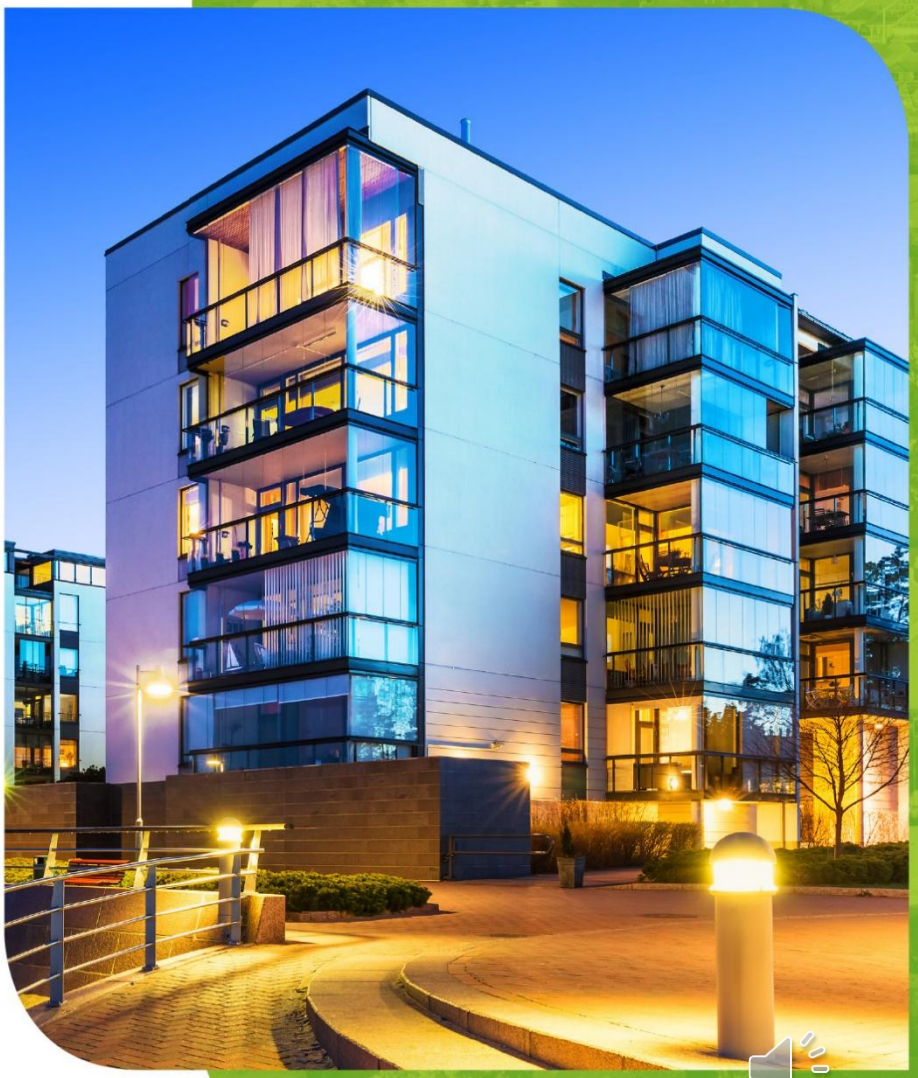
LAND SERVICES SA

Industry Education Webinar:

Grant of Easements (Form TG)



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About our Land Services SA Team

This Industry Education Webinar was prepared by LSSA's Subject Matter Experts. Our staff have years of experience and are well respected in the Industry.



John Ikonomopoulos is a Property Examiner within Land Services SA. He has over 27 years of experience in numerous areas of Land Information Services and has worked on various projects.

Sandy Beaglehole is a Property Examiner within Land Services SA. She has over 40 years of experience in numerous positions within Land Services SA and has spent the last 12 years as a Property Examiner.





Brad Cortvriend is a Property Examiner within Land Services SA. He has 3 years of plan examination experience in the Division team and has spent the last 2 years as a Property Examiner focusing on examination of division documents.

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CONTENTS

- Form TG – Grant of Easement
- Definitions
- Short Form Easements and Rights of Way
- A Free and Unrestricted Right of Way
- The easement plan – FX Plan
- The Form TG panels
- Form TG consent forms – Mortgagee and encumbrance consent
- Other registered interests



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Form TG – Grant of Easement

Pursuant to Section 96 of the *Real Property Act 1886* the Registrar-General may on application:

1. Grant an easement or right of way over land appurtenant to other land.

2. Grant and easement or right of way over land appurtenant to Statutory Authorities or a body pursuant to Section 41A of the *Law of Property Act 1936*.

Pursuant to Section 28 of the *Crown Land Management Act 2009* the Registrar-General may on application:

1. Grant an easement or right of way over land appurtenant to other land.

2. Grant and easement or right of way over land appurtenant to Statutory Authorities or a body pursuant to Section 41A of the *Law of Property Act 1936*.



Definitions

Servient Land – The land that the easement or right of way is to go over.

Grantor(s) – The registered proprietor(s) of the title in relation to the servient land.

Dominant Land – The land that the easement or right of way is in favour of.

Easement in Gross – A Certificate of Title that has issued for the easement or right of way in the name of a Statutory Authority or a body pursuant to Section 41A of the *Law of Property Act 1936*. Not in favour of land.

