

Chapter 29

Part G

VOLUME 2

Land Acquisition and Property

Overview

The main property effects of the Project can be separated into three broad categories of property:

- Property with land that is directly required (either in whole or in part) for the Project;
- Land with an easement or other property right (including rights of way and water rights) that is directly affected by the Project; and
- Properties within close proximity to the Project.

The land holdings range from Crown land, KCDC-owned land (including road, rail and reserves, private land) Māori land and private land. The largest land requirement is for land held in private ownership which must be acquired for the Project for road purposes. There are some properties where part acquisition will be required.

There are some examples of properties that will be required for construction of the Project, but that will not be purchased. Examples include properties that are required for temporary occupation during construction work, but are not required in the long term for occupation of the road. The effects on these properties can also be managed through the PWA process. In some cases alternative arrangements can be made with landowners (such as land entry agreements or license to occupy).

There are a number of instances where the Project will affect other property rights such as physical access to a property or a water supply arrangement. It is considered that effects on other property rights have been well identified through the design and investigation phase and the various mitigation measures will be adopted in consultation with the affected parties.

Properties within close proximity to the route that have been identified as being subject to or particularly sensitive to effects have been identified through the Technical Reports (Volume 3 of the AEE report). Actual and potential effects on these properties have been identified in relation to specific technical areas and appropriate mitigation has been devised.

Actual and potential (including perceived) effects on property values is not considered to be a relevant consideration under the RMA. Effects on amenity values are a relevant consideration, and those that are affected by the Project are considered through assessment of other actual and potential effects including noise, landscape and access.

29 Land Acquisition and Property

29.1 Introduction

The main property effects of the Project can be separated into three broad categories:

- Properties with land that is directly required (either in whole or in part) for the Project;
- Land with an easement or other property right (including rights of way and water rights, for example) that is directly affected by the Project; and
- Properties within close proximity to the Project.

Land parcels that will be directly affected to a greater or lesser degree by 'land take' requirements to accommodate the Project are shown in the Land Requirement Plans (LR01-18) contained in Volume 5 of the AEE report, and in the accompanying schedule. 117 land interests have been identified as being directly affected.

The land holdings range from Crown land, KCDC-owned land (including road and reserves) land in Māori general or freehold title (which will be subject to the Māori Land Court's decision to approve any alienation) and private land which is primarily large rural holdings,

but also includes some rural-residential lifestyle blocks, and urban rural land and business land.

Most of the land required for the Project is in private ownership. At this time, only a relatively small amount of land has been acquired for the Project, but all property owners whose land is directly affected have been contacted and consulted. All land is within the Wellington Region, and the land required is within the jurisdiction of KCDC.

29.2 Land Acquisition and Occupation

As the NZTA and KiwiRail are requiring authorities under the RMA, they are also classified as network utility operators for the purposes of the PWA, so may apply to the Minister of Lands to acquire lands on their behalf.

The PWA acquisition process is usefully described in a guide produced by LINZ where as background⁵⁵:

"Public works often cannot be carried out without affecting private landowners and their interests in land. For these reasons many governments throughout the world, including New Zealand, provide themselves with legislative powers to compulsorily acquire land for public works so that public works proposals are not unreasonably delayed. A basic principle of our system of government is that no person shall be deprived of land by the Crown without receiving fair compensation. In New Zealand the Public Works Act 1981 provides the power to acquire land for public works and to pay compensation. LINZ, on behalf of the Crown, is responsible for administering this Act.

A large number of decisions made by the courts in both the United Kingdom and in New Zealand aid interpretation of the compensation provisions of the Public Works Act. Entitlements to compensation are therefore well settled."

The following describes landowners' rights⁵⁶.

"The Public Works Act provides the Crown with the statutory authority to acquire land for a public work. The Crown has the power to acquire or take land for a wide variety of purposes and may negotiate for the land in the same way as a private purchaser. While the Crown's powers are wide, it can only acquire land, whether by negotiation or compulsorily, in accordance with the Act. The acquisition process generally takes place after all required consents for the use of the land have been granted, or a designation has been provided for by the territorial authority."

The LINZ guide also outlines guidance on compensation and other landowner rights under the PWA.

As mentioned in the guide, property acquisition generally takes place later on in the process. To date, however, the NZTA's property accredited suppliers, through LINZ have completed property agreements with landowners to purchase land in advance of the designation process, where owners were in exceptional circumstances (including hardship cases).

There are some properties where part-acquisition will be required. This could result in severance of land, or a reduction in the area of land remaining that means that the previous potential of the property can no longer be realised. For example, a property may be reduced in size so that it no longer meets district plan rules for subdivision. The property valuation and acquisition process under the PWA will take into account any

⁵⁵ <http://www.linz.govt.nz/crown-property/public-works/guide/background>

⁵⁶ <http://www.linz.govt.nz/crown-property/public-works/guide/public-works-acquisition>

adverse effects on the value of properties arising from part-purchase, and appropriate compensation will be arranged with the land owner.

There are some examples of properties that will be required for construction of the Project, but that will not be purchased. Examples include properties that are required for construction purposes, but which are not required in the long-term for occupation by the Project. Construction land requirements that may not be required in the long-term include:

- Construction yards containing, for example, Project offices, workers' conveniences, and machinery and equipment storage;
- Laydown areas such as for the storage of precast concrete components;
- Mitigation measures such as noise barriers;
- Fill sites; and
- Construction access routes alongside the alignment, which are required in many locations where there is difficult topography, or there are existing tracks.

An example of a property within the proposed designation that will be affected is the Ōtaki Railway Station and the adjacent operative NIMT alignment. As discussed in previous chapters of this AEE report, the Ōtaki Railway Station will be retained and reoriented to accommodate the realignment of the rail line.

All affected properties are shown in the Land Information Plans (refer Volume 5 of the AEE) (and eventually in the relevant district plans should the NoRs be confirmed) as required for roading or rail purposes (as the case may be) in the same way as the land that will be purchased. Upon confirmation of the NoRs, land will be identified for temporary occupation, lease or land necessary to be acquired. On completion of the construction of the Project, the NZTA and KiwiRail will review the designation boundaries, and uplift those parts that are no longer required for roading or rail purposes.

Where a property lease/rental arrangement through the PWA process is undertaken, the NZTA/KiwiRail will undertake to return the land as near as practicable to its original state or as otherwise agreed with the landowner.

It is considered that the effects on property have been well acknowledged through consultation, and will be properly compensated for through the PWA processes.

29.3 Access, Easements and Other Property Rights

There are a number of instances where the Project will affect other property rights such as physical access to a property, or farm management or a water supply arrangement. To address this:

- Where such rights are affected, alternative arrangements for movement or replacement are proposed, and either have been or will be developed in close consultation with the landowner.

It is considered that effects on other property rights have been well identified through the consultation processes.

29.4 Properties Within Close Proximity

Properties within close proximity to the Project that have been identified as being subject to or particularly sensitive to effects have been identified through the Technical Reports summarised in this AEE report. Actual and potential effects on these properties have been identified in relation to specific technical areas and appropriate mitigation has been devised.

While discussed during consultation, actual and potential (including perceived) effects on property values are not considered to be relevant considerations under the RMA. Effects

on amenity values are relevant considerations, and those that are affected by the Project are considered through assessment of other actual and potential effects including examples such as noise, landscape, and access.