Guide to acceptable easement purposes

December 2024



This guide sets out acceptable easement purposes for easements to be recorded/registered under the *Transfer of Land Act 1958* (TLA) or *Subdivision Act 1988* (Subdivision Act).

Instruments seeking to record/register easement(s) must define an acceptable easement purpose, including plans of subdivision/consolidation or creations of easement under section 23 of the Subdivision Act and sections 45, 72 or 88(2) TLA.

The acceptability of an easement purpose and if it requires further qualification depends on the instrument the easement is created by.

The below table sets out acceptable easement purposes, with specific requirements for each purpose noted if relevant.

*Note:*

* *some of the easement purposes listed below were historically accepted without qualification, but now require further qualification to be recorded/registered.*
* *Land Use Victoria (LUV) recognises that the easement purposes listed in this guide may not be exhaustive. Other easement purposes may be acceptable, however, will require further examination by LUV prior to recording/registering.*

Using the Table:

|  |  |  |
| --- | --- | --- |
| **Category** | **Acceptable Easement Purpose** | **Specific requirements** |
|
| General category of easement purpose | **The wording of the easement purpose that must be used, except for the wording in the square brackets.** | *Details of any specific requirements, including:*   * if an easement purpose requires further qualification * if the easement purpose is not acceptable or if it is only acceptable under certain legislation |

## Notes on specific requirements:

### When detailed description is required

If the easement purpose requires a ***detailed*** ***description,*** this description should be contained in:

* the text
  + of the instrument for creations under the TLA
  + in the notations panel for Plans under the Subdivision Act to further define the easement purpose as shown in the easement information table.   
    *e.g. For easements of support to define the method of support and what is being supported*
* an MCP referenced
  + on the instrument if created under the TLA.
  + within the purpose on the easement information table on the plan
    - e.g. “[Purpose] as set out in MCP[XXX]” and

### Defining the method of supply/transmission/distribution or location of pipeline/powerline

If the easement purpose requires the method of supply/transmission /distribution,   
or the location of a pipeline/powerline to be defined, the definition must be stated in brackets;

* under the purpose in the easement information table on the plan   
  or
* on the instrument under ‘easement details’ when created under the TLA   
  For example:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| EASEMENT INFORMATION | | | | |
| Easement reference | Purpose | Width  (meters) | Origin | Land Benefited/ In Favour of |
| E-1 | **SUPPLY OF WATER**  **(THROUGH UNDERGROUND PIPES)** | 2.5 | THIS PLAN | ALL LOTS ON THIS PLAN |

### Purpose only acceptable for easements created under a specific act

Where the easement origin is provided for by a specific act, the relevant provision of that act must be stated under the ‘Origin’ column in the easement information table.

For example:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| EASEMENT INFORMATION | | | | |
| Easement reference | Purpose | Width  (meters) | Origin | Land Benefited/ In Favour of |
| E-1 | PIPELINES OR ANCILLARY PURPOSES | 2.5 | **THIS PLAN**  **(SECTION 136 WATER ACT 1989)** | LOT 1 ON THIS PLAN |

### Limited easements

Easements limited in height and depth or as to time must be referenced.

For easements created in a plan, the details of limitation must be specified either:

* under the purpose in the easement information table or
* in the notations panel on the plan.

For easements created under the TLA, the details must be specified on the instrument under ‘easement details’.