Grantee(s) – The registered proprietor(s) of the title in relation to the dominant land OR the Statutory Authority or body pursuant to Section 41A of the *Law of Property Act 1936* which the easement of right of way is in favour of.

Appurtenant – The dominant land or Easement in Gross.



Definitions (continued)

Short Form – Full wording and interpretation is set out in the 5th and 6th Schedules of the *Real Property Act 1886*.

Long Form – The easement or right of way, does not conform to the interpretation set out in the 5th and 6th Schedules as is therefore fully described/set out within the grant.

Consenting Party – This is the registered mortgagee or registered encumbrancee.

Statutory Encumbrances – Registered Land Management Agreements (AG) or Heritage Agreement (AH).



Short Form Easements and Rights of Way

The following are Short Form Easements in the 6th Schedule of the *Real Property Act 1886*:

Short Form	Long Form
an easement **for water supply purposes.**	the right for him, his agents, servants and workmen at any time to break the surface of, dig, open up and use the land (described for that purpose in this instrument) for the purpose of laying down, fixing, taking up, repairing, re-laying or examining pipes and of using and maintaining those pipes for water supply purposes and to enter the land at any time (if necessary, with vehicles and equipment) for any of those purposes.
an easement **for sewerage purposes.**	the right for him, his agents, servants and workmen at any time to break the surface of, dig, open up and use the land (described for that purpose in this instrument) for the purpose of laying down, fixing, taking up, repairing, re-laying or examining pipes and of using and maintaining those pipes for sewerage purposes and to enter the land (if necessary, with vehicles and equipment) for any of those purposes.
an easement **for drainage purposes**	the right for him, his agents, servants and workmen at any time to break the surface of, dig, open up and use the land (described for that purpose in this instrument) for the purpose of laying down, fixing, taking up, repairing, re-laying or examining drains or drainage pipes and of using and maintaining those drains and drainage pipes for drainage purposes and to enter the land at any time (if necessary, with vehicles and equipment) for any of those purposes.
an easement **for gas supply purposes**	the right for him, his agents, servants and workmen at any time to break the surface of, dig, open up and use the land (described for that purpose in this instrument) for the purpose of laying down, fixing, taking up, repairing, re-laying or examining pipes and of using and maintaining those pipes for the purpose of supplying gas, and to enter the land at any time (if necessary, with vehicles and equipment) for any of those purposes.
party wall rights	the right to use the party wall (described for that purpose in this instrument) for the support of the walls, floors, ceilings, roofs or other parts of any building built or placed on the dominant land.

Short Form Easements and Rights of Way (continued)

Short Form	Long Form
an easement for the **transmission of electricity by overhead cable**	the right for him, his agents, servants and workmen at any time— (a) to suspend cables across the land (described for that purpose in this instrument) and construct supports for those cables; and (b) to inspect, alter, maintain, repair and replace those cables and supports; and (c) to use the cables for the purpose of transmitting electricity; and (d) to break the surface of, dig, open up and use the land for any of those purposes; and (e) to enter the land at any time (if necessary, with vehicles and equipment) for any of those purposes.
an easement for the **transmission of electricity by underground cable**	the right for him, his agents, servants and workmen at any time— (a) to lay under the surface of the land (described for that purpose in this instrument) ducts, pipes and cables; and (b) to inspect, alter, maintain, repair and replace those ducts, pipes and cables; and (c) to use the cables for the purpose of transmitting electricity; and (d) to break the surface of, dig, open up and use the land for any of those purposes; and (e) to enter the land at any time (if necessary, with vehicles and equipment) for any of those purposes.
an easement for the **transmission of television signals by underground cable**	the right for him, his agents, servants and workmen at any time— (a) to lay under the surface of the land (described for that purpose in this instrument) ducts, pipes and cables; and (b) to inspect, alter, maintain, repair and replace those ducts, pipes and cables; and (c) to use the cables for the purpose of transmitting television signals; and (d) to break the surface of, dig, open up and use the land for any of those purposes; and (e) to enter the land at any time (if necessary, with vehicles and equipment) for any of those purposes.
an easement for the **transmission of telecommunication signals by underground cable**	the right personally or by servants or agents at any time— (a) to lay under the surface of the land (described for that purpose in this instrument) ducts, pipes and cables; and (b) to inspect, alter, maintain, repair and replace those ducts, pipes and cables; and (c) to use the cables for the purposes of receiving and transmitting telecommunication signals; and (d) to break the surface of, dig, open up and use the land for any of those purposes; and (e) to enter the land at any time (if necessary, with vehicles and equipment) for any of those purposes.

Short Form Easements and Rights of Way (continued)

Short Form	Long Form
an easement for the **transmission of telecommunication signals by overhead cable.**	the right personally or by servants or agents at any time— (a) to suspend cables across the land (described for that purpose in this instrument) and construct supports for those cables; and (b) to inspect, alter, maintain, repair and replace those cables and supports; and (c) to use the cables for the purposes of receiving and transmitting telecommunication signals; and (d) to break the surface of, dig, open up and use the land for any of those purposes; and (e) to enter the land at any time (if necessary, with vehicles and equipment) for any of those purposes.
an easement for **eaves and gutters**	the right for him, his agents, servants and workmen at any time to construct, inspect, alter, maintain, repair, replace and use eaves, gutters and downpipes over the land (described for that purpose in this instrument) and to enter the land (described for that purpose in this instrument) at any time for those purposes.
an easement **for support**	the right personally or by servants or agents at any time— (a) to erect an embankment, wall or other structure on the land (described for that purpose in this instrument) to support, or for the support of, the dominant land and any building or other structure erected on it; and (b) to inspect, alter, maintain, repair and replace that embankment, wall or other structure; and (c) to break the surface of, dig, open up and use the land for any of those purposes; and (d) to enter the land at any time (if necessary, with vehicles and equipment) for any of those purposes.
an easement **to park a Vehicle**	right personally and for his or her invitees, licensees, servants, agents or tenants to use the land (described for that purpose in this instrument) at any time for the purpose of parking a vehicle and to enter the land, with a vehicle, at any time for that purpose.
a right-of-way on foot	the right personally and for his or her invitees, licensees, servants, agents or tenants to use the land (described for that purpose in this instrument) at any time to pass and repass on foot.

