

## 12. PROPERTY & LAND USE

### Overview

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

- Properties with land that is directly required for the Project;
- Land that is required to implement rear access roads or ancillary local road improvements;
- 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.

The land holdings range from land already acquired by the Crown, Council owned land, including roads and other land holdings. Private land is by far the largest land requirement. Some properties need to be purchased outright and there are some properties where part acquisition will be required. All property owners whose land is directly affected have been consulted and are aware of the property required.

Where land is partially acquired, some properties may become smaller than the minimum allotment size in the Selwyn District Plan and Christchurch City Plan. This will depend on final arrangements with landowners, options for amalgamation, and/or retention by NZTA.

There are some examples of properties that will be required for construction of the Project, but that will not be purchased. The effects on these properties can also be managed through the Public Works Act 1981 (“PWA”) process.

Properties within close proximity to the route that have been identified as being subject to potential adverse effects have been identified through the Technical Reports. 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 are not considered to be a relevant consideration under the RMA.

The Project will permanently take high fertility soils that might otherwise be available for farming purposes. The amount of land to be taken has been minimised as far as possible, and topsoil will be re-used within the Project area.

### 12.1. Introduction

The Project involves the construction and operation of a major roading link where there is a requirement to consider direct and indirect effects on property owners and occupiers. Actual and potential effects on the environment are key matters that must be addressed under both the RMA, and where land or property interests are required to be purchased, in terms of PWA acquisition processes.

The main property effects of the Project fall into four categories:

- land that is required either directly in whole or in part for the implementation of the MSRFL and CSM2 main alignment;
- land that is required to implement rear access roads or ancillary local road improvements;
- land that is subject to an easement or other property right such as a water permit that is directly affected by the implementation of the Project; and
- properties that are within close proximity to the Project.

The land is contained within both the Selwyn District area and within the jurisdiction of Christchurch City Council. The land holdings range from Crown Land (Rail or already purchased), Council owned land including roads, and private freehold land. Private land is a mixture of large rural holdings with some rural-residential lifestyle blocks and some business land. Chapter 3 outlines the existing land use in the Project area.

Land parcels that are directly affected are shown in Land Requirement Plans 66236-A-C1101 to C1110 for MSRFL and Land Requirement Plans 62236-B-C1101 to C1118 for the CSM2 component of the Project. These plans are contained within Volume 5 of the application documents and the Land Requirement Schedule is attached as Appendix B to this AEE.

## 12.2. Land acquisition and occupation

Before considering the detail of property related matters for the Project it is important to consider how land for a public work is acquired. As the NZTA is a requiring authority under the RMA it is also classified as a network utility operator for the purposes of the PWA, so may apply to the Minister of Lands to acquire lands on its behalf.

The PWA acquisition process is usefully described in a guide produced by Land Information New Zealand (“LINZ”) where as background<sup>69</sup>:

*“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.”*

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<sup>69</sup> <http://www.linz.govt.nz/crown-property/public-works/guide/background>

Further at the page considering landowners rights.<sup>70</sup>

*“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 very useful guidance on compensation and other landowner rights under the PWA.

### 12.3. Property status

#### 12.3.1. Main South Road land requirements

The Main South Road section of the route extends from Rolleston to Robinsons Road where the widening requires land primarily on the western or railway station side of the existing highway. The remainder of the land required is for:

- the Weedons / Ross interchange and its approaches;
- localised purchases to implement safe access or egress to Berketts Road and Larcombs Road;
- to implement the rear access road adjoining the railway line; and
- to implement safe alternatives to properties that currently have direct access to Main South Road on the eastern side.

There are some 27 land parcels required ranging in size from 89m<sup>2</sup> through to 61361m<sup>2</sup> (6.14 hectares) out of a total of 253,607m<sup>2</sup>. In contrast to the CSM2 section there are no property purchases completed for MSRFL with only one being under active negotiation at the time of writing.

#### 12.3.2. CSM2 land requirements

To implement the CSM2 component of the Project including the John Paterson Drive Link, there are in total 77 properties where some 1,042,976m<sup>2</sup> (1041.7 hectares) is required (in whole or in part) for land requirement purposes to undertake the Project. These parcels of land vary in size from 181m<sup>2</sup> through to 126,757m<sup>2</sup> (12.68 hectares). In some cases, this land is considered to be a total purchase with severance, while others require only partial purchase. There are also three parcels of property required to implement the railway turning head realignment north of Marshs Road.

<sup>70</sup> <http://www.linz.govt.nz/crown-property/public-works/guide/public-works-acquisition>

It should be noted that some of the land is already owned by the Crown for roading purposes particularly at the eastern end of the Project at the “tie in” to the CSM1 project, while other major areas of land between Blakes Road and Main South Road have already been purchased. There are also a number of properties on this alignment that are under active negotiation. The purchased land however comprises less than half of the total land required for the main CSM2 alignment, at the time of writing.

In relation to all other land directly affected by the Project, all property owners have been consulted about the alignment (see Chapter 8 in relation to the consultation process) on at least three occasions. On each occasion there have been opportunities to discuss any matters including the land purchase process. Landowner suggestions and preferences have been able to be taken into account where practicable in terms of mitigation, the reuse of severance land, access issues and the land valuation and compensation processes.