## Acceptable Easement Purposes

|  |  |  |
| --- | --- | --- |
| Category | Acceptable Easement Purpose | Specific requirements |
|
| AIR | **Supply of air** |  |
| **Flow of air** |  |
| **Passage of air** |  |
| **Air exhaust and ventilation** |  |
| **Passage of air and light** |  |
| ACCESS | **Carriageway** |  |
| **Carriageway for [*specific purpose*]** | The specific purpose must be defined.  *e.g. Carriageway for**loading and unloading heavy equipment* |
| **Footway** |  |
| **Footway over stairs** |  |
| **Way** |  |
|  | **Way for the purpose of collecting mail** |  |
| **Walkway** |  |
| **Walkway in the event of [*activity*]** | The specific activity must be defined**.** A specific location may also be included.  *e.g. Walkway in the event of a flood in Smith Street* |
| **Right of access [*means and purpose*]** | The means and purpose of access must be defined. *e.g. Right of access by foot for the purpose of using a storage shed* |
| **Right of entry [*means and purpose*]** | The means and purpose of entry must be defined. *e.g. Right of entry by emergency vehicles in the event of a fire* |
| **Vehicle parking [*further details*]** | Further detail including time range must be defined.  *e.g. Vehicle parking for the registered proprietor of the dominant tenement and their servants, agents, workmen and visitors to use the land marked [X] for the purpose of parking vehicles between the hours of [X] to [X] Monday to Friday and [X] to [X] on Saturday.* |
| DRAINAGE | **Drainage** |  |
| **Drainage and floodway** |  |
| **Drainage and sewerage** |  |
| **Drainage and waterway** |  |
| EROSION | **Erosion** |  |
| FIRE | **Fire access** |  |
| **Fire escape** |  |
| **Fire egress** |  |
| FLOOD | **Floodway** |  |
| **Flooding** |  |
| **Flood wall** |  |
| **Submergence** |  |
| GAS | **Gas pipeline**  **[*location of pipeline*]** | Location of pipeline must be defined.*e.g. Gas pipeline*  *(underground/above ground pipes)* |
| **Gas distribution pipeline**  **[*method of distribution*]** | Method of distribution must be defined.  *e.g. Gas distribution pipeline*  *(through underground/above ground pipes.)* |
| **Gas transmission pipeline**  **[*method of transmission*]** | Method of transmission must be defined.  *e.g. Gas transmission pipeline*  *(through underground/above ground pipes).* |
| **Gas distribution [*method of distribution*]** | Method of distribution must be defined.  *e.g. Gas distribution  (through overground/underground pipes)* |
|  | **Purpose under section 146 of the Gas Industry Act 2001 [set out clause of the schedule]** | Further qualification will be required to set out the relevant clause(s) adopted under the Schedule to the Act.  *e.g.  Purpose under section 146 of the Gas Industry Act 2001*  *(Clause a and b of the schedule apply)*  **Not acceptable** in plans under section 23 Subdivision Act or creations under the TLA.  Only an acceptable easement purpose in plans of subdivision or consolidation. |
| **Supply of gas**  **[*method of supply*]** | Method of supply must be defined.  *e.g. Supply of gas*  *(through underground/above ground pipes)* |
| **Transmission of gas**  **[*method of transmission*]** | Method of transmission must be defined. *e.g. Transmission of gas (through overground/underground pipes)* |
| LIGHT | **Passage of light** |  |
| **Passage of light and air** |  |
| **Supply of light** |  |
| PHONE AND DATA | **Data transmission**  **[*method of transmission*]** | Method of transmission must be defined. Specific purpose may also be defined. *e.g. Data transmission for the Internet  (through underground cables)* |
| **Transmission of telecommunication signals**  **[*method of transmission*]** | Method of transmission must be defined.  *e.g. Transmission of telecommunication signals (by underground cables)* |
| PIPELINE | **Construction and operation of a pipeline** | Only used for easements created under section 97 of the *Pipelines Act 2005*. Section and Act must be stated (refer to Note 3 above). |
| Drainage pipeline  [*location of pipeline*] | Location of pipeline must be defined. *e.g. Drainage pipeline  (through underground pipes).* |
| **Pipelines or ancillary purposes** | Only used for easements created under section 136 of the *Water Act 1989*.  Section and Act must be stated (refer to Note 3 above).  **Not acceptable** in a plan of consolidation, plans under section 23 Subdivision Act or creations under the TLA.  Only an acceptable easement purpose in plans of subdivision. |
| Sewerage pipeline  [*location of pipeline*] | Location of pipeline must be defined. *e.g. Sewerage pipeline (underground pipe)* |