A Free and Unrestricted Right of Way

The 5th Schedule of the *Real Property Act 1886* sets out a free and unrestricted right of way:

A full and free right and liberty to and for the proprietor or proprietors for the time being taking or deriving title under or through this instrument, so long as he or they shall remain such proprietors, and to and for his and their tenants, servants, agents, workmen, and visitors, to pass and repass for all purposes, and either with or without horses or other animals, cart, or other carriages.



Plan delineating the easement

PURPOSE: EASEMENT
AREA NAME: WATERLOO CORNER
APPROVED: 29/10/2024
FX260482
COUNCIL: CITY OF SALISBURY
DEVELOPMENT NO:
FILED: 29/10/2024
SHEET 1 OF 2
LAST PLAN:
text_01_v01_Version_4

AGENT DETAILS: SA POWER NETWORKS - SURVEY GROUP
GPO BOX 77
ADELAIDE SA
5001
PH: 08 8404 5307
SURVEYORS CERTIFICATION:
AGENT CODE: SAPG
REFERENCE: 20240031

SUBJECT TITLE DETAILS:

PREFIX	VOLUME	FOLIO	OTHER	PARCEL	NUMBER	PLAN	NUMBER	HUNDRED / IA / DIVISION	TOWN
CT	5951	998		ALLOTMENT(S)	110	D	18430	MUNNO PARA	

OTHER TITLES AFFECTED:

EASEMENT DETAILS:

STATUS	LAND BURDENED	FORM	CATEGORY	IDENTIFIER	PURPOSE	IN FAVOUR OF	CREATION
EXISTING	110	LONG	EASEMENT(S)	B		MINISTER FOR INFRASTRUCTURE	T 4727593
EXISTING	110	SHORT	FREE AND UNRESTRICTED RIGHT(S) OF WAY	C			
PROPOSED	110	LONG	EASEMENT(S)	D	FOR ELECTRICITY SUPPLY PURPOSES	CKI UTILITIES DEVELOPMENT LTD. PAI UTILITIES DEVELOPMENT LTD. SPARK INFRASTRUCTURE SA (NO. 1) PTY. LTD. SPARK INFRASTRUCTURE SA (NO. 2) PTY. LTD. SPARK INFRASTRUCTURE SA (NO. 3) PTY. LTD.		

ANNOTATIONS:

Purpose of Plan - Easement – The Purpose of the Plan is shown as Easement.

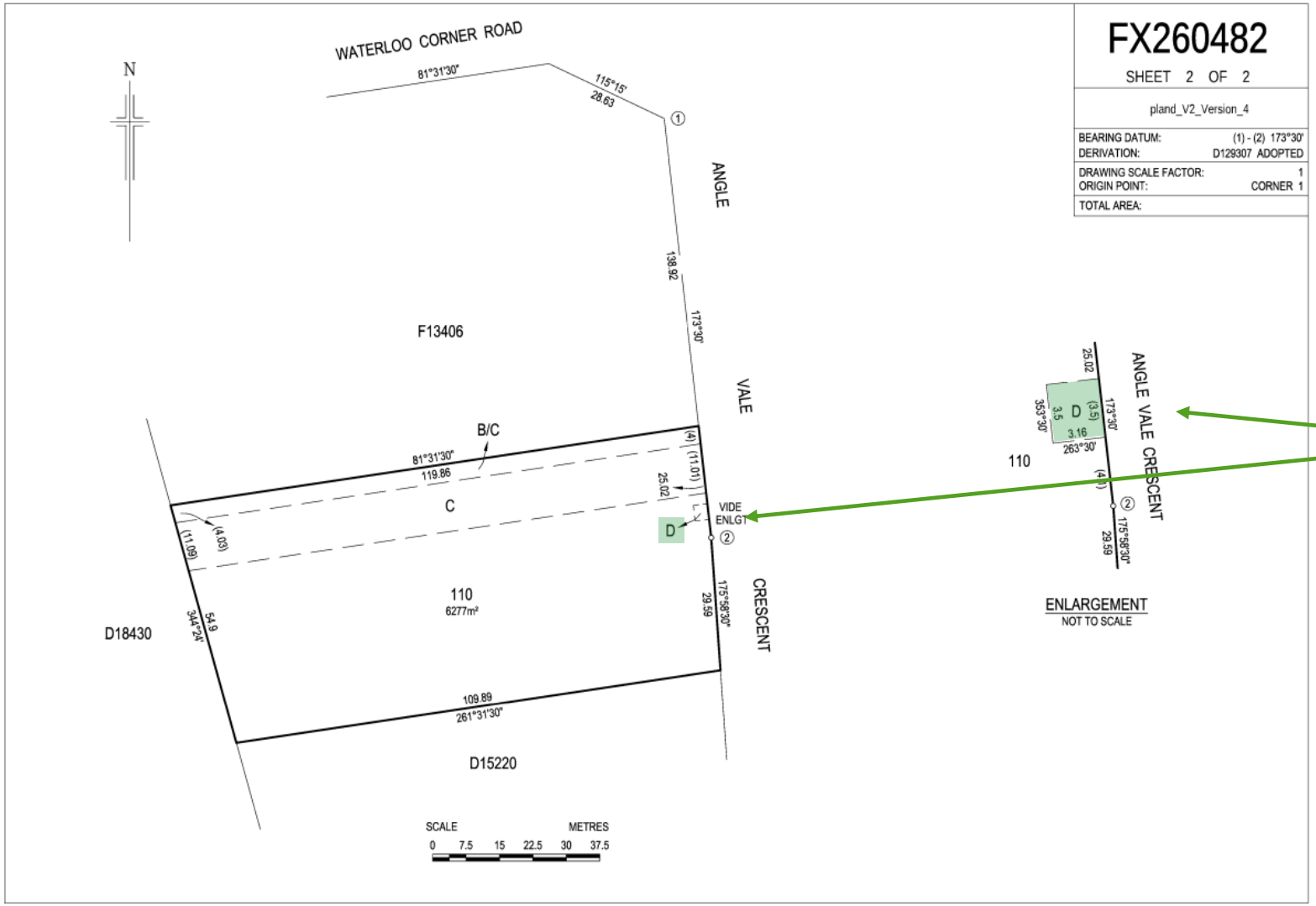
Subject Title Details – The titles affected by the creation of the easement.

