

**LEGAL SERVICES PRECEDENT DOCUMENT**

**ACCESS**

**NOTES**

* Access on foot or with vehicles (not suitable as a public access easement)
* For access only, does not permit carrying out of works – other than for construction, maintenance and repair of access
* Requires grantor to maintain surface of easement area
* Remove this page prior to completion

VERSION 2

DATE CREATED: 10/05/2024

LAST REVIEWED 20/03/2025

QUEENSLAND TITLES REGISTRY **EASEMENT Form 9** Version 4

Land Title Act 1994 and Land Act 1994 *Duty Imprint* Page 1 of 7

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| --- | --- | --- | --- |
|  | *Dealing Number* |  |  |
|  | Barcode Black OFFICE USE ONLY**Privacy Statement**Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department’s website. |  |  |
| **1. Grantor** [Name of registered owner of burdened land] | **Lodger** (Name, address, E-mail & phone number)**Tel**: **Ref**:                      | **Lodger****Code** |
| **2. Description of Easement/Lot on Plan** Servient Tenement (burdened land) [Description of burdened land from survey plan, eg Easement A in Lot xx on SP xxx on SP xxx] |  | **Title Reference**[title reference (burdened land)] |
|  \*Dominant Tenement (benefited land) Lot XX on SP XXXX\* not applicable if easement in gross |  |  |
| **3. Interest being burdened** Fee Simple | \***4. Interest being benefited** Not applicable\* not applicable if easement in gross |
| **5. Grantee** Given names  | Surname/Company name and number[Name of Grantee] | (include tenancy if more than one) |
| **6. Consideration** $1 | **7. Purpose of easement** ACCESS |

**8. Grant/Execution**

The Grantor for the above consideration grants to the Grantee the easement over the servient tenement for the purpose stated in item 7 and the Grantor and Grantee covenant with each other in terms of the attached schedule

\* delete if not applicable

**Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994**

 signature

 full name

 qualification / /

**Witnessing Officer Execution Date Grantor's Signature**

(Witnessing officer must be in accordance with Schedule 1
of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

 signature / /

 full name

 qualification / /

**Witnessing Officer Execution Date Grantee's Signature**

(Witnessing officer must be in accordance with Schedule 1
of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

# Definitions

## Definitions

In this easement, unless the context otherwise requires:

**Authorised Users** means those persons or entities deriving a right to occupy or use the Servient Tenement by permission or authorisation of the Grantee or Grantor as the context requires.

**Dominant Tenement** means the land described at Item 2 of the Form 9 Easement.

**Easement** means the Form 9 Easement to which this Schedule is attached the terms and conditions contained therein and the Servient Tenement.

**Government Authority** means the State, a Minister, a Government, a Government Department and government owned or controlled corporation or authority (acting in a regulatory role), a local government, a Court, Tribunal or Board or any officer or agent of them acting in their capacity as an officer or agent.

**Grantee** means the registered owner from time to time of the Dominant Tenement and includes their successors and assigns and all persons permitted or authorised to use the Easement by the Grantee.

**Grantor** means the registered owner from time to time of the Servient Tenement and includes their successors and assigns and all persons deriving an interest in the Servient Tenement through the Grantor.

**GST** has the meaning set out in the *GST Act*.

**GST Act** means the *A New Tax System (Goods and Services Tax) Act* 1999 (Cth) or an Act of the Parliament of the Commonwealth of Australia substantially in the form of, or which has a similar effect to, the *GST Act*.

**Servient Tenement** means the land described as such in Item 2 of the Form 9 Easement.

## Interpretation

In this Easement, unless the contrary intention appears:

### the singular includes the plural and vice versa;

### a reference to a thing or to land includes each part of that thing or land; and

### a reference to a person includes to a corporation or other legal entity as the context requires and includes executors, administrators, successors and assigns;

### a reference to any body (for example, an institute, association or authority) that ceases to exist or whose powers or functions are transferred refers to the body that replaces it or substantially succeeds to its powers or functions;

### a reference to a law or legislation includes all regulations and other instruments under it and amendments or replacements of any of them; and

### an obligation, representation or warranty:

#### in favour of two or more persons is for their benefit jointly and severally; and

#### by two or more persons binds them jointly and each of them severally.

# Grant of Easement

## Right of Access

The Grantor grants to the Grantee the right to pass and repass over the surface of the Servient Tenement for the purpose of gaining access to and from the Dominant Tenement and any other purpose reasonably associated with the use and enjoyment of the Dominant Tenement.

