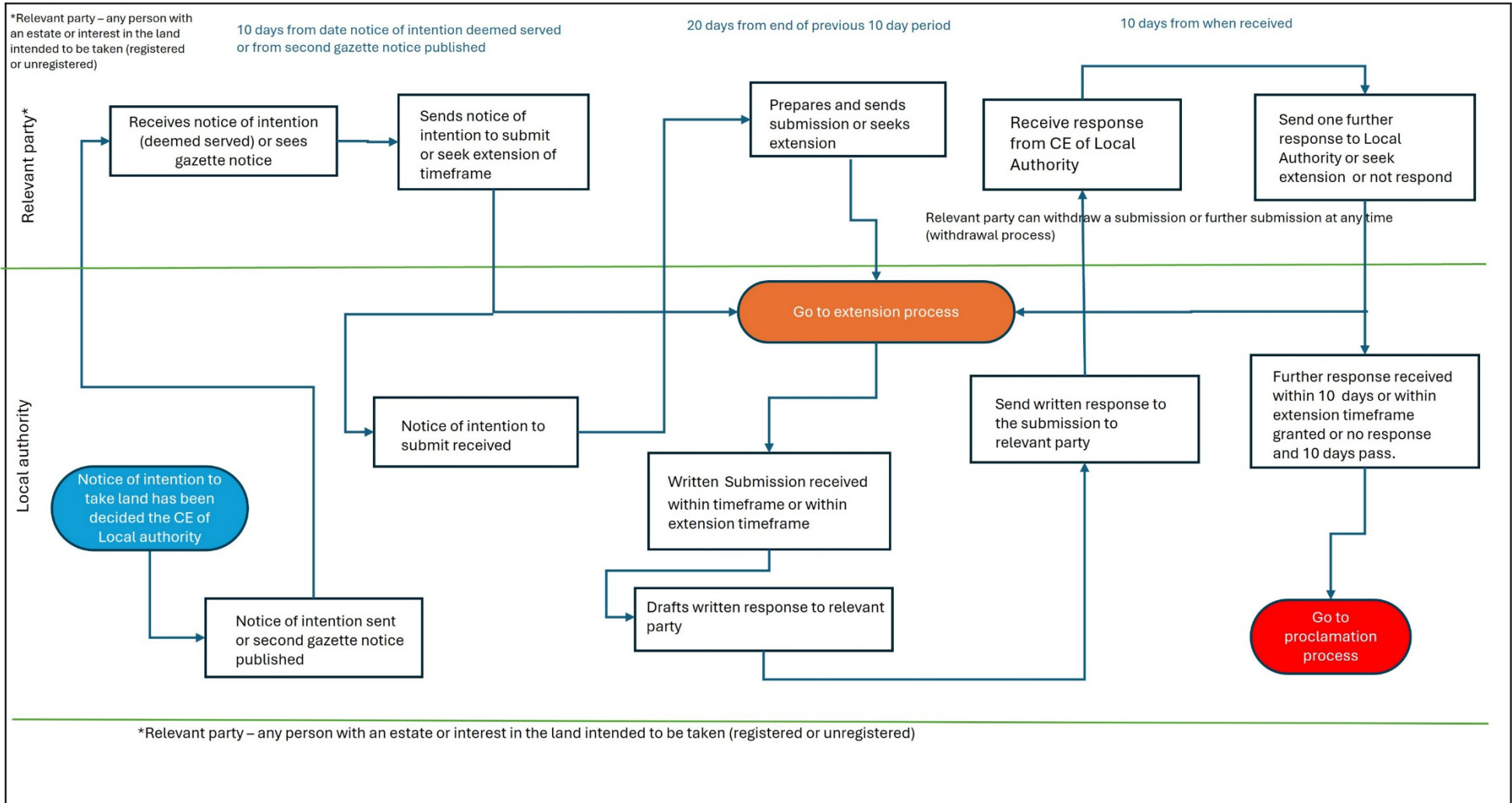
- the response addresses the matters raised by the submission from the person with an interest in the land,
- each submission should be responded to separately, even when they are for the same property, and
- any response and further information provided does not include private information of any person other than the person making the submission.