Land Burdened – The servient land is shown under this heading.

In Favour of – The dominant land or benefiting authority is shown under this heading.

Status - Proposed – The easement to be granted has a Status of Proposed.

Plan delineating the easement



Extent of proposed easement delineated on diagram sheet(s) of the plan.

Form TG - Page 1

GRANT OF EASEMENT

(Pursuant to Section 96 of the Real Property Act 1886)

PRIVACY COLLECTION STATEMENT: The information in this form is collected under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes. It may also be used for other authorised purposes in accordance with Government legislation and policy requirements.

LAND DESCRIPTION OVER WHICH RIGHTS AND LIBERTIES ARE BEING GRANTED

ESTATE & INTEREST

GRANTOR(S) (Full name and address)

CONSIDERATION (Words and figures)

GRANTEE(S) (Full name, address, mode of holding and appurtenant land description)

Page of

Land Description panel – insert the title reference for **the land that the easement is to be granted over.**

e.g. "The whole of the land in Certificate of Title Volume #### Folio ###."

Grantor(s) panel – insert the full name of the registered proprietor(s) for the **the land that the easement is to be granted over.**

Consideration panel – The amount paid for the easement must be expressed in **words and figures.**

e.g. "Five thousand dollars ($5000.00)"

Grantee(s) panel – insert the full name of the party benefiting **from the easement.** If appurtenant to land, the appurtenant title must be shown.

e.g. "John Citizen of 101 Grenfell Street Adelaide SA 5000 being the registered proprietor of CT Volume 5555 Folio 888"

Form TG - Page 2

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE RIGHTS AND LIBERTIES BEING CREATED AND DEFINE PRECISELY

TO BE HELD APPURTENANT TO:-

HERE SET FORTH THE APPURTENANCE AND DEFINE PRECISELY

Description of the Easement – Easements/Rights of Way may be **Short** or **Long Form.**

Reference is to be made to the portion of land identified in a plan or title.

Example of **Short Forms** easements to be granted:

"An easement for water supply purposes over portion of Allotment 8 marked A on FX55888 and being portion of the land above described"
OR
"An easement for the transmission of electricity by underground cable over the land marked B on D88555 being portion of the land in Certificate of Title Volume 5000 Folio 8"

Long Form easements must be set out in full and should include an access component. The unique identifier shown on a plan for the easement/right of way over the servient land **must be included** in the description.

Appurtenant to – Easements/Rights of Way can be **held appurtenant** to **land** or to **an authority (In Gross).**

Appurtenant to land:
"Whole of the land in CT 5858/888"
OR
"Allotment 15 in D85558 being portion of the land in CT 5115/150

Appurtenant to an authority:
e.g. "In Gross"

Form TG – Consent form

CONSENT TO THE GRANT OF AN EASEMENT

CONSENTING PARTY (Full Name and Address)

NATURE OF ESTATE OR INTEREST HELD

I/We the consenting party consent to the

(1)* discharge of *Encumbrance / *Mortgage ..... over the easement being granted pursuant to Section 144 of the Real Property Act 1886.

(2)* granting of the easement subject to *Encumbrance / *Mortgage ..... pursuant to Section 90F of the Real Property Act 1886.

* Strike through the inapplicable

EXECUTION BY CONSENTING PARTY

DATED .....

Signature of CONSENTING PARTY	Signature of CONSENTING PARTY
Signature of WITNESS - Signed in my presence by the CONSENTING PARTY who is either personally known to me or has satisfied me as to his or her identity. A penalty of up to $5000 or 1 year imprisonment applies for improper witnessing.	Signature of WITNESS - Signed in my presence by the CONSENTING PARTY who is either personally known to me or has satisfied me as to his or her identity. A penalty of up to $5000 or 1 year imprisonment applies for improper witnessing.
Print Full name of Witness (BLOCK LETTERS)	Print Full name of Witness (BLOCK LETTERS)
Address of Witness	Address of Witness
Business Hours Telephone No	Business Hours Telephone No.....