## Conditions Applying to Right

The rights granted under this Easement:

### may be exercised by the Grantee and the Grantee’s Authorised Users;

### may be exercised at any time;

### may be exercised by persons on foot, personal mobility devises or in vehicles of any kind, with or without plant, machinery, equipment, materials, tools or other chattels; and

### are subject to the right of the Grantor and other persons lawfully entitled to occupy and enjoy the Servient Tenement from time to time, to use or continue to use the Servient Tenement in any way which does not derogate from the rights granted under this Easement.

## Grantee’s Ancillary Rights

## In exercising its rights under clause 2.1, the Grantee and the Grantee’s Authorised Users will be entitled to:

### pull down, break open or relocate any fence, wall, other barrier or thing on the Servient Tenement restricting or interfering with the Grantee’s enjoyment of the Easement; and

### enter and remain upon the Servient Tenement to construct, repair and maintain on the Servient Tenement a formed access, of a trafficable standard to be determined by relevant authority and in the absence of any specific requirement as determined by the Grantee, gates and ancillary works as the Grantee considers reasonably necessary to facilitate the rights granted by the Easement.

## No Interference by Grantee

In exercising the rights granted under this Easement the Grantee must take all reasonable steps to ensure that the Grantee and any Authorised Users do not:

### interfere with the use and enjoyment by the Grantor of the Grantor's adjoining land; or

### interfere with the provision of services to the Grantor's land.

## Maintenance and Repair

The Grantee must:

### repair any damage caused by the Grantee or the Grantee’s Authorised Users to both the Servient Tenement and the Grantor’s adjoining land; and

### maintain and repair any improvements constructed or placed on the Servient Tenement by the Grantee,

###  but nothing in this clause obliges the Grantee to repair damage:

### to improvements constructed or placed on the Servient Tenement contrary to clause 3.1; or

### to any road, path or other improvement not constructed by the Grantee pursuant to clause 2.3(b); or

### caused by the negligent act or omission of the Grantor or the Grantor’s Authorised Users.

# Grantor's Obligations

## No Obstruction

The Grantor must not (and must not permit any other person to):

### construct any improvements on the Servient Tenement without the prior written consent of the Grantee; or

### otherwise obstruct or permit any obstruction of the Servient Tenement in any way which may prevent or unreasonably restrict the Grantee’s exercise of its rights under this Easement.

## Grantor to Maintain

The Grantor must:

### repair which includes renew and replace any surface constructed by the Grantee for the purpose of enjoying the right conveyed by the Easement (including any roads and paths) and any other improvements on the Servient Tenement (for example gates or fences) any damage caused by the action or inaction of the Grantor or any person authorised or invited to use the Servient Tenement by the Grantor;

### maintain the support of the land comprising the Servient Tenement; and

### keep the Servient Tenement in a clean and tidy condition by regular inspection, cleaning, removal of rubbish and vegetation and maintenance of landscaping.

However, the obligations of the Grantor to maintain the Servient Tenement under this clause do not apply to anything constructed by the Grantee under clause 2.3.

## Grantee may Remedy Breach

If the Grantor breaches clause 3.1 or 3.2, the Grantee may:

### carry out works or take such other steps as are reasonably necessary to remedy the breach and enable the Grantee to fully enjoy the benefit of this Easement; and

### recover the costs of doing so from the Grantor as a debt.

# release and indemnity

## Indemnity by Grantor

The Grantor indemnifies the Grantee against all actions, claims, demands, loss, damage, costs and expenses (“Claim”):

### arising from a breach of this Easement by the Grantor; or

### in any way connected to or resulting from the Grantor or the Grantor’s permitees or invitees accessing the Grantor’s land, passing over the Servient Tenement or lawfully exercising any rights conferred by the Easement,

### except to the extent caused or contributed to by the wilful or negligent act or omission of the Grantee or the Grantee’s Authorised Users.

