

Document Type:	Conveyance of Land
Document Name:	Easement – Qualifying Land

## Introduction

This Document Guide Note explains how stamp duty is calculated on the:

- grant of an easement;
- extinguishment of an easement; or
- variation of an easement;

on [Qualifying Land](#) and this is pursuant to a transaction entered into on or after 7 December 2015.

Qualifying Land means land that is being used for any purpose other than:

- land that is taken to be used for residential purposes; and
- land that is taken to be used for primary production.

Stamp duty on an easement on residential land and primary production land (and [four](#) specific types of vacant land) remains unchanged.

The procedure is the same regardless of the form of the easement document, or the nature of the easement. An LTO Form RTC – Application for Deposit of a Plan of Division may transact several easements. Each easement transaction is self-determined separately.

Where statutory easements are created by a Deposited Plan and not by a dutiable document, there is no stamp duty liability.

## What documents can I self-determine under this document type?

The document can be in the form of:

- LTO Form RTC – Application for Deposit of a Plan of Division;
- LTO Form TG – Grant of Easement; or
- LTO Form VE – Application for Extinguishment / Variation of Easement.

## What types of transactions can I self-determine under this document type?

An easement is deemed **suitable** for self-determination under this document type where:

- the document grants, extinguishes or varies an easement;
- the easement is over Qualifying Land;

- the easement is pursuant to a transaction entered into on or after 7 December 2015; and
- the Grantor and Grantee are different persons.

These documents can be self-determined regardless of whether or not the parties are related.

The following similar transactions cannot be self-determined under this document type:

If the easement is over residential land or primary production land, refer to document type:

[Conveyance of Land | Easement](#)

If the grantor and the grantee are the same parties, refer to the document type:

[Not Chargeable | Easement – Same Parties, No Consideration](#)

## What evidence do I need to retain for audit purposes?

For audit purposes, you will need to retain the following documentation either in paper form or electronic form:

- a copy of the documents; and
- evidence that a stamp duty determination has been made (i.e. Certificate of Stamp Duty, Document ID or stamped document).

## What Section(s) of the *Stamp Duties Act 1923* applies?

- Section 60

## What stamp duty is payable on this document?

### For consideration

The document is chargeable with *ad valorem* conveyance stamp duty on either the **consideration** or **market value** of the interest being conveyed, WHICHEVER IS THE GREATER.

If the transfer is for no consideration, stamp duty is calculated on the **market value**.

If the transaction is *bona fide* arm's length transaction between unrelated parties then pursuant to Section 60A(2) the consideration will be treated as the market value of the land.

The relevant stamp duty reduction is applied:

Date contracted entered into	Stamp duty Reduction
on or before 6 December 2015	No reduction
Between 7 December 2015 and 30 June 2017	1/3 reduction
Between 1 July 2017 and 30 June 2018	2/3 reduction
From 1 July 2018	Full reduction

Application of the stamp duty reduction is based on the date of the Easement document or other conveying document.

## Examples

### Grant of easement for a consideration

Bill grants an easement to Sue over Qualifying Land for a consideration of \$500. This is a *bona fide* arm's length transaction between unrelated parties and was entered into on 5 July 2016.

Pursuant to Section 60A(2) the consideration may be accepted as the market value of the property being conveyed (i.e. the easement), and stamp duty is charged at the *ad valorem* conveyance rate on the consideration of \$500 (i.e. \$5 stamp duty less the relevant Qualifying Land reduction).

### Extinguishment of easement for a consideration

Sally and Bob have agreed that their easement over Qualifying Land is no longer required. Sally has agreed to pay Bob \$1000 to extinguish the easement. This is a *bona fide* arm's length transaction between unrelated parties and was entered into on 4 July 2016.

Pursuant to Section 60A(2) the consideration may be accepted as the market value of the property being conveyed (i.e. the easement), and stamp duty is charged at the *ad valorem* conveyance rate on the consideration of \$1000 (i.e. \$10 stamp duty less the relevant Qualifying Land reduction).

## Variation of easement for a consideration

Tom and Ann have agreed to vary the position of their easement over Qualifying Land. Tom has agreed to pay Ann \$250 to vary the easement. This is a *bona fide* arm's length transaction between unrelated parties and was entered into on 3 July 2016.

Pursuant to Section 60A(2) the consideration may be accepted as the market value of the property being conveyed (i.e. the easement), and stamp duty is charged at the *ad valorem* conveyance rate on the consideration of \$250 (i.e. \$3 stamp duty less the relevant Qualifying Land reduction).

## EXAMPLE: Grant of easement for no consideration

John grants an easement to Jane over Qualifying Land for no consideration. The parties are unrelated and the market value of the easement is \$1250. The transaction was entered into on 5 July 2016.

Pursuant to Section 71(1) a value of \$1250 has been declared as the market value of the easement in the document.

Stamp duty is charged at the *ad valorem* voluntary conveyance rate on the market value of \$1250 (i.e. \$13 stamp duty less the relevant Qualifying Land reduction).

## Extinguishment of easement for no consideration

Tim and Lisa have agreed that their easement is no longer required and have agreed to extinguish the easement for no consideration. The parties are unrelated and the market value of the easement is \$700. The transaction was entered into on 4 July 2016.

Pursuant to Section 71(1), a value of \$700 has been declared as the market value of the easement in the document.

Stamp duty is charged at the *ad valorem* voluntary conveyance rate on the market value of \$700 (i.e. \$7 stamp duty less the Qualifying Land reduction).

## Variation of an existing easement for no consideration

Fred and Kate have agreed to vary the position of their existing easement for no consideration. Fred and Kate are unrelated and the market value of the easement is \$450.

The transaction was entered into on 3 July 2016.

Pursuant to Section 71(1), a value of \$450 has been declared as the market value of the easement in the document.

Stamp duty is charged at the *ad valorem* voluntary conveyance rate on the market value of \$450 (i.e. \$5 stamp duty less the Qualifying Land reduction).

## Version History

Version No.	Release Date
1	May 2018
2	November 2018
3	July 2019