Page____of_____

Consent of Mortgagee and Encumbrancee

Sections 90F and 144 of the Real Property Act 1886 allows for the consent of a mortgagee and encumbrancee within a Form TG.

This consent form is to **only** be used for registered mortgages and registered encumbrances.

- Section 144 of the Real Property Act 1886 allows for a mortgage or encumbrance registered over the servient land to be partially discharged over the easement/right of way.
- Section 90F of the Real Property Act 1886 allows for a mortgage or encumbrance registered over the dominant land to be extended over the easement/right of way.

Clause (1) – Allows for the for the mortgage/encumbrance to be discharged over the easement/right of way.

Clause (2) – Allows for the for the mortgage/encumbrance to be extended over the easement/right of way.

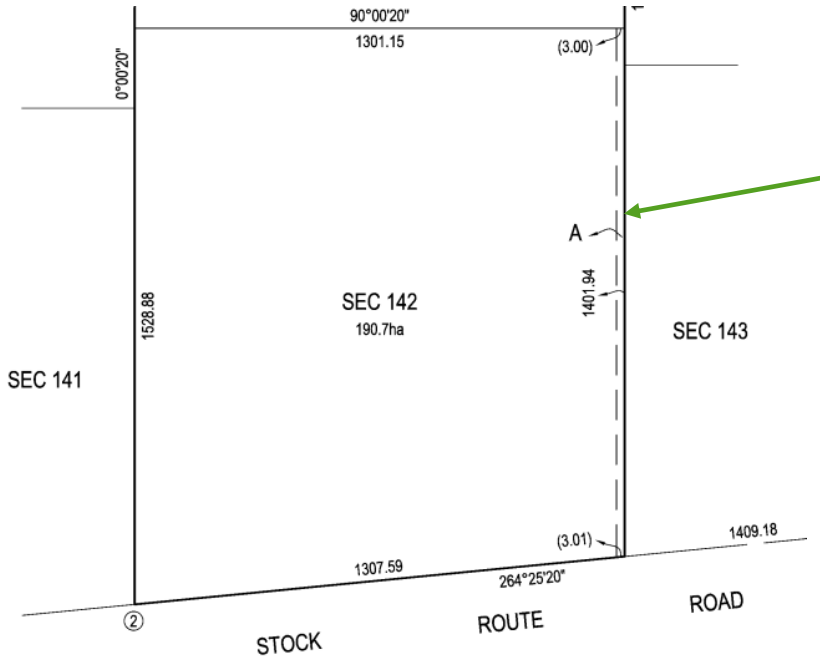
The inapplicable statement is to be struck through

Clause 1 – Mortgagee and Encumbrancee consent

I/We the consenting party consent to the

(1)* discharge of *~~Encumbrance~~ / *Mortgage 11155588 over the easement being granted pursuant to Section 144 of the Real Property Act 1886.

~~(2)* granting of the easement subject to *Encumbrance / *Mortgage pursuant to Section 90F of the Real Property Act 1886.~~



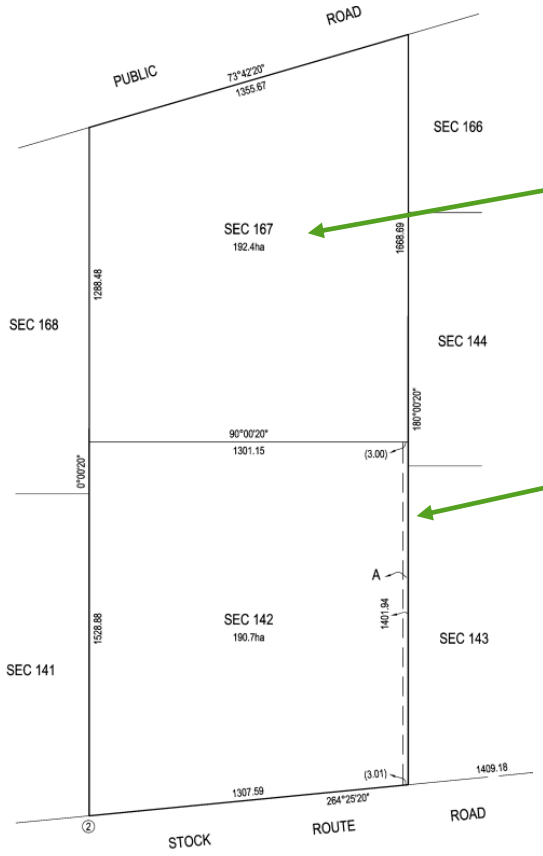
In this example the servient land is subject to Mortgage no. 11155588. The mortgage is to be partially discharged over the easement/right of way.

Clause 2 – Mortgagee and Encumbrancee consent

I/We the consenting party consent to the

(1)* ~~discharge of *Encumbrance / *Mortgage ..... over the easement being granted pursuant to Section 144 of the Real Property Act 1886.~~

(2)* granting of the easement subject to *Encumbrance / ~~*Mortgage~~ ..... 15888511 ..... pursuant to Section 90F of the Real Property Act 1886.