## Indemnity by Grantee

The Grantee indemnifies the Grantor against all actions, claims, demands, loss, damage, costs and expenses (“Claim”):

### arising from a breach of this Easement by the Grantee; or

### in any way connected to or resulting from the Grantee or the Grantee’s Authorised Users accessing the Servient Tenement or lawfully exercising any rights conferred by the Easement,

### except to the extent any such Claim is caused or contributed to by the wilful or negligent act or omission of the Grantor.

## Mutual Release

The Grantor and Grantee mutually release and discharge the other party to the full extent the law permits from any and all Claims relating to the use of the Servient Tenement by the other party and their Authorised Users save to the extent any such Claim is caused or contributed to by the wilful or negligent act or omission of the other party or their Authorised Users.

# Registration and Costs

## Easement to Run with the Land

This Easement and all of the rights and obligations contained herein runs with the land and is binding on the Grantor and any lessee or other occupier of the Grantor’s land containing the Servient Tenement.

## Registration

1. The Grantor must promptly following execution by the Grantor and Grantee and on receipt from the Grantee of registration fees and any stamp duty assessed on the Easement attend to stamping and registration of this Easement.
2. The Grantor must, at the Grantor’s cost, produce all consents, approvals and other documents required to enable registration and to provide indefeasibility of this Easement against any prior registered interests in the Servient Tenement.

## Duty and Registration Fees

### Unless agreed otherwise in writing with the Grantor, the Grantee must pay all duty, registration fees and survey costs of and incidental to the preparation, execution and registration of this Easement in the Land Titles Office.

### The Grantor will be responsible for the cost of obtaining all consents required to register the Easement.

# GST

### If GST is payable by a supplier (or by the representative member for a GST group of which the supplier is a member) on any supply made under or in relation to this document, the recipient will pay to the supplier an amount (**GST Amount**) equal to the GST payable on the supply. The GST Amount is payable by the recipient in addition to and at the same time as the net consideration for the supply, subject to receipt of a tax invoice.

### If a party is required to make any payment or reimbursement, that payment or reimbursement will be reduced by the amount of any input tax credits or reduced input tax credits to which the other party (or the representative member for a GST group of which it is a member) is entitled for any acquisition relating to that payment or reimbursement.

### This clause is subject to any other specific agreement regarding the payment of GST on supplies.

### For the purposes of this clause, words and phrases defined in the *GST Act* have the same meaning when the context indicates otherwise.

# Nature of Obligations

### Any provision in this Easement which binds more than one person, binds all of those persons jointly and each of them severally.

### Each obligation imposed on a party by this Easement in favour of another is a separate obligation. Unless specified otherwise, the performance of one obligation is not dependent or conditional on the performance of any other obligation.

# No Adverse Construction

This Easement, and any provision of this Easement, is not to be construed to the disadvantage of a party because that party was responsible for its preparation.

# Further Assurances

A party, at its own expense and within a reasonable time of being requested by another party to do so, must do all things and execute all documents that are reasonably necessary to give full effect to this Easement.

# Entire Agreement

This Easement comprises the entire agreement between the parties.

# Waiver

No waiver by either party of any breach of any covenant, obligation or provision in this Easement contained or implied will operate as a waiver unless such waiver is in writing and no waiver by either party of any breach shall operate as a waiver of another breach.

# Severance

If any part of this Easement is held to be invalid, illegal or unenforceable by a Court having the jurisdiction to do so, that part is considered to have been severed from the rest of this Easement which remains in force unaffected by severance of that part.

# No Variation

This Easement cannot be amended or varied except in writing signed by the parties.

# Notices

A notice to be given under this Easement must be in writing and is treated as being properly given if:

### it is served personally on a party; or

### it is delivered or sent by prepaid post to an address which is the principal place of business or residence of a party; or

### it is sent by email to the email address provided by a party.

# Governing Law

### This Easement is governed by and shall be construed in accordance with the laws of Queensland and applicable Statutes.