

## Will Auckland Transport buy the whole property when only part is affected by the proposed public work?

We will consider this where

- The economic value of that other part has been significantly affected or;
- You as the landowner would have difficulty in accessing the land or using it.

These areas are commonly called severances; for example, if the front of a section is acquired for a road, this may mean access is cut to the rest of the property.

## Can Auckland Transport take land compulsorily?

If an agreement cannot be reached, Auckland Council, on behalf of Auckland Transport, is able to have the land acquired compulsorily. But this will only be done after Auckland Transport has made every reasonable effort to negotiate in good faith.

If Auckland Council wants to take your land and you object, you can go to the Environment Court.

If you and Auckland Transport cannot agree on compensation, the amount can be determined by the Land Valuation Tribunal.

## Entry for survey or investigation purposes

Auckland Transport will seek permission to go on to your land to do a survey or investigation. You will get reasonable notice before this happens and an explanation of what this involves.

## I am aware there has been an application for a designation affecting my property. What is the process from here?

### Consultation under the Resource Management Act 1991

Designations are planning instruments that give permission under the Resource Management Act to do public works.

As part of the designation process, landowners are consulted about the impact any work will have on their property. This is a chance to also look at the various options for best meeting the requirements of both Auckland Transport and the landowner. If there is not an agreement, differences can be settled at a hearing.

Auckland Transport will consider appropriate measures to "mitigate", or limit the impact on properties adjacent to the work. Landowners will be consulted as part of this process. Examples are:

Mitigation of noise, which may include such things as:

- Earth bunding (a protective wall)
- Fencing or planting on the boundary.

Mitigation of visual impacts, which may include:

- Landscaping,
- Planting and screening.

## Will Auckland Transport purchase my property straight away?

Auckland Transport normally only seeks to acquire land when it is actually required for work, however, you can ask for your land to be purchased in advance if:

- You cannot sell the property at current market value because of the planned work, and
- Either the works designation or requirement prevents reasonable use of your land, or you owned the land before the designation was notified.

Where Auckland Transport accepts that the landowner can prove that he or she meets these criteria then it would normally agree to talks starting about the purchase.

This can also be done on hardship, compassionate, or other appropriate grounds.

Where only part of a property is acquired in advance, Auckland Transport may wish to lease part of the land back at market rates.

Landowners who believe that they have a case for advance purchase should contact Auckland Transport.

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# A guide for people affected by land purchase and compensation



**Auckland Transport**  
An Auckland Council Organisation

## Introduction

This pamphlet is designed to provide information for people affected by land acquisitions undertaken by Auckland Council on behalf of Auckland Transport (AT), for road and other transport purposes.

Auckland Council has powers to buy land under the Public Works Act 1981 (the Act.) Auckland Transport is a Council Controlled Organisation and pays for the land purchased for its transport projects. Auckland Transport's Property Department works closely with Auckland Council to facilitate the purchase of land.

This is just a guide to the landowner's rights under the Public Works Act 1981 (the Act). If you think you may be affected by proposed work, you should contact the Property Department at Auckland Transport. You should also get independent legal advice.

You can claim reasonable legal and other expenses you incur as a direct result of the negotiations and acquisition.

## What is compensation paid for?

Auckland Transport has the responsibility for buying land for road and other transport purposes, and for negotiating compensation. Auckland Transport must ensure the compensation is negotiated fairly in the interests of both ratepayers and affected landowners.

The discussions about buying your land and about compensation often take place after all the required consents have been granted, or the designation has been made.

Where the proposed works are minor, a designation may not be needed and compensation negotiations can be started earlier.

## Land to be acquired by agreement

The Act requires that landowners receive fair compensation, and that they are left no better or worse off, than they were before the land was acquired.

Details of the entitlement to compensation are set out in the Act. Affected landowners are entitled to full compensation.

To get compensation, you need to have some ownership interest in the land. Owners of interests that are less than freehold (e.g. a lease) are also entitled to compensation, if all or part of their interest is acquired.

If you only have a licence to use the land, or an interest in chattels or personal rights, you won't be able to claim compensation.

You are obliged to minimise your losses. If you do (or fail to do) anything that increases the amount of your losses, this is deducted from the amount you would be paid.

## What are the rules of compensation?

The rules governing the assessment of compensation are set out in section 62 of the Act. They are as follows:

### *Willing seller*

The Act states that the value of land to be taken is the amount it would be expected to sell for on the open market by a willing seller to a willing buyer on a specific date. There are some exceptions to this.

### *Market value*

The test of value is the price that your land would fetch on the open market. This may not be what you think your land is worth, or what Auckland Transport values it as. The aim is that you receive an amount that is neither more nor less than the amount you would have if you'd sold on the open market.

## Increase in value resulting from the public work

Where the work increases the value of the remainder of your land this may be deducted from the total amount of compensation.

## Disturbance payments?

You may also be entitled to compensation for disturbance. This is payment for actual monetary loss or costs of a temporary, non-recurring nature.

Disturbance payments are not payable for personal matters such as inconvenience.

In order to qualify:

- Disturbance must be a direct result of you being required to give up possession of your land to Auckland Transport.
- You must prove that any losses are a result of the purchase of your land or your business.

## Injurious affection

This recognises that the public work may adversely affect the value of your remaining property if only part of it is taken.

## Damage to property

Compensation may be claimed where works cause physical damage to a property, particularly buildings.

## Is compensation payable for business losses?

Yes for losses resulting from the relocation of the business or for loss of goodwill if the business is closed. The landowner may also be entitled to relocation expenses.

## Do leaseholders have any rights to compensation?

A leaseholder on more than a month to month tenancy has the right to compensation. The leaseholder is entitled to the market value of that leasehold interest and compensation for disturbance. Business leaseholders may also be entitled to payment for business loss.

## Is any special compensation payable for the loss of a home?

In certain circumstances, an additional payment of \$2,000 can be made for the inconvenience and intangible losses suffered by people who lose their home because it is required for a public work. It is payable only to people who own and occupy a home personally, leaseholders may qualify for a lesser amount.

## What expenses can be claimed?

You can claim expenses you incur as a direct result of the negotiations and acquisition. This includes reasonable legal and other professional fees for the sale and purchase of a replacement property. To avoid any dispute, it is recommended that you get the approval of Auckland Transport's property officer before incurring any expense.

You must minimise your costs and losses. Time you spend in the negotiation is not normally paid for, unless an actual financial cost has been incurred.

## When is compensation paid?

Generally, payment is made when vacant possession is given.

## How does the process work?

### How is compensation assessed?

Auckland Transport's property negotiator will talk to you about your entitlement to compensation. A valuation report is obtained from a registered valuer. The property officer and landowner may agree to use a valuer who is acceptable to both of them. As the landowner you can get an independent valuation and advice from accountants or other professionals where that is appropriate. Auckland Transport will pay reasonable fees, provided the reports are relevant to the negotiations.

The valuations form the basis for negotiations over compensation.

### How does Auckland Transport actually complete the purchase of land?

Once an agreement is reached the landowner signs it and it is returned to the Auckland Transport for approval and signature. Once the offer is signed on behalf of Auckland Transport there will be a binding contract. Auckland Transport will then arrange to pay the compensation and complete the transfer of ownership of the land.