Section 167 is subject to Encumbrance no. 15888511
Section 167 will be granted an easement over portion of Section 142 marked A.

Encumbrance no. 15888511 is to be extended over the easement/right of way.

Other Registered Interests

Land Management Agreements and other Agreements / Heritage Agreements

Registered on Servient Land

- Is to be rescinded as regards the easement/right of way by separate documentation.
- RA or TH is to precede the Form TG to partially rescind the agreement.

Example of wording in the Land Description panel:

LAND DESCRIPTION

The rights and liberties to be created in subsequent dealing(s) in series and being portion of the land in Certificate of Title Volume 5011 Folio 111

Example of wording in the Specify Nature of Application panel:

SPECIFY NATURE OF APPLICATION

The applicant applies to rescind Land Management Agreement No. ######## dated ###### on the Certificate of Title for the land above described



Other Registered Interests (continued)

Leases

Registered on Servient Land

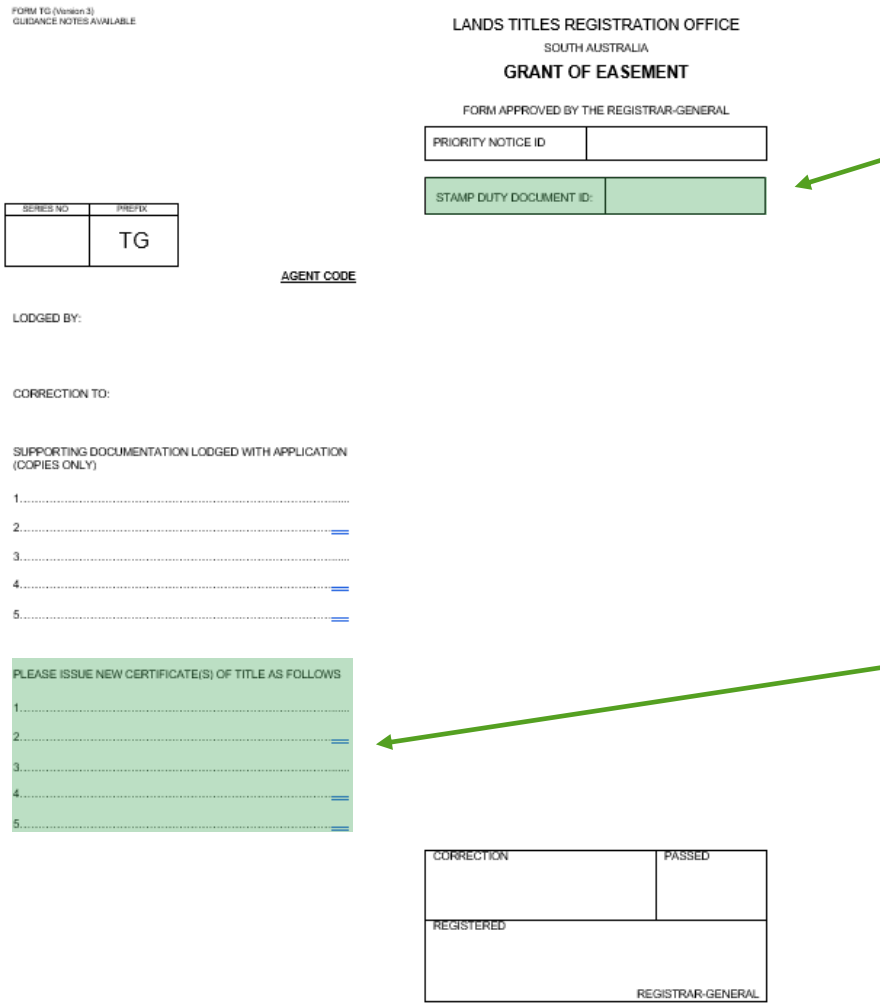
- If registered over whole of the land, the lease will need to be partially surrendered as regards the easement/right of way by separate documentation.
- If registered over portion. The position of the lease must be ascertained to determine if it affects the easement. If the easement/right of way will fall with the leased area, the lease will need to be partially surrendered as regards the easement/right of way by separate documentation.
- PL is to precede the Form TG to partially rescind the agreement

Example of wording in the Land Description panel:

LAND DESCRIPTION

The rights and liberties to be created in subsequent dealing(s) in series and being portion of the land in Certificate of Title Volume 5011 Folio 111

Form TG - Page 1



FORM TG (Version 3)
GUIDANCE NOTES AVAILABLE

LANDS TITLES REGISTRATION OFFICE

SOUTH AUSTRALIA

GRANT OF EASEMENT

FORM APPROVED BY THE REGISTRAR-GENERAL

PRIORITY NOTICE ID	
STAMP DUTY DOCUMENT ID:	

SERIES NO	PREFIX
	TG

AGENT CODE

LODGED BY:

CORRECTION TO:

SUPPORTING DOCUMENTATION LODGED WITH APPLICATION (COPIES ONLY)

1.
2.
3.
4.
5.

PLEASE ISSUE NEW CERTIFICATE(S) OF TITLE AS FOLLOWS

1.
2.
3.
4.
5.

CORRECTION	PASSED
REGISTERED	REGISTRAR-GENERAL

Stamp Duty Document Id panel – Dealing to be assessed for Stamp Duty purposes and Stamp Duty number to be inserted.

