

# FW: Decline of consent for right of entry for work at 102C Mellons Bay Road

Douglas Mitchell <Douglas.Mitchell@aucklandcouncil.govt.nz>

Tue 7/03/2017 11:53 a.m.

To: Viren Sharma <viren.sharma@terragroup.co.nz>;

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**From:** han jing [mailto:jinghan666@hotmail.com]  
**Sent:** Wednesday, 25 May 2016 10:11 a.m.  
**To:** John Kennedy; Douglas Mitchell; Veer Khar  
**Subject:** Decline of consent for right of entry for work at 102C Mellons Bay Road

**To:**

**Veer Khar**

**Team Leader Development Engineering**

**Auckland Council**

**CC**

**Douglas Mitchell**

**Senior Development Engineer**

**Auckland Council**

**John Kennedy**

**Team Leader**

**Resource consenting**

**Auckland Council**

**To whom maybe concern**

**I am the owner of 102C Mellons Bay Road .My husband Yu Wang and I would like to officially give the strongest objection to the right to entry and access into my property to do the construction regarding stormwater and wastewater work for 102A subdivision. We also have opposition to 100 further subdivisions.**

**The reason as followed:**

- 1. We aims to build a swimming pool or a basement within my back yard to increase the value of my property, we do an objection to have stormwater line and wastewater line come though my properties that will had maximum limitation for my future planning of the usage of my property.**
- 2. We disappointed that the owner of 102A was not getting any permission or consent from me and all other neighbours or notices us before to do the construction. All neighbours and me have concern where the heavy track and heavy machine access into and damaged the common driveway to the 102A to starting the construction. It is also dangerous to my son and all other neighbours's little kids when they are walking through the driveway during the day time.**
- 3. We also have to point out the potential risks and harmful to my property when the stormwater pipe and wastewater line go through underground my property which may result water leaking, blocking, emergency pipe bursting that many potential risks could be injure the foundation soil of my property.**

**We could like give the strongest objection for the construction of these underearths work go through my property as well.**

**4. There must be a "traffic jam" if the subdivision is going on. At the moment 100, 102, 102A, 102C (myself), 104 and 104A Mellons Bay Road are sharing one common driveway. There are 7 properties (or 8 households as 102A is occupied by two households) sharing a driveway already. To grant a further subdivision will bring the total of properties sharing the driveway to 8 (or 9 households).**

**5. We are all looking forward to a safe environment, a safe access for our properties. Also at the same time, the potential subdivision should not impact the value of our properties and the potential further development within my own property.**

**Best regards**

**Yu Wang and Jing Han**

When an earthquake happens don't wait, move to higher ground.

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**NOTICE ON INTENTION TO CONSTRUCT A DRAIN ON PRIVATE LAND, LOCAL  
GOVERNMENT ACT – SECTION 460**

6 May 2016

J Han and Y Wang  
102C Mellons Bay Road  
Mellons Bays  
Auckland

***Re: Right of Entry Consent, 102C Mellons Bay Road, Mellons Bay, Auckland***

Auckland Council intends to install a new stormwater line and a wastewater line in the properties at 102A Mellons Bay Road through to 102C Mellons Bay Road. These lines will service the new properties at 102A Mellons Bay Road.

This work will involve installing a new manhole for stormwater at 102A Mellons Bay Road and a 180mm pipe through to the existing public manhole at 102C Mellons Bay Road. The wastewater will be connected to the existing public manhole at the boundary of 102C Mellons Bay Road. The majority of this work will require thrusting. When completed, all surface work areas will be fully reinstated.

The proposed works are shown on the accompanying plans (of which copies are enclosed).

Council must follow the provision of the Local Government Act/1974 in order to confirm access to the above mentioned land to undertake the works. You are recorded as the registered owner of property, Lot 2 DP358680, and therefore the Council is required to give this notice to you.

Should you wish to voluntarily consent to the proposed drainage works on 102A Mellons Bay Road being installed, then please sign and return copies of the attached plans. A stamped address envelope is enclosed for this purpose.

