

MEDIA RELEASE

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Legal Researchers Provide Right of Way

The Tasmanian Law Reform Institute has today recommended that the Resource Management and Planning Appeals Tribunal have the power to decide easements disputes.

A change to dispute resolution procedures is one of 14 recommendations contained in the final report, *Law of Easements in Tasmania*, aimed at simplifying the law of easements in Tasmania, particularly rights of way.

TLRI Senior Lecturer, Lynden Griggs, said the report's recommendations clarified the uncertainty over easements, while providing cheaper, easier and simpler processes to resolve disputes, particularly among neighbours.

Mr Griggs said the report, funded by a Law Foundation of Tasmania grant, highlights that reform was necessary as access to justice was expensive and untimely.

“To address these concerns, the report recommends that the parties involved in disputes about the creation and use of easements, be directed to participate in alternative dispute resolution, specifically mediation, before commencing proceedings in the court system,” Mr Griggs said.

“Where appropriate, the Tribunal can also adjust the property rights of parties and award compensation, in cases where mediation is not effective.”

The final report was delivered following feedback from the public after the release of last year's Issues Paper. Concerns were raised over costly legal battles, unresolved disputes, confusion about easement laws, and frustration over the lack of reform.

“Good neighbourly relations can be destroyed if the expectation of the dominant and servient owner in respect to easement use differs greatly,” Mr Griggs said.

“It is hoped that a clearer delineation of when and how an easement can be used will eliminate much of the disputes that currently occur.

“A key recommendation of the Report is that the law concerning access to easements be clarified. In addition, the Institute recommends that educational material be produced to promote public understanding of rights and obligations of land owners in relation to easements.”

The full report can be downloaded from www.law.utas.edu.au/reform/

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