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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.

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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.