

PUBLIC WORKS AMENDMENT BILL

EXPLANATORY NOTE

SECTION 125 (5) of the Public Works Act 1928 requires a subdividing owner to submit to the local authority plans of the proposed roads or streets in the subdivision and to form those roads or streets to the satisfaction of the local authority. The general purpose of the section is to protect purchasers of subdivided land against protracted delays in bringing road and street surfaces on new subdivisions up to the accepted standard of the district, and it protects the ratepayers against being left with sub-standard roads and streets to be brought up to standard at the public expense. The local authority will not accept dedication of the roads or streets until the formation has been completed, and no dealing affecting the land can be registered until the local authority has certified that the owner has complied with all the requirements of the section.

The effect of the section is that, although houses may be completed on sections in a subdivision, title cannot be given until the roads or streets in the subdivision have been formed and dedicated, and this may result in considerable delay in cases where the subdivision is a large one and a great deal of road or street formation is required and where due to climatic conditions completion of the formation work (such as final coat and sealing) must be postponed until the summer.

The purpose of the Bill is to permit dedication to be completed, if the local authority is agreeable, on the subdividing owner binding himself to carry out the formation work within a period of two years, or such shorter period as the local authority specifies, supported by a guarantee by a bank or insurance company or by the deposit of money or securities to an amount equal to one and a quarter times the estimated cost of the work. This will enable the subdivisional plan to be deposited and title given to the sections in the subdivision. The interests of a purchaser are better served by getting earlier possession, while the proposed agreement can provide safeguards to ensure that roads and streets to satisfactory standards of construction will be completed as quickly as is reasonably possible.

Hon. Mr Goosman

PUBLIC WORKS AMENDMENT

ANALYSIS

Title.
1. Short Title.

2. Local authority may accept dedication where owner enters into contract to form roads, etc.

A BILL INTITULED

AN ACT to amend the Public Works Act 1928.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority
5 of the same, as follows:

1. This Act may be cited as the Public Works Amendment Act 1953, and shall be read together with and deemed part of the Public Works Act 1928 (hereinafter referred to as the principal Act).

Short Title.

See Reprint of Statutes, Vol. VII, p. 622

10 2. (1) Section one hundred and twenty-five of the principal Act is hereby amended by inserting after subsection five (as substituted by section twenty-four of the Public Works Amendment Act 1948) the following subsections:

Local authority may accept dedication where owner enters into contract to form roads, etc.

15 “(5A) Notwithstanding the provisions of subsection five of this section, the local authority may accept dedication of any such road or street and, for the purpose of subsection seven or subsection ten of this section, certify that the owner has complied with the
20 requirements of this section, where the owner has

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executed a deed, in a form prescribed by the Minister by notice in the *Gazette* or approved by the Minister in any particular case, binding the owner to carry out and complete the works required from him by the local authority pursuant to subsection five of this section 5 within a period of two years from the date of that certificate or within such shorter period as the local authority specifies (which shorter period may from time to time be extended by the local authority but not so as to extend beyond the said period of two years), and, as 10 security for the due carrying out and completion of the works by the owner,—

“(a) A bank or insurance company carrying on business in New Zealand has executed the deed as guarantor binding itself to pay to 15 the local authority, if the owner makes default in carrying out and completing the works, a sum equal to one and a quarter times the estimated cost of the works, as determined by the local authority; or 20

“(b) The owner has deposited with the local authority money or negotiable securities to the amount or value of one and a quarter times the estimated cost of the works as so 25 determined.

“(5B) Where pursuant to subsection five A of this section the owner has deposited money or negotiable securities with the local authority and is proceeding with the works, the local authority may from time to time, as the works proceed, repay or return to the owner 30 such portions of the money or securities as in the opinion of the local authority are commensurate with the cost of the completed portions of the works, but so that the balance of the money or securities for the time being retained by the local authority is not less than one and a 35 quarter times the estimated cost as determined by the local authority of the uncompleted portions of the works, and on the completion of the works the local authority shall return to the owner the money or securities then 40 remaining on deposit.

“(5c) Where the owner fails to complete the works within the prescribed or extended period, the local authority may enter on the subdivided land and complete the works, and may recover the cost thereof from the
5 owner or out of any money or securities deposited with the local authority or money paid by the guarantor, so far as the money or securities will extend, and on the completion of the works any money or securities remaining in the hands of the local authority after
10 payment of the cost of the works shall be returned to the owner or guarantor, as the case may be.”

(2) This section shall be deemed to have come into force on the *first* day of *July*, nineteen hundred and fifty-three, and all deeds executed and dedications
15 accepted and certificates given on or after that date which would have been valid if this section had then been passed are hereby validated and declared to have been lawfully executed, accepted, and given.