| Water supply pipeline  [*method of supply*] | Method of supply must be defined.  *e.g. Water supply pipeline  (through underground pipes)* |
| POWER | **Distribution of electricity**  **[*method of distribution*]** | Method of distribution must be defined.*e.g. Distribution of electricity  (through underground cables/overhead powerlines.)* |
| **Power Line**  **[*Optional:* *location of powerline*]** | Location of cable or wire may be defined.  *e.g. Power Line  (underground cables/overhead cables/underground and overhead cables)*  Only used for easements created under section 88 of the *Electricity Industry* *Act 2000*. Section and Act must be stated (refer to Note 3)  **Not acceptable** in plans under section 23 Subdivision Act or creations under the TLA.  Only an acceptable easement purpose in plans of subdivision or consolidation. |
| **Supply of electricity**  **[*method of supply*]** | Method of supply must be defined.  *e.g. Supply of electricity  (through underground cables/overhead power lines)* |
| **Supply of power**  **[*method of supply*]** | Method of supply must be defined.*e.g. Supply of power  (through underground cables/overhead power lines)* |
| **Transmission of electricity**  **[*method of transmission*]** | Method of transmission must be defined.  *e.g. Transmission of electricity (through underground cables/overhead powerline)* |
| SUPPORT | **Party Wall/Chimney** |  |
| **Overhanging  eaves/Spouting/ Balcony** |  |
| **Support [*what is being supported, by what method*]** | Must describe what is being supported and by what method, including what is providing the support (see note 1 above).  *e.g. Support (To use the party wall and foundations to support walls, floors & ceilings.)* |
| WASTE | **Flow of effluent  [*method of flow*]** | Method must be defined.  *e.g. flow of effluent  (through underground effluent disposal system) Note: ‘underground effluent disposal installation’ is not acceptable*  If the method of flow is unknown at the time of lodgment, a combination of flow types may be acceptable *e.g. wastewater disposal by an underground soakage system and/or above ground irrigation system* |
| **Sewerage** |  |
| **Sanitary convenience [*further details*]** | Further detail, such as time range (if applicable) must be defined.  *e.g. easement for the use from time to time of sanitary conveniences located on the servient land.* |
| **Waste [*type*] disposal  [*method*]** | Type, and method must be defined.  *e.g. wastewater disposal by underground soakage system*  If the method of disposal is unknown at the time of lodgment, a combination of methods may be acceptable *e.g. wastewater disposal by an underground soakage system and/or above ground irrigation system* |
| WATER | **Channel for [*purpose*]** | Specific purpose must be defined.  *e.g. Channel for the passage of water or Channel for collection of floodwaters* |
| **Flow of water through [*method*] for the purpose of irrigation** | Method must be defined.*e.g. Flow of water through pipeline/channel (as applicable) for the purpose of irrigation* |
| **Ground water monitoring  [*method and purpose*]** | Method and purpose must be defined.  *e.g. right to enter onto servient land from time to time for the purposes of monitoring ground water levels.* |
| **Soakage by water** |  |
| **Supply of water**  **[*method of supply*]** | Method of supply must be defined. *e.g. Supply of water  (through underground pipes/channel)* |
| **Supply of recycled water**  **[*method of supply*]** | Method of supply must be defined *e.g. Supply of recycled water  (through underground pipes/ channel)* |
| **Waterway** |  |
| **Waterway management** |  |
| **Wetland [*detailed description*]** | Detailed description of the easement is required (see note 1 above). |
| **Creation & Maintenance of Wetland [*detailed description*]** | Detailed description of these easement purposes is required.  Only acceptable when the easement allows for the dominant tenement/municipal council to build and maintain the easement themselves on the servient land. |
| **Maintenance of levee / Maintenance of levee bank [*detailed description*]** | Detailed description of the easement is required (see note 1 above).  Only acceptable when the easement allows for the dominant tenement/municipal council to build and maintain the easement themselves on the servient land. |
| NOISE | **Transmission of noise**  **[*source of noise*]** | Source of noise must be defined.  *e.g. Transmission of noise  (from electrical substation/windfarm)* |