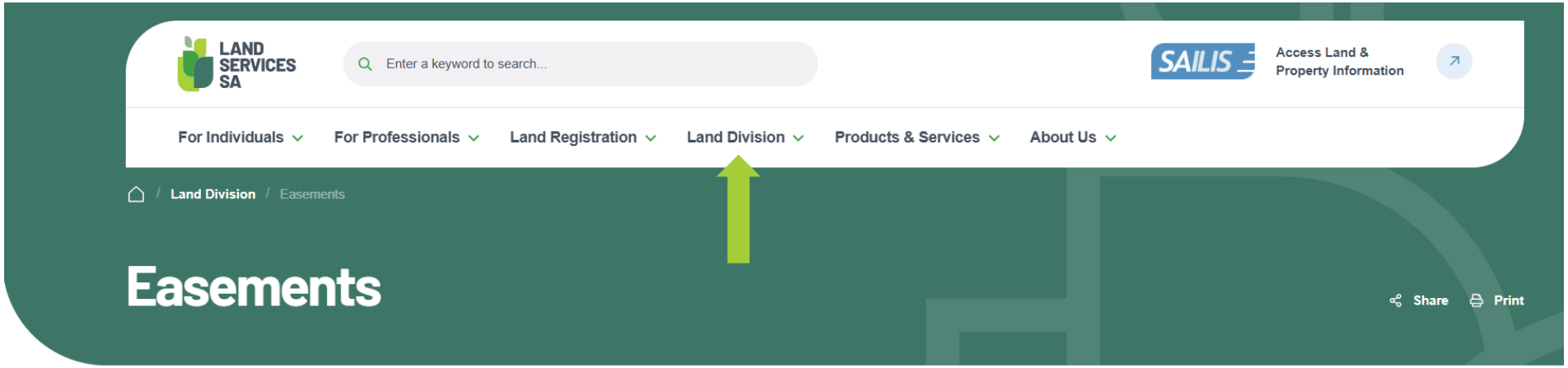
New Certificates of Title panel – Instructions to be completed.

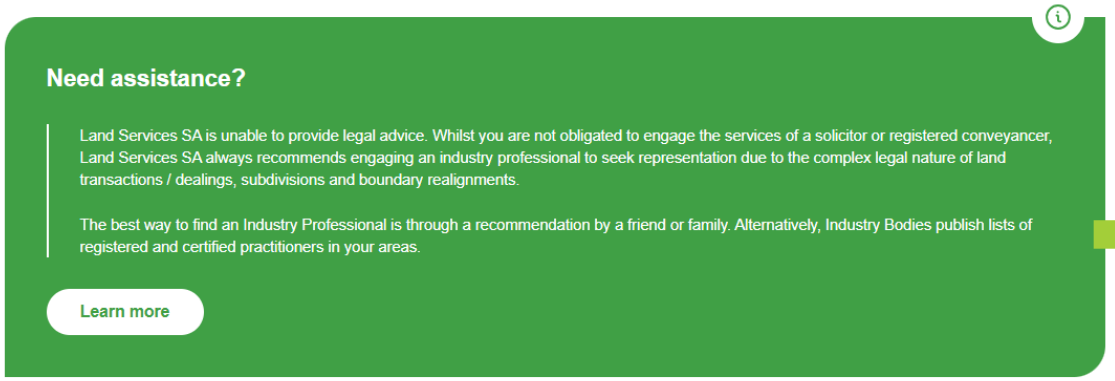
Example wording:

1. “CT 5234/345 together with the easement herein”

2. “CT 6754/123 subject to the within easement

Grant of Easement (TG) Preparation Notes







Summary of Key Points

Easement in Gross

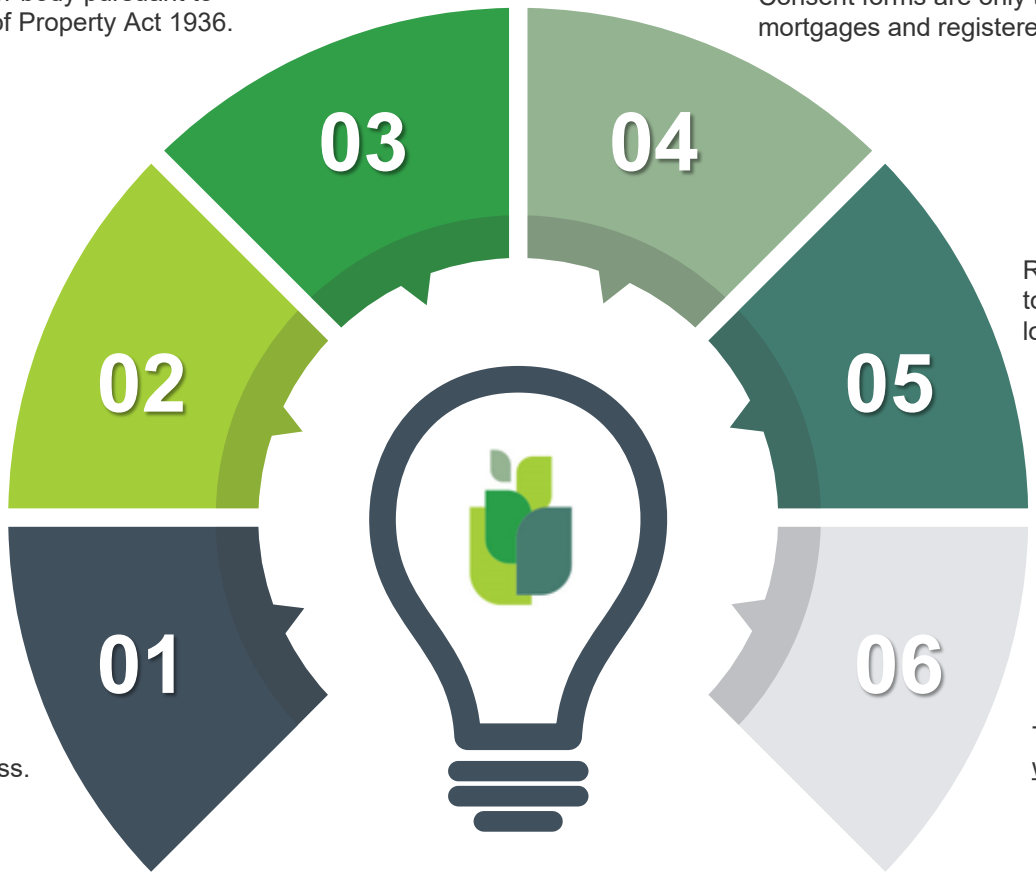
A Statutory of Authority or body pursuant to Section 41A of the Law of Property Act 1936.

