

Guidance Notes – Transfer and Grant of Easement

These guidance notes are of a general nature and are not intended to, and cannot, replace the advice of a Legal Practitioner.

The purpose of this application is to create a new easement over land by a deed. For more information on easements refer the Chapter 44 of the Practice Manual.

This guidance note is to be read in conjunction with the Verification of Authority Guidelines and Verification of Identity Rules on the [Access Canberra website](#).

All panels must be completed in full. If an annexure is required, use form ANN-Annexure. If more than one page is required in the annexure these pages shall be numbered consecutively and bound to this document by staples along the left margin.

All handwriting must be clear, legible and in black ink.

Any alteration to information provided on this form must be struck through with a black pen. Substitute information must be clear, and all parties must sign in the margin. Do not use correction fluid or tape.

The Registrar-General may refuse to accept any instrument that does not comply with the *Land Titles Act 1925* or these notes.

PRIVACY NOTICE

The collection of personal information in this form is required by law under the *Land Titles Act 1925*, to ensure accurate and legal transfer of title or registration of other interests relating to land and for maintaining publicly searchable registers and indexes. Personal information collected on this form will be handled in accordance with the Territory Privacy Principles in Schedule 1 of the *Information Privacy Act 2014*. More detailed information about how Access Canberra handles this personal information is available at: <https://www.act.gov.au/acprivacy>

LODGMENT INFORMATION

Access Canberra - Dickson Service Centre, 480 Northbourne Avenue Dickson ACT
Opening hours – Monday to Friday 9:00am to 5:00pm
(excluding public holidays)

Lodgment fees apply.

CONVEYANCE DUTY

Please contact the [ACT Revenue Office](#) for the requirements of Conveyance Duty (commonly known as Stamp Duty)

A Buyer Verification Declaration or Seller Verification Declaration is not required for this form.

COMPLETION OF FORM

LODGING PARTY DETAILS

The lodging party needs to complete all fields. The Customer Reference Number is only required for approved subscribers who have a lodgment account to the ACT Land Information System. If the lodging party does not have a lodgment account, this field can be left blank. The lodging party will receive a Registration Confirmation Statement by email upon registration of the document to the provided email address.

TITLE AND LAND DETAILS SERVIENT TENEMENT/GRANTOR

Legal identifier of the land is to be supplied of the servient tenement the person burdened by the easement. To assist with suburb, section, and block, visit actmapi.act.gov.au

TITLE AND LAND DETAILS DOMINANT TENEMENT/GRANTEE

Legal identifier of the land is to be supplied of the Dominant tenement the person benefiting by the easement. To assist with suburb, section, and block, visit actmapi.act.gov.au

FULL NAME AND ADDRESS OF APPLICANT/GRANTOR/SERVIENT TENEMENT

Full legal name of grantor as is on title and postal address. If the title is in a company name, the ACN is required.

FULL NAME AND ADDRESS OF GRANTEE/DOMINANT TENEMENT

Full legal name of grantee as is on title and postal address. If title is in a company name, the ACN is required

TYPE OF APPLICATION

Complete in full description of type of easement being created e.g. right of way or overhang.

DETAILS OF APPLICATION

Servient tenement/Grantor is the applicant and must complete in full that they apply for a transfer and grant of easement. Must describe the easement and attach an approved plan.

An original Easement Plan must describe the location of the easement. Each Easement Plan needs to be site specific and should be prepared in accordance with Surveyor-General Guideline No. 20 - Standards and Specifications for the preparation of Easement Plans and should be prepared and signed by a Registered Surveyor.

Easement Plans should be prepared on A4 size paper. Colour should not be used in the preparation of easement Plans. Hatching, striking and pecked lines can be used to identify areas within the plan. A legend should be on the supporting Easement Plan to clearly define any hatched or pecked areas.

CONSENTING PARTY – SUPPORTING DOCUMENT

If the Servient tenement/Grantor has a registered mortgage on title, then mortgagee consent must be provided by using form number 042 – C - Consent to Register.

RECITAL DOCUMENTS

Must attach the recital document to application. Recital is the deed that transferring or granting the easement. This deed can be original or certified copy and must be signed by all parties.

DATE

The required date is when the Servient tenement/Grantor agreed to the transfer of grant of easement.

CERTIFICATION

Certifications are statements made by a Certifier that they have undertaken a specific action prior to lodging the Registry Instrument to the Land Titles Office. A Certifier must provide the required Certifications when signing Registry Instruments or other Documents and provide the Certifications required for the role they are undertaking.

All parties must execute the document under certification.

Certification statements (dot points) must be made by the certifier, being one of the following:

- a. **A legal practitioner**
- b. **If the applicant is not represented by a legal practitioner – the applicant (i.e. self- represented party)**
- c. **If a party to an instrument is not represented by a legal practitioner – that party (i.e. self-represented party)**

Any inapplicable certification statement(s) must be deleted.

All certification statements apply where the certifier is a legal practitioner.

By certifying this form, the legal practitioner acknowledges they have taken reasonable steps to verify that their client or his, her or its administrator or attorney is a legal person and has the right to enter the conveyancing transaction.

The first two listed certification statements do not apply where the Certifier is a self-represented party. Self-represented parties are only required to make certifications relating to retaining evidence to support the registry instrument or document and ensuring the registry instrument or document is correct and compliant with relevant legislation and any prescribed requirement.

A self-represented party must have their identity verified and certified by an Identity Agent, Justice of the Peace, Legal Practitioner, or Notary Public and provide evidence to be able to transact on the land as outlined in the self-represented party pack found [here](#). Self-represented parties must sign in the certification panel and have that signature witnessed by the authorised person completing the verification of or by an adult over the age of 18 who is not a party to this document. A completed self-represented party pack is to accompany the application at time of lodgment.

Note: - An attorney, body corporate or a corporation cannot make certification statements. They are required to complete the form as a self-represented party.

SUPPORTING DOCUMENTS

- Easement Plan
- Recital
- Consent from servient tenement/grantors mortgagee if a registered mortgage is on title.

EVIDENCE TO BE LODGED FOR SELF-REPRESENTED

If you are a self-represented party, satisfactory evidence is to accompany this application. Evidence may include but not limited to:

- A completed Self-represented party pack including identity certification, documents used to verify identity, and documents linking the applicant to be able to deal on the property; and

- Annexures or attachments supporting the lodgment.

EVIDENCE TO BE RETAINED BY LEGAL PRACTITIONERS AND MORTGAGEE CORPORATIONS

Any evidence to support verification of identity carried out by a legal practitioner or mortgagee corporations, must be retained:

- (a) by the Legal Practitioner for at least 7 years from the date of lodgment of the Registry Instrument in the Land Titles Office;
- (b) by the mortgagee until they cease to be mortgagee in respect of the mortgage.

Evidence is required to be retained in order to demonstrate that the transaction was completed in accordance with legislative and other requirements and the certifications required were accurately made. Evidence may be required to be provided to the Registrar-General for the purpose of monitoring compliance with legislative and other requirements. The evidence must be legible, stored safely and securely, and accessible and may include:

- Client Authorisation
- Verification of identity
- Right to deal
- Other Prescribed Requirements; and
- Any evidence required by the Duty Authority.

Have a question or need assistance? Click the Contact us form button at the end of the [ACTLIS](#) home page or you can call this office on (02) 6207 0491