

Access Lots

An access lot is defined in s2 Property Law Act 2007 as a separate allotment in a subdivision that was created to provide access from all or any allotments of the subdivision to an existing road or street. They are often created by way of amalgamation condition in subdivisions.

I have however, sometimes noticed Resource consents requiring some provision be made for the provision of the maintenance of access lots in a new subdivision.

Section 298 Property Law Act 2007 is a relatively new provision. It confers the same implied rights to pass and re-pass on the registered proprietors of access lots as would apply to grantors and grantees of a vehicular right of way as set out in clause 1 of Schedule 5. Also the rights set out in clauses 2 (right to establish and maintain driveway) and 3 (right to have land restored after completion of work) of Schedule 5 apply as between those proprietors.

Despite the new provision, I still recommend to my clients that rights of way be created over access lots because if they are not created, a party searching a title containing an access lot may not be aware that the new provisions apply to it because there will be nothing on the title to bring this to their attention.

If an Easement Instrument is registered containing rights of way, then a memorial will appear on the title to indicate to all people that certain rights and obligations attached to the access lot.



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