

Preparation checklist *Form 9* — *Easement (in gross)*

This checklist contains general information to assist practitioners complete a basic easement in gross. It is not intended to be a complete guide. For further information about the requirements of a *Form 9* — *Easement (in gross)*, refer to Part 9 of the Land Title Practice Manual available at <https://www.titlesqld.com.au/manual-guides/land-title-practice-manual/>.

Items

Item 1

- Do the grantor and the registered owner on the title to the burdened lot agree?

Item 2

- Do the servient description and the easement description on the survey plan agree and is shown as — for example Easement [identifier] on SP[plan number]. For the whole of the land insert the full description of the lot.
- Is the dominant tenement completed with 'Not Applicable'?

Item 3

- Is the interest being burdened shown — for example Fee simple, State Tenure, Unallocated State Land?

Item 4

- Is the interest being benefitted shown as 'Not Applicable'?

Item 5

- Is the Grantee a **public utility provider** as defined in s. 81A of the *Land Title Act 1994*?

Item 6

- Is the consideration fully expressed? **Note:** Nil is not a valid consideration.

Item 7

- Is the purpose listed in s. 89(2)(a) of the *Land Title Act 1994*?
- Do the easement purpose and the covenants in an attached schedule or standard terms document agree?

Item 8

- Are the non-applicable clauses deleted?
- Is the form signed and dated by all parties?
- If executed under a power of attorney, is the attorney clause included, showing the principal's name, the attorney's name or the attorney's position and the Queensland registered power of attorney number?
- If executed under a common seal, is it legible and capable of being copied?

- If a company has executed without a common seal, are the company name and ACN/ARBN shown?
- Are the designations of the signatories for a company shown?
- Is the witness qualified in accordance with Schedule 1 of the *Land Title Act 1994* and their full name shown?

Form and evidence

- Have the correct form and version been used?
- Are details of duty noted?
- Are the lodger's details shown?
- Are all pages numbered consecutively?
- Is a survey plan required to be lodged prior to lodgement of the easement document?
- Does the preceding survey plan identify the easement as 'proposed'? **Note:** if 'proposed' is not shown, the easement document must be lodged).
- Is the consent of a lessee on a *Form 18—General Consent* required to be deposited?
- Is a court order required to be deposited?
- Are there restrictive covenants?
- If State tenure, is the Minister's approval deposited and all requirements satisfied?

Easement involving a body corporate

- If executed by the body corporate, is the execution under the seal of the body corporate and dated?
- Is the name in the body corporate seal in accordance with s. 33(1) of the *Body Corporate and Community Management Act 1997*?
- Is the body corporate seal legible and capable of being copied?
- Are the designations of the signatories shown?
- If executed by other than two members of the committee — one of which must be the chairperson or secretary (secretary or treasurer for small schemes) — is a copy of the authorising resolution, certified by a committee member, deposited? See part [45-2060] of the Land Title Practice Manual for information relating to execution by a body corporate of a Specified Two-lot scheme.
- Is the certified copy of the resolution from the body corporate for a community titles scheme deposited (see s. 155 of the *Body Corporate and Community Management Act 1997*)?