

**LEGAL SERVICES PRECEDENT DOCUMENT**

**EASEMENT IN GROSS - DRAINAGE**

**NOTES**

* Easement in Gross for Drainage purposes of all kinds including Drainage Works
* Permits to convey stormwater and conduct drainage works if required
* Requires Grantor to maintain surface of Easement Area Grantee to maintain drainage infrastructure
* Remove this page prior to completion

VERSION 1

DATE CREATED: 25/11/2024

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

Land Title Act 1994 and Land Act 1994 *Duty Imprint* Page 1 of 4

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|  | | *Dealing Number* | | | | |  | | | | |  | |
|  | untitledOFFICE USE ONLY  **Privacy Statement**  Collection of information from this form is authorised by legislation and is used to maintain the publicly searchable records. For more information see the Department’s website. | | | | | |  | | | | |  | |
| **1. Grantor**  [Insert] | | | | | **Lodger** (Name, address, E-mail & phone number)  [Insert] | | | | | **Lodger**  **Code** | |
| **2. Description of Easement/Lot on Plan**  Servient Tenement (burdened land)  Easement [Insert] in Lot [Insert] on SP [Insert] on SP [Insert] | | |  | | | |  | | **Title Reference**  [Insert] | | |
| #Dominant Tenement (benefited land)  # insert “Not applicable” if easement in gross | | |  | | | |  | |  | | |
| not applicable | | |  | | | |  | |  | | |
| **3. Interest being burdened**  Fee Simple | | | | #**4. Interest being benefited**  Not applicable  # insert “Not applicable” if easement in gross | | | | | | | |
| **5. Grantee** Given names | | Surname/Company name and number | | | | | | (include tenancy if more than one) | | | |
|  | | TOWNSVILLE CITY COUNCIL  abn 44 741 992 072 | | | | | |  | | | |
| **6. Consideration**  One Dollar ($1.00) | | | | **7. Purpose of easement**  Drainage | | | | | | | |
| **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.  **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) | | | | | | | | | | | |

For and on behalf of **Townsville City Council**

1. **REFERENCES AND DEFINITIONS**
   1. **References**

Unless the contrary intention appears:-

1. References to a person include a corporation, partnership, incorporated association, body corporate, unincorporated body, instrumentality of the State and any statutory, public or local authority.
2. References to a corporation have the same meaning as in the *Corporations Act 2001*.
3. References to any statute or statutory provision include all consolidations, re-enactments and substitutions thereof all as amended from time to time and the regulations, by-laws and orders for the time being in force thereunder.
4. Words importing the any gender include all other genders.
5. Words importing the singular include the plural and vice versa.
6. This Easement is governed by the law of Queensland.
   1. **Definitions**
7. **Dominant Tenement** means the land described as such in Item 2 of the Form 9 in this Easement and includes any part of that land having the benefit of this Easement;
8. **Drainage Works** means surface drains and underground pipelines, earth works, bund walls, drains, pipelines, pump stations, structures, machinery and all appurtenant works for the passage of water and drainage and the redirection or containment of flood water, rain water, overland flow water etc. of all kinds and includes both Drainage Works existing on the Easement Area at the date of this Easement or constructed on it after this date.
9. **Easement** mean this Schedule and the Form 9 to which this Schedule is annexed and includes all annexures thereto.
10. **Easement Area** means the land described as the Servient Tenement and includes any part of that land subject to the burden of this Easement.
11. **Grantee** means the person named in Item 5 of the Form 9 in this Easement and includes the executors, administrators, successors and permitted assigns of the Grantee and persons authorised by the Grantee;
12. **Grantor** means the person named in Item 1 of the Form 9 in this Easement and includes the executors administrators successors and assigns of the Grantor from time to time;
13. **Servient Tenement** means the land described as such in Item 2 of the Form 9 of this Easement.
14. **EASEMENT FOR DRAINAGE**

The Grantee shall have full and free right and liberty at all times hereafter of using the Servient Tenement or any part or parts thereof for drainage purposes including without limitation the full and free right and liberty at all times to receive and convey under the surface or upon the Servient Tenement rainwater and drainage of all kinds, inclusive of stormwater runoff and overland flow whether flowing continuously intermittently or occasionally, by way of, or without, Drainage Works.

