

Cancellation of Recording of Abandoned Easement form 20EA: Instructions for Completion

Note: an easement in gross (i.e. one that does not benefit land) or an easement in favour of the Crown or a public or local authority may not be cancelled owing to abandonment.

1. The *Dominant Tenement* is the land having the benefit of the easement.
The *Servient Tenement* is the land containing the site of the easement.
2. Complete the form in dense black or dark blue ink. If handwriting, use block capitals only.
3. Do not use an eraser or correction fluid to make alterations: rule through rejected material and initial the left-hand margin.
4. If the space provided at any point is insufficient, insert "See Annexure" at that point and include the required material on sheets of white A4 paper at least 80gsm (ordinary copier paper satisfies these requirements) using one side only. Insert a heading beginning "Annexure to ..." and specifying the type of form, the date and the parties to the transaction. Identify the material included, where possible by referring to the relevant marginal heading on the form. In the case of signatures which could not be fitted in the space provided, reproduce the text and layout used on the form. Number all pages in sequence with the form using the format "Page ... of ...", the number to be placed at the foot of the form in the centre. The first and last pages must be signed by the parties and any witness. Securely attach the additional pages to the upper left-hand corner of the form: a Nailclip is preferred; stapling should be avoided.
5. Insert the total number of pages, including any additional pages (see above), in the space provided at the foot of the form.
6. Lodge the completed form by hand at the Department of Lands, Land and Property Information Division, Queens Square, 1 Prince Albert Road, Sydney (adjacent to Hyde Park Barracks), together with any necessary consent, and in the case of an extinguishment, an office copy of a relevant court order (see below). Lodgment of the certificates of title is optional.
7. The following instructions relate to the marginal letters on the form.

(A) FOLIO OF THE REGISTER

Insert the number of the folio of the Register for the dominant and servient tenements in the appropriate panels.

(B) EASEMENT

Insert the registration number and nature of the easement in the appropriate panels.

(C) LODGED BY

This section must be completed by the person or firm lodging the form at LPI ("the lodging party"). If the lodging party does not have a LPI document collection box, leave the relevant panel blank. If the lodging party has a Listed Lodging Party Number ("LLPN") insert it as the first item of the first line in the relevant panel; use the following format: "LLPN: 123456. Provision of a reference is optional.

(D) APPLICANT

The applicant must be the registered proprietor of the servient tenement. Insert the full name. Address and occupation are not required. In the case of a corporation, include the ACN or ARBN.

(E) PARTIES HAVING AN INTEREST IN THE DOMINANT TENEMENT

Full details of all such parties must be given.

(F) STATUTORY DECLARATIONS

The application must be supported by statutory declarations by the applicant and at least one disinterested witness as to the non-use of the easement. Each declaration must state—

1. how the declarant knows the facts contained in the declaration;
2. in the declarant's personal observation, how long the easement has not been used;
3. if known, the date on which the easement ceased to be used;
4. if known, the circumstances under which the easement ceased to be used;
5. particulars of any structure erected on the site of the easement, including, if known, when and by whom the structure was erected;
6. any other factor which makes the easement physically unusable.

Where a structure has been erected on the site of the easement, a certificate by a registered surveyor showing the location of the structure in relation to the easement must also be provided.

(G) The applicant will be required to pay the standard dealing lodgment fee together with an additional fee based on the time taken to investigate the application. For further details, please call LPI Legal Services on 02 9228 6656.

(H) STATUTORY DECLARATION BY THE APPLICANT

Insert the full name of the declarant, and the place and date of the declaration. The witness must be a justice of the peace, practising solicitor, notary public, commissioner of the court for taking affidavits or a person otherwise authorised to administer an oath. If signed outside New South Wales, rule through "Oaths Act 1900" and substitute the local Act; the witness must be a person qualified by that Act to administer an Oath.

The declaration must be made by the applicant, the applicant's attorney, or where the applicant is a corporation, by an authorised officer of the corporation. An attorney must state his/her capacity and cite the registration number of the power of attorney; an authorised officer must state his/her capacity.

NOTE: As LPI may not be able to provide the services of a justice of the peace or other qualified witness, the statutory declaration should be signed and witnessed prior to lodgment of the form at LPI.

If you have any questions about this form or privacy matters, please call Department of Lands, Land and Property Information Division, Client Services on 02 9228 6713 or visit our website at www.lands.nsw.gov.au.