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 www.business.qld.gov.au/industry/titles-property-construction/titles-property/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?
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☐ 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 LTPM 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)?