

Document Type:	Conveyance of Land
Document Name:	Easement

## 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.

of [residential land](#) or [primary production land](#). 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 include 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 land has a LUC of residential or primary production (or any of the [four](#) specific types of vacant land); 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 qualifying land – refer to document type:

[Conveyance of Land | Easement - Qualifying Land](#)

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?

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.

## Examples

### Grant of easement for a consideration

Bill grants an easement to Sue over residential land for a consideration of \$500. This is a *bona fide* arm's length transaction between unrelated parties.

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).

## Extinguishment of easement for a consideration

Sally and Bob have agreed that their easement over Primary Production Land is no longer required. Sally has agreed to pay Bob \$1,000 to extinguish the easement. This is a *bona fide* arm's length transaction between unrelated parties.

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 \$1,000 (i.e. \$10 stamp duty).

## Variation of easement for a consideration

Tom and Ann have agreed to vary the position of their easement over residential land. Tom has agreed to pay Ann \$250 to vary the easement. This is a *bona fide* arm's length transaction between unrelated parties.

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).

## Version History

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