



Developers: Don't Let Easements Derail Your Project

When acquiring a development site, one of the most overlooked yet critical hurdles is dealing with easements. These hidden legal constraints can drastically affect site layout, construction feasibility, and even project viability.

Data doesn't lie: Disputes are up, so are costs

Easement disputes are no longer rare blips, they're increasingly the battleground of development delays and legal cost blowouts. Recent data reveals about 12% of NSW property deals encounter easement-related issues, with 7% escalating to litigation.

Here are a few tips and tricks for navigating easements early and smartly.

1. Start with a title search

Before you fall in love with a site, request a full and current title search. Easements are typically registered on the title and ignoring them could be an expensive oversight. A current search ensures you're seeing the latest position, capturing any newly registered or pending proposals for easements or covenants that may not have existed in earlier versions.

2. Get a contour and services plan

Understand how the easement physically affects the land. Is it for drainage? Power? Water? Overlay this with your concept plans to spot conflicts early.

3. Don't assume it's moveable

Many developers assume easements can simply be relocated or removed. In reality, modifying or extinguishing an easement requires consent from the beneficiary (often a council or utility provider) which is not guaranteed.

4. Negotiate like it's mission critical

Fair compensation, ironclad terms, and clarity about permitted works may be the difference between smooth completion and a last-minute injunction.

5. Proactive legal engagement

Don't reserve legal advice for disputes. Get your specialist property lawyer involved before negotiating with neighbours or drafting contracts.

6. Document everything

If you do get consent to build near or over an easement, ensure it's in writing. From initial approaches to neighbours through to final registration, create a forensic trail of every discussion and decision.

7. Registration

Registering an easement isn't a rubber-stamp process. Developers report months long delays as they navigate everything from land survey dramas to public interest assessments for easements over Crown or infrastructure

land. Mistakes or shortcuts in the process can and do lead to rejected DAs, stalled settlements, and worst of all, court orders undoing months or years of planning.

8. Consider title insurance

Title insurance can provide protection against unforeseen or unregistered easements, boundary issues, and legal defects that could affect your right to develop. It's especially valuable on complex sites or tight timelines.

Pro tip

Easements don't always kill deals, but they do demand respect. The earlier you investigate them, the more control you have over outcomes and cost blowouts.

More information

For further details on construction law insights and legal case notes, visit [Construction Legal Insights](#).