CRITICAL INFRASTRUCTURE SUBMISSION PROCESS – GOVERNMENT WORK

*Relevant party – any person with an estate or interest in the land intended to be taken (registered or unregistered)

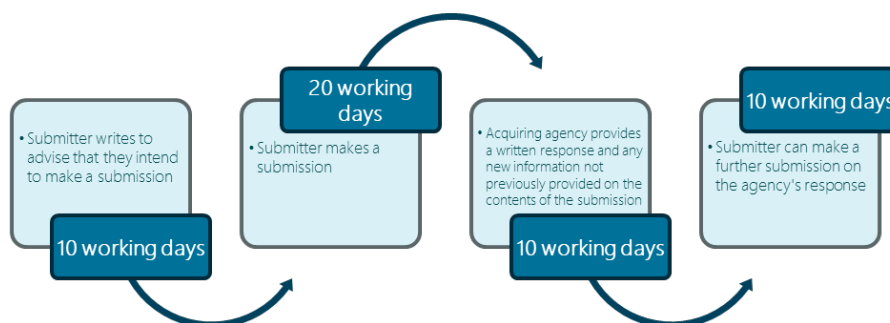


CRITICAL INFRASTRUCTURE SUBMISSION PROCESS – LOCAL AUTHORITY



Timeframes and Extensions

The following diagram sets out the timeframes for the submissions process.



A person with a legal interest in the land can ask the Minister or a local authority in writing for more time to:

- let them know if they plan to make a submission,
- actually make a submission,
- make an additional submission to respond to the responsible department or Crown body or local authority's written response.

The responsible department or Crown body or local authority can also have more time granted by the Minister or local authority for their own deadline for providing a response to submissions to.

A local authority may extend the deadline it has to send each submitter a written response to their submission.

The Minister or local authority must consider it is reasonable to provide an extension and must give written notice of the extension to all affected parties (e.g. the person submitting and the responsible department or Crown body if it is a critical infrastructure project that is a government work).

This extension can be one or multiple extensions provided the total period for extensions of that step is no more than **20 working days**.

Other points to note

If no one with a legal interest in the land indicates that they plan to make a submission within the allowed timeframe, then the Minister or local authority can proceed to take the land using the process in section 26.

Submitters can withdraw their submission at any time before a decision is made.

There is no right to an oral hearing.

Agencies cannot use any information provided by a person with a legal interest in the land in their submissions elsewhere in the acquisition process, or for any other purpose (as the submissions are made for a specific purpose).

Refer to [section 39AAI of the PWA](#).

Decision on taking land

Minister opinion that land should be taken

When the Minister is forming their opinion that the land should be taken for the critical infrastructure project, the Minister must have regard to:

- every submission (if any) and further submission (if any) that is made within the applicable permitted time frame and that has not been withdrawn,
- the responses and other information (if any) provided to the Minister when the responsible department or Crown body provided the Minister with a response to the interested person's submission and any further information,
- the objectives of the responsible department or Crown body, and
- the adequacy of the consideration given to alternative sites, routes, or other methods of achieving those objectives, and
- whether, in the Minister's opinion, it would be fair, sound, and reasonably necessary for the achieving the objectives of the department or Crown body for the land to be taken.

See [section 26\(1A\)\(a\) and \(1B\)\(a\) as modified by 39AAJ](#).

Local authority opinion that land should be taken

When the local authority is forming their opinion that the land should be taken for critical infrastructure project the local authority must have regard to:

- every submission (if any) and further submission (if any) that is made within the applicable permitted timeframe and that has not been withdrawn,
- its objectives,
- the adequacy of the consideration given to given to alternative sites, routes, or other methods of achieving those objectives, and
- whether, in the local authority's opinion, it would be fair, sound, and reasonably necessary for the achieving its objectives for the land to be taken.

See [section 26 \(1A\)\(b\) and \(1B\)\(b\) as modified by 39AAJ](#).

