
Topic 12: Statutory easements

A lot owner is usually required to obtain the authority of the body corporate before work is carried out on common property for the benefit of their lot. However, the *Land Title Act 1994* provides for easements that exist for the benefit of lot owners and the common property. These easements are known as 'statutory easements'. Statutory easements cover a number of situations, including easements for support, easements for supplying a utility service and easements for shelter.

The statutory easements establish a lot owner's rights against other lots and common property in the scheme, such as the supply of utility services.

Example—

The hot water service for a lot is located on the ground floor of the common property. The pipe from the hot water service travels up the building and eventually through the concrete slab separating a first floor unit from the lot owner's second floor unit. A plumber has traced a water leak to the pipe in the dividing slab. It is impractical and expensively prohibitive to jackhammer the slab in order to fix the leak. The statutory easement would allow the lot owner to re-route the pipe either over the common property or through another lot to re-establish a reliable supply.

Important note: Rights under a statutory easement must not be exercised in a way that unreasonably prevents or interferes with the use and enjoyment of a lot or common property (A. s68).