Form TG consent forms

Consent forms are only to be used for registered mortgages and registered encumbrances

Plan must be Filed or Deposited

The easement/right of way must be fully delineated delineated on a plan that has been accepted for filling or deposited.



Agreements and Leases

Registered Agreements and Leases need to be dealt with by separate documentation lodged in series with the Form TG

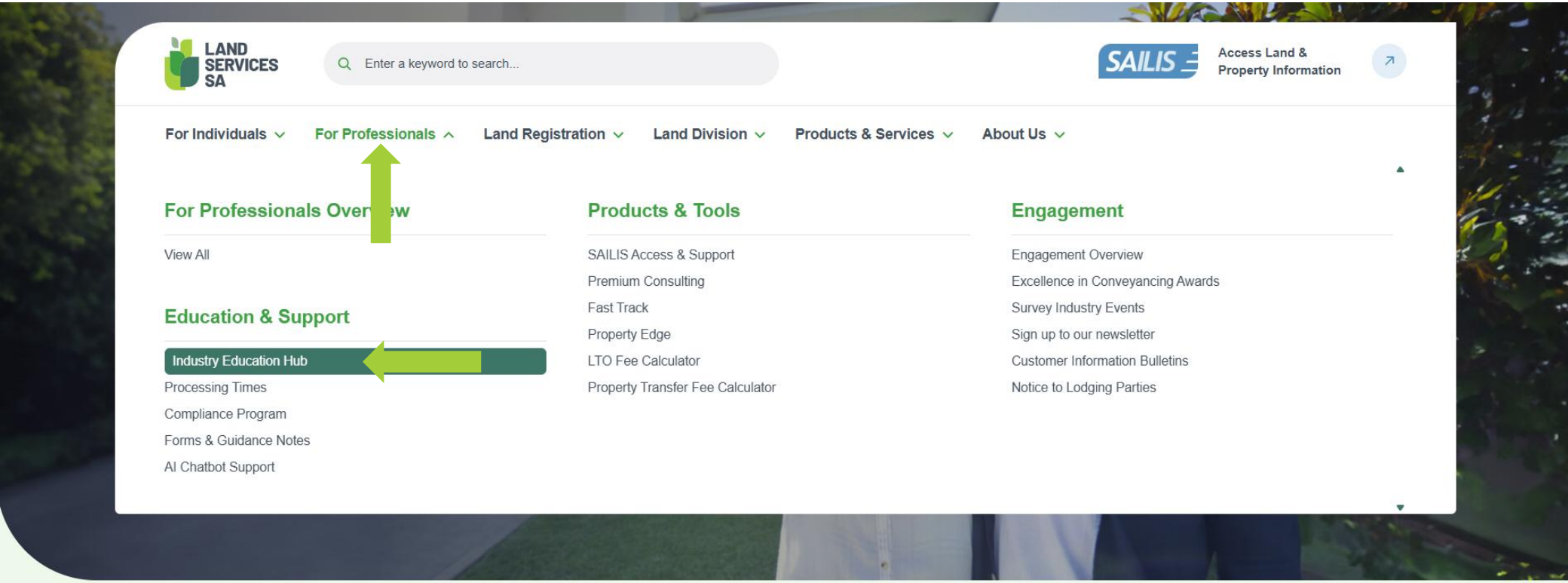
The Form TG

The Form TG is used to grant an easement/right of way that is not a component of the land division process.

Grant of Easement (TG) Preparation Notes

These are available to download from www.landservices.com.au

Industry Education Hub



Live Q&A Session



STRICTLY CONFIDENTIAL

Q&A Session

Does the File Plan need to be Approved/Filed by the plan examiner before lodgement of the Form TG, or can I lodge the Form TG once the File Plan has been lodged.	• *The File Plan must have been approved/filed for the Form TG to be lodged.*
Can the Certificate of Consent form for a mortgagee or encumbrancee be executed under Client Authorisation?	• *Yes. Please note all four certifications may apply to the certificates of consent only when executing under client authorisation.*
Can the Form TG be lodged through PEXA?	• *No. PEXA does not accommodate for the Form TG. The Form TG must be lodged as a paper dealing with the "wet" signatures.*