Critical Infrastructure Payments

There are two new payments introduced in Part 2A:

- **An incentive payment** of 15 percent of land value to landowners who reach an agreement early and voluntarily sell their land before a notice of intention is served, with a minimum payment of \$5,000 and a maximum payment of \$150,000.

- **A recognition payment** of five percent of land value for all landowners whose land is acquired or taken under the accelerated process, with a maximum payment of \$92,000.

The PWA sets out a process for updating these amounts by Order-in-Council.

If an agreement is reached with a landowner after a section 23 notice is served for the land or the land is taken and compensation determined by the Land Valuation Tribunal, then the landowner will still receive the usual PWA compensation but will qualify for only the recognition payment, not the incentive payment.⁴

If either critical infrastructure payment is made to an owner, then any home loss payment made under section 72A of the PWA for the same acquisition will exclude the existing incentive and discretionary payments in section 72A(1)(b) or (c) of the PWA.

See [section 39AAK of the PWA](#).

[Section 39AAL](#) sets out the circumstances in which one or both of the critical infrastructure payments must not be paid. These relate to whether vacant possession is given or whether the owner was a willing party to the acquisition of the land.

Incentive payment

The critical infrastructure incentive payment aims to encourage landowners to agree early to sell their land. This payment recognises the benefit to the Crown or local authority to be able to acquire the land more quickly and unchallenged. This means the incentive payment can only be paid to a landowner if they make an agreement under section 17 and compulsory acquisition process has not started (that is, before a section 23 notice has been given or served).

The incentive payment is based on a percentage of the total land value of the land that is being acquired. Minimum and maximum amounts are specified, which balances the need to provide an effective incentive while managing affordability for the project.

The incentive payment that is paid must be:

- equal to 15 percent of the total land value or
- \$5,000 if 15 percent of the total land value is equal to or less than \$5,000 or
- \$150,000 if 15 percent of the total land value is equal to or more than \$150,000.

Recognition payment

The critical infrastructure recognition payment is paid to acknowledge that the land that is being acquired or taken under the accelerated process is for critical infrastructure that is nationally or regionally significant.

⁴ Unless the relevant party meet qualifications to be paid the discretionary payment (paid at same level as incentive payment) because protected Māori land being acquired for a critical infrastructure project, or section 18(7)(c), (d), or (e) applies to the acquisition in which case the owner is treated as if they were party to an agreement reached before a section 23 notice was given or served.

The recognition payment is based on the market value of the property. To provide a balance between recognition of the importance of this land to New Zealand for critical infrastructure with affordability for the projects, there is a maximum payment.

The recognition payment that is paid must be:

- equal to 5 percent of the total land value or
- \$92,000 if 5 percent of the total land value is equal to or more than \$92,000.

If an owner applies to the Environment Court and is granted an order for the taking of land under section 185 of the Resource Management Act, they are entitled to the recognition payment, but not the incentive payment.

More than one owner of the acquired land

The incentive payment and recognition payment must not exceed the amount of \$150,000 or \$92,000 respectively regardless of:

- the number of owners of the land and
- the nature of the estate or interest each owner has in the land.

If compensation is payable for land that is owned by more than one person, the compensation must be:

- paid only to those owners of land who qualify (that is, are not excluded from receiving compensation)
- apportioned between those qualifying owners in proportion to the individual value each owner has in the land.

Application to protected Māori Land

While protected Māori land cannot be acquired under the accelerated process, owners of this land are eligible for the incentive and recognition payments. Section 72F of the PWA applies to these payments.

Transitional Provisions

Acquisition for some critical infrastructure projects may have already commenced when the Amendment Act was enacted.

The transitional provisions provide that that the accelerated process can apply to land acquisition for critical infrastructure projects where a notice of desire under section 18 has been served before the new critical infrastructure amendments to the PWA came into force.

If an agency or local authority has served notices of desire for the project under section 18 before the amendment act commences, it can still decide to opt-out and use Part 2 of the PWA rather than the new Part 2A. However, the opt out notification must be provided to the Minister:

- before any other notice of desire for the project is served under section 18, and
- before any notice of intention under section 23 is given or served for the project.