

**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 1 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), 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 shall apply with respect to the amount so recoverable as if it were an advance made by the council under section 463.
- (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.

Compare: 1954 No 76 s 226; 1956 No 64 s 253

Section 460: inserted, on 1 April 1980, by section 2 of the Local Government Amendment Act 1979 (1979 No 59).

Section 460(4): amended, on 1 February 1982, pursuant to section 248(1) of the Public Works Act 1981 (1981 No 35).

**461 Further provisions with respect to private drains**

- (1) Where any private drain constructed with the consent of the owners of all the lands affected or constructed by the council pursuant to section 460 passes through or serves separately-

**Schedule 12**

s 181(3)(b)

**Conditions of constructing or undertaking  
works on private land without the owner's  
consent**

- 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.

- 2 A person who is aggrieved by a determination of the territorial authority under clause 1(e) to proceed with the works proposed (with or without alterations) may appeal to a District Court against the determination within 14 days after the date of the determination.
  - 3 Pending the decision of the court on the appeal, the territorial authority must not proceed with the works.
  - 4 On the hearing of the appeal, the court, whose decision is final, may confirm or amend or set aside the determination of the territorial authority.
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s 181(3)(b)

**Schedule 12****Conditions of constructing or undertaking works on private land without the owner's consent**

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