1. **DRAINAGE WORKS**
   1. The Grantee shall have the full and free right and liberty at all times hereafter to enter upon the Easement Area for the purposes of constructing and thereafter forever using maintaining repairing and replacing such Drainage Works as it deems fit from time to time and in so doing it shall have the right to:
2. construct, extend, deepen, widen, inspect, maintain and repair the Drainage Works;
3. replace any Drainage Works with new Drainage Works;
4. excavate sink shafts and remove and dispose of soil;
5. clear and keep clear the Easement Area by any means or method including cutting and removal of trees and undergrowth from the Easement Area;
6. construct and maintain on the Easement Area such access and other appurtenant works as the Grantee considers necessary for the constructions, repair and maintenance of the Drainage Works;
7. enter upon and remain, pass and repass on the Easement Area for all or any purpose aforesaid with or without vehicles plant and materials of any description whatsoever;
8. enter and exit to and from the Easement Area over such part or part of the Grantor’s land adjoining or adjacent to the Easement Area as the Grantee considers most convenient or necessary for the purpose of passing between the Easement Area and the most convenient point of entry to or exit from the Grantor’s land, whether adjoining a constructed road or not; and
9. do such other works and things through, across or in the Easement Area which are incidental to the proper exercise of the rights granted to the Grantee by this Easement.
10. **MAINTENANCE AND REPAIR**

The Grantee shall have the full right and liberty for the Grantee and persons authorised by the Grantee to enter on the Easement Area with or without workmen, materials and specialist services for the purposes of constructing, repairing, maintaining, renewing and replacing or removing any Drainage Works with the persons exercising such right causing as little damage and inconvenience as reasonably practicable in doing so and making good immediately any damage caused to the Easement Area**.**

1. **OBLIGATIONS OF GRANTOR**
   1. The Grantor and successors in title of the Easement Area must maintain the Easement Area and the surface constructed on it in good repair and condition and keep it mown where grassed, free from weeds and rubbish and unobstructed at all times.
   2. The Grantor must not:
2. interfere with, damage or place at risk the Drainage Works;
3. interfere with or obstruct the Grantee in the exercise of its rights and powers under this Easement;
4. erect or place any buildings, structures or trees on the Easement Area of any kind or make any additions or alterations to any buildings or structures located on the Easement Area at the date of Grant without first obtaining the written permission of the Grantee.
5. **COVENANT TO MAINTAIN AND PAY COSTS AND EXPENSES**

The Grantee will be responsible for payment of all costs and expenses reasonably incurred in respect of doing anything permitted or required to the Drainage Works pursuant to clause 3.1, the construction within the Easement Area other than in circumstances where repair or rectification of the Drainage Works is required as a result of loss or damage caused by the Grantor contravening the terms of this Easement or otherwise causing damage to the Drainage Works.

1. **FENCES**
   1. For the purpose of gaining access to the Easement Area:
2. the Grantee shall be entitled to pull down, break open or remove any fencing, wall, barrier or obstruction on or adjacent to the Easement Area; and
3. the Grantee must re-instate any fence, wall, barrier which has been damaged by the Grantee in the exercise of any of its rights pursuant to subclause (a) of this clause but in lieu of re-instating any such obstruction the Grantee may install a gate the quality of the materials and workmanship of which, except with the Grantor’s consent (such consent not to be unreasonably delayed or withheld) shall be not less than the materials and workmanship in the surrounding fencing. A gate so installed shall become the property of the Grantor and thereafter shall be maintained by the Grantor.
4. **NO WAIVER**

No term, covenant, condition or restriction herein expressed or implied will be deemed to have been waived by the Grantor or the Grantee either in whole or in part unless such waiver is in writing and signed on behalf of the Grantor or the Grantee as the case may be. Any such waiver will not affect or prejudice the rights or remedies of the Grantor or the Grantee as the case may be in respect of any future or other breach and (unless expressly so stated) will not amount to a general waiver of any provision hereof.

1. **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 the holding by the Court or by the severance of that part.

1. **GENERAL**
   1. Neither party shall be released from a liability arising from any antecedent breach under this Easement if that party ceases to be the registered owner of the whole or any part of the Dominant Tenement or Easement Area
   2. Unless inconsistent with the subject matter or context:

(a) the benefit of this Easement shall extend to and include the tenants, servants, agents, workmen, visitors, licensees and all other persons claiming through or under the Grantee as if each of those persons is the Grantee; and

(b) the burden of this Easement shall bind the Grantor’s personal representatives, successors and assigns.

* 1. If requested by the other, the Grantor and Grantee shall from time to time execute all deeds and other instruments and do all other things for further assuring to the Grantee the right intended to be conferred on the Grantee by this Easement.