### 12.3.3. Severed land

Not all land to be purchased is required for the construction or operation of the Project. In some circumstances, entire titles are required with the residual land being termed severance. These parcels of land are of different sizes and configurations, but are generally those areas where no practicable alternatives for reuse can be found. The LINZ guide<sup>71</sup> referred to above explains this situation further:

*Sometimes taking part of a landowner's land for a public work results in another part of that land being severed from the retained land so that it becomes more costly to retain or less useful to the landowner. In these circumstances the landowner may require the Crown, on behalf of an acquiring authority, to purchase the severed land. The acquiring authority may then rationalise its landholdings by selling this land to an adjoining landowner.*

*An acquiring authority may acquire other land and develop it for the purpose of granting that land as compensation to the person from whom land has been acquired for a public work.*

As part of the overall property regularisation process, the NZTA is investigating the most appropriate method of managing the use of severance land, including options to potentially amalgamate severed land into adjoining titles or create new titles if they are large enough for effective reuse.

### 12.3.4. Partial acquisition and residual land areas

There are a large number of properties where only partial acquisition is required. As a consequence, this could result in severance of land or a reduction in the size of land below a size that can be utilised for other purposes. An example of this is where the balance land is below the four hectare minimum for a rural lot in the Rural (Inner Plains) area of Selwyn District Plan. Each of these situations is being looked at on a case by case basis, with the potential for some total purchases and some titles being created smaller than the Selwyn District Plan envisages for the

<sup>71</sup> <http://www.linz.govt.nz/crown-property/public-works/guide/general>

zone in which they are located. The NZTA is continuing to consider the best and most practical method of land configuration, as the legalisation process could potentially create smaller titles, which may not be desirable from an amenity perspective.

However the property valuation process under the PWA takes into account any adverse effects on the value of properties arising from partial purchase, including subdivision rights, and appropriate compensation will need to be provided in these circumstances.

#### **12.4. Access, easements and other property rights**

##### **12.4.1. Access and easements**

There are two easements affected by the Project in the vicinity of the CSM2/ Main South Road interchange and negotiations are continuing with the relevant property owners. As land is also required, a legal mechanism to provide access is in place through the PWA. There is also one water permit affected by acquisition. The NZTA is considering the PWA property effects on this permit through the acquisition process.

In addition, the NZTA is also progressing the provision of easements over other private land to provide practicable alternative access to properties which will no longer have frontage access to Main South Road.

Provision of alternative access may reduce the net area of existing properties including below the minimum allotment size in the District Plan. Options for alternative access (for example right of way or road to vest on subdivision) will be considered in the acquisition process. While the provision of alternative access may reduce the net allotment area, it will not necessarily increase the opportunity for subdivision or densities greater than provided for in the District Plan for the subject area overall. These matters can be considered when the Council assesses any future application for right of way or subdivision to facilitate the alternative access.

##### **12.4.2. Properties used for construction only**

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

- construction yards containing (for example) Project offices, machinery and equipment storage, smoko rooms;
- lay down areas including (for example) storage of precast concrete components; and
- access to stockwater race channels to implement ecological mitigation.

Those properties are shown in the land requirement plans (and eventually shown in the relevant district plans should the NoRs be confirmed) as required for roading purposes in the same way as the land that will be purchased. However, on completion of construction, the requiring authority

will be expected to review the designation, and uplift those parts that are no longer required for roading purposes.

It is considered that the effects on these properties can also be managed through the PWA process, although in some cases alternative arrangements will be made with landowners, such as a lease arrangement. The usual practice however through the PWA process, is that the requiring authority would be required to return the land in its original state, or as otherwise agreed with the landowner.

It is therefore considered that the effects on property have been well acknowledged through the consultation carried out to date, and will be adequately compensated for through the PWA.

### **12.5. Properties within close proximity**

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

- properties that will be affected by elevated noise levels (during operation of the road) that have been identified through noise modelling. Appropriate noise mitigation measures are proposed in accordance with the relevant noise standard NZS 6806:2010; and
- landscape and visual effects assessments have been carried out from key vantage points where the route will be visible from public places and properties in the vicinity of the alignment. Where required, adverse visual effects will be mitigated.

It is noted that there may also be positive effects on some properties within close proximity to the Project alignment, including improved access.

While it was raised as an issue during consultation (see Chapter 8), actual and potential (including perceived) effects on property values are not considered to be a relevant consideration under the RMA. Effects on amenity values are a relevant consideration. Those that are affected by the Project are considered through assessment of other environmental effects, including those potentially affected by the examples (noise, landscape) given above.

### **12.6. Change of land use for high fertility soils**

Technical Report 18 describes the soil classification of the land traversed by the Project. All of the Project area is on well drained and imperfectly drained soils of high fertility. The Project will take land which might otherwise be used for farming purposes. This land use change will be irreversible.

The Project has minimised the amount of land required to be taken from productive use as far as possible. Furthermore, there is no practicable non-versatile land alternative available on which to site the Project.

Approximately 300,000m<sup>3</sup> of topsoil will be removed for construction of the Project. As outlined in Chapter 5, the current construction methodology is to remove and stockpile all topsoil for re-use. Some of the topsoil will be re-used in the Project area. Surplus top soil will be available for re-use elsewhere.

While the Project will remove an area of productive soils from rural use in the long term, significant benefits have also been identified, including to the local and regional economy.

### 12.7. Conclusion

The Project will require the land already owned by the Crown, and acquisition of Council land, including roads, and land from other private landowners. Some properties need to be purchased outright and there are some properties where part acquisition will be required. All property owners whose land is directly affected have been consulted and are aware of the property required. The PWA provides the process by which these properties will be acquired.

Properties within close proximity to the route that have been identified as being subject to potential adverse effects have been identified through the Technical Reports. 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 are 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/visual and access.