

Agreement to mediate via video conferencing or phone

This is an agreement between

Landowner

(Name)

AND

Landowner

(Name)

AND

Land Information New Zealand representative

(Name and title)

(Referred to in the agreement as the parties)

AND

Waka Kotahi representative

(Name and title)

(Referred to in the agreement as the interested party)

AND

LARS Mediator

We the parties including interested parties agree:

Appointment of mediator.

1. We will enter into mediation, within the terms of this agreement, with the mediator.

Good faith and cooperation.

2. We will mediate in good faith. We agree to co-operate with the mediator and be honest with the mediator and each other.

Role of mediator.

3. We accept that the mediator will be neutral, will listen to each of us and will assist our attempt to resolve the issues between us. The mediator will do this by helping us to:
 - a) Clarify the issues in dispute.
 - b) Understand each other's viewpoint.
 - c) Develop options to resolve the issues.
 - d) Explore the usefulness of each option.

- e) Identify our own solution/s to the dispute.
 - f) Reach an agreement that accommodates the interests and needs of all parties.
4. We understand that the mediator will not:
- a) Give legal advice to either party.
 - b) Impose a result on either party
 - c) Make a decision for either party.
5. We understand that the mediator may meet separately with one or both of the parties, interested parties and/or their representatives. Such a meeting can take place before the mediation or at any time during it. Either party, or the mediator can request this at any time. The content of all such discussions will be confidential between the mediator and the party concerned, unless otherwise authorised.

Authority for mediator to acquire technical assistance.

6. We understand and agree that there may be instances where the mediator may require an expert to provide technical assistance to the mediator regarding the substance of the dispute. We authorise the mediator to appoint an independent expert for this purpose and confirm that the mediator may disclose any relevant information to the expert for the purposes of obtaining necessary advice or assistance.

Role of Subject Matter Expert (SME).

7. We accept that if the mediator considers that the assistance or advice of a subject matter expert would assist in the resolution of a dispute, they may, with the parties' written agreement, appoint a SME to provide such assistance or advice that they consider necessary, including physical attendance at the mediation. We acknowledge that the role of the SME may also be performed by the technical advisor in [6]. We understand that the role of such a subject matter expert is that of an independent, neutral expert who will not:
- a) Act as an advisor, legal or otherwise, to either party
 - b) Impose a result on either party
 - c) Make a decision for either party

Authority to settle and representation at mediation.

8. We agree to attend with authority to settle within any range of options that can reasonably be anticipated, or where this is not possible, with reasonable access to a person who holds such authority.
9. We acknowledge that each party may have one or more other persons, including legally qualified persons and/ or other expert assistance, to support, assist and/or advise them, subject to the agreement of the other party.

Confidentiality of the mediation process.

10. The mediator, parties, interested parties or support persons will not video or audio record any of the mediation sessions.
11. Any person, other than the parties, interested parties and the mediator, who is going to be present for a part or whole of the mediation session(s), is required to be authorised as a support person and sign the section for support people in the Agreement to Mediate document.

12. The mediation process is confidential to the parties and no person (including the mediator, and the parties or interested parties and their support people and representatives) may disclose any statement, admission, or document created or made for the purposes of the process and any other information (whether written or oral) that, for the purposes of the process, is disclosed in the course of the process.
13. Any written agreement reached at mediation (Memorandum of Agreement Pursuant to the Public Works Act 1981) signed by the parties is not confidential and can be freely shared by the signatories to the Memorandum of Agreement only. The Memorandum of Agreement is admissible as evidence before a court.
14. Information can be disclosed in the following circumstances:
 - All of the parties to the dispute have given their written consent to the disclosure.
 - The information is already in the public domain.
 - Disclosure is necessary for the purposes of, or in connection with, the enforcement of an outcome reached in mediation.
 - Disclosure is necessary for the purposes of investigating or resolving a complaint about the Land Acquisition Resolution Service.
 - The information is disclosed in a form that does not identify any particular person or property.
 - The information is to be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify any particular person or property.
 - Information which must be released pursuant to any legal obligation, including the Official Information Act 1982.
 - The mediator discovers a likely risk of serious harm during the mediation (in which case the mediator may, at their discretion, report that discovery, and the nature of the harm, to an appropriate person).

Termination/adjournment of the mediation.

15. Mediation is voluntary. The parties participate with the intention of completing the mediation process.
16. Either party may indicate to their mediator their intention to withdraw from the mediation process at any time. However, any party who does wish to withdraw shall discuss the decision with the mediator.
17. The mediator may terminate the mediation if, after discussion with both parties, the mediator forms the view that he/ she is unable to assist the parties further to achieve a resolution.
18. The mediator may adjourn the mediation to give the parties time to attend to any matters that may assist in the resolution of the dispute.

Settlement.

19. If a settlement is reached, an agreement to purchase land for public work pursuant to Section 17 of the Public Works Act 1981 ("Memorandum of Agreement Pursuant to the Public Works Act 1981") will be prepared by the mediator and signed by the parties. Parties may seek legal

advice before signing any agreement. No settlement is binding unless and until it is in writing and has been signed by all of the parties.

Exclusion of liability, indemnity, and release.

- 20. Neither the mediator nor FairWay Resolution Limited (“Fair Way”) shall be held liable in negligence or otherwise for any act or omission arising from or out of or during the mediation.
- 21. We agree not to make any claim in defamation against the mediator, Fair Way or each other in respect of anything said or any document presented during the course of the mediation.
- 22. We agree that if any legal action is taken against the mediator or Fair Way the costs incurred by the mediator or Fair Way will be reimbursed by the party bringing the legal action.
- 23. We agree that clauses 20,21 and 22 are for the benefit of Fair Way and create rights and obligations enforceable by Fair Way as if Fair Way is a party to this agreement for the purposes of Part 2, Subpart 1 of the Contract and Commercial Law Act 2017.
- 24. We agree that if we have any concerns about the conduct of the mediator during the mediation, we will discuss those concerns with the mediator. If the concerns are not resolved, we will contact Fair Way by phoning 0800 604 373.

Without prejudice.

- 25. All parties reserve their respective rights should the mediation not result in a settlement being reached between them.

We have had this agreement explained to us by the mediator, we have read, understood and agree to the conditions of this agreement:

Landowner

Signature

Landowner

Signature

LINZ representative

Signature

Waka Kotahi representative

Signature

LARS mediator

Signature

Date:

Agreement to keep confidentiality of the mediation process.

- 26. People, who attend the mediation in a support role, will treat as confidential all written and oral communications as well as documents presented at or before mediation.
- 27. Any information, whether written or spoken, about what occurred in mediation is privileged and shall not be used for or against any party unless all parties agree.

The following persons attended the mediation and agree to abide by the above.

Signature

Other please specify:

Signature

Other please specify:

Signature

Other please specify:

Signature

Other please specify:

Signature

Other please specify:

Signature

Other please specify:

Signature

Other please specify: