

Drainage Easements

– rights and responsibilities

Frequently asked questions

What is a drainage easement?

A drainage easement is a defined area of land that gives someone the legal right to use someone else's land for a specific purpose even though they are not the land owner. The easement may restrict the owner from using that part of their land in certain ways. Easements are usually but not always registered on the Title to the property. The purpose of registering an easement over land is to show on the public record that an easement exists.

Why are drainage easements needed?

Drainage easements are often created to enable services such as water or sewerage to be constructed and then accessed in the future for inspection, maintenance, repair or replacement.

What happens once the easement is created?

Once the easement is created it will be registered on the Title of the property. The easement may restrict future use of the land where the easement is located.

What are the implications of a registered drainage easement?

Once registered on the property Title, authorised officers are able to use and access the drainage easement for construction, inspections, maintenance, repair or replacement. Reasonable care is taken when gaining access to and using the easement.

Can I build over an easement?

If you own a property with an easement or Council drain you are required to obtain consent before building over the easement or near the Council drain. To receive consent, a Build Over Easement application is required to be filled out in order for the proposal to be assessed.

What happens once I have approval to utilise an easement on another person's land?

Before you enter another person's land you need to have their agreement. You can just speak to the owner or your neighbour, if that is the case, and verbally agree but it is a good idea to get their agreement in writing. When talking with your neighbour, consider their point of view and accommodate any differences. If discussions with your neighbour do not result in consent, then you may need to seek mediation.

This information is provided as a summary of information about drainage easements. It is not intended to be comprehensive nor does it constitute legal advice. We attempt to ensure the information is current, but we cannot guarantee its currency. You should seek independent legal advice before acting or relying on any of this content.