Within a calendar month from the date this notice is served, you may give the Council a written objection to the proposed works at its office at Auckland Council, Level 4, Kotuku House, Private Bag 92-300, Auckland, (referenced to Doug Mitchell, Senior Development Engineer, Auckland Council) on receipt of which council will appoint a day for a hearing.

You will be given reasonable notice of the day, time and place of the hearing so as to enable you to attend. In the event a formal written objection is not received, it will be considered that you have no objection and you consent to the proposed work within your property.

This notice is given under section 460 of the Local Government Act 1974. A copy of this provision is attached for your reference.

In the event you require further information, please contact Doug Mitchell, Ph 301-0101 extension 41-8894, email; [douglas.mitchell@aucklandcouncil.govt.nz](mailto:douglas.mitchell@aucklandcouncil.govt.nz)

Yours sincerely

Veer Khar  
Team Leader Development Engineering  
Auckland Council

Databases > Local Government > Local Government Key Legislation > Local Government Act 2002 and 1974 Act Provisions Still in Force > Local Government Act 1974 > [Part 26 Sewerage and stormwater drainage by territorial authorities > Private drains > [460 Construction of private drains through adjoining premises



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## Local Government Act 1974

### [460 Construction of private drains through adjoining premises

- (1) Where, in the opinion of the council, the only practical route of any new private drain is through one or more adjoining premises, and any owner or owners of any of those premises will not consent to its construction, the council may, pursuant to a resolution in that behalf, of which notice shall be given to the owner or owners withholding his or their consent as aforesaid, enter upon his or their premises and execute, provide, and do all or any of the works, materials, and things which the council considers necessary, in order that the drain shall be laid in an efficient manner.
- (2) Before passing a resolution under subsection (1) of this section, the council shall give to every owner refusing his consent as aforesaid an opportunity to be heard before a committee of the council.
- (3) The cost incurred by the council in carrying out the said work, including the payment of compensation for injurious affection to any premises through which the drain is laid, shall be payable by the council in the first instance, and may be recovered by it from the owner of the land to be served by the private drain; and section 465 of this Act shall apply with respect to the amount so recoverable as if it were an advance made by the council under section 463 of this Act.
- (4) If agreement cannot be reached between the council and any claimant for any such injurious affection, the matter shall be determined as if the work were a public work and the claim were a claim for injurious affection in respect thereof under [[the Public Works Act 1981]].]

#### History Note - Statutes of New Zealand

Part 26 (ss 440 to 469) was inserted, as from 12 December 1979, by s 2 Local Government Amendment Act 1979 (1979 No 59).

#### Commentary - Local Government - Key Legislation

##### **LO460.01 Injurious affection claims**

Compensation for injurious affection is available under s 63 Public Works Act 1981.

Databases > Local Government > Local Government Key Legislation > Local Government Act 2002 and 1974 Act Provisions Still in Force > Local Government Act 2002 > Schedule 12 Conditions of constructing or undertaking works on private land without the owner's consent > 1



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## Local Government Act 2002

### Schedule 12

- 1** For the purposes of section 181(3)(b), the requirements are as follows:
- (a) a description of the works, accompanied by a plan (in the case of any works to be constructed), showing how they affect any land or building, must be deposited for public inspection at a place within the district in which the works are to be undertaken;
  - (b) the territorial authority must give notice in writing of the intention to construct the works (referring to a plan and description of the works and where the plan and description can be viewed)—
    - (i) to the occupier of the land or building unless there is no occupier or, after all reasonable steps have been taken, the occupier cannot be found; and
    - (ii) to the owner if known;
  - (c) however, if there is a change of occupier, it is not necessary to give notice to any subsequent occupier before the work is done;
  - (d) if, within 1 month after the notice is given, the occupier or owner serves on the territorial authority a written objection to the proposed works, the territorial authority must—
    - (i) appoint a day for hearing the objection; and
    - (ii) give to the objector reasonable notice of the day, time, and place of hearing so as to enable the objector to attend the hearing;
  - (e) the territorial authority must hold a meeting on the day appointed, and may, after hearing any person making any objection, if present, determine—
    - (i) to abandon the works proposed; or
    - (ii) to proceed with the works proposed, with or without any alterations that the territorial authority thinks fit.