

# EASEMENT APPLICATION FORM

A REFERENCE TO "COUNCIL" IN THIS CONTRACT MEANS PENRITH CITY COUNCIL.

This form is to be used to apply for the creation, modification or extinguishment of an easement over Council owned land.

## Reason for Application

Creation of a new easement over Council owned land  
Modification of an existing easement  
Detail the reason for modification

Extinguishment of an existing easement  
Detail the reason for extinguishment

## Applicant Details

First Name

Surname

Company Name (if applicable)

ABN (if applicable)

### Postal Address

Street Number

Street Name

Suburb

Postcode

Phone Number

Mobile Number

Email Address

### Office Use Only

Application Fee Receipt Number

Date

Amount

### CONTACT US

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## Council Property Affected by the Easement

*\*If more than one property is affected by the easement, please attach a separate sheet detailing each property Lot/DP (if known)*

Street Number

Street Name

Suburb

Postcode

## Purpose of the Easement

Right or carriage way

Easement to drain water

Easement for overhang

Easement water supply

Easement for drainage of sewage

Right of access

Right of foot way

Other (please specify below)

Easement to drain sewage

Easement for services

Easement to permit encroaching structure to remain

Easement for drainage of water

Easement for batter

Easement for repairs

Easement for electricity purposes

## Easement Details

Details of who benefits from the easement\*

*\* If more than one property benefits from the easement, please attach a separate sheet detailing each property*  
Authority Name

OR

Lot/DP (if known)

Street Number

Street Name

Suburb

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## Easement Duration:

Perpetual

For a term of \_\_\_\_\_ years and \_\_\_\_\_ months

Until a specified event. Please detail below

## Will the Infrastructure be installed:

Above the surface

Below the surface

Both above and below the surface

Please detail any additional easement terms not defined by statute or terms to be omitted from the dealing. See the Easement Information Sheet for additional information.

## Associated Approvals / Applications

Is this request associated with a Development Application DA?

Yes

No

DA Number if known

Is this request associated with a Part 5 Infrastructure and Environmental Impact Assessment under the Environmental Planning and Assessment Act?

Yes

No

If yes, please provide additional information on the project and the status of the assessment.

## Fees and Charges

This application incurs a non-refundable application fee, payable on submission of this application. The application fee is for Council to undertake a Preliminary Assessment of the proposed request. Additional fees may be payable before the determination of this application and upon execution of the easement documentation. See Council's Fees and Charges for a list of applicable fees and the attached information sheet for additional information.

## Submission Checklist

Completed Easement Application Form

A plan showing the proposed or existing easement (plan to include the location and dimensions of the easement)

Payment of the application fee

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## Payment Method

Application fees can be paid by cash, cheque or credit card.

- cash, cheque or credit card payments can be paid in person
- cheque or credit card payments are accepted by post
- only credit card payments are accepted by email

See Council's adopted fees and charges at [penrith.city](http://penrith.city). All fees subject to change.

## Paying by Credit Card

Please complete the [Credit Card Authorisation Form](#) located in the list of [Downloadable Forms](#) and ensure that you provide the full details of the purpose of your payment on this form.

If you are sending your payment by email, please ensure the Credit Card Authorisation Form is included in your email as a separate attachment to your Application or any other information.

## Declaration

I understand and acknowledge responsibility of costs I am likely to occur with this request as outlined in Council's Fees and Charges.

I understand that this an application, it is not a legally binding contract. I acknowledge that the creation, modification or extinguishment of an easement over Council land is subject to a formal Council resolution.

I understand that if owner's consent is required for the lodgement of a Development Application (DA), consent will be granted for the lodgement of the application for assessment however this consent does not infer or imply any agreement for the easement request. I acknowledge following approval of the DA, the easement request is subject to public notification (if on community land), negotiation on the terms and conditions and Council endorsement.

I understand compensation is likely to be payable for this request as determined by a Certified Practising Valuer appointed by Council.

I have read the Information Sheet attached to this application form.

I declare that all the information given in this application is true and correct.

First Name

Surname

Signed

Date

## Acceptance of Application

Council will not process applications that are incomplete or non-complying with lodgement requirements. These applications will not be accepted or may be returned to applicants within 14 days.

## Lodgement Details

Applicants are required to lodge the completed application form and associated documents to Penrith City Council, by one of the following methods;

Email: [council@penrith.city](mailto:council@penrith.city) Post: **PO Box 60 Penrith NSW 2751**

In person: Penrith Civic Centre, 601 High Street Penrith or St Marys Business Office, 207-209 Queen St, St Marys

Marked **Attention: Property Development**

# EASEMENT FACT SHEET

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## What is an easement

An easement is a registered legal right burdening land and benefiting either another parcel of land or a prescribed authority. It gives one party rights over land owned by another party. The easement is created over a defined part of the burdened land and is recorded on the title of the burdened land at NSW Land Registry Services.

Easements include provisions to assist with a range of functions such as the installation, operation, repair and maintenance of infrastructure such as stormwater drainage, water mains, sewer mains, electrical services and gas lines.

Easements may also exist for right of foot way, right of carriage way, right of access, for batter for overhang and to permit encroaching structures.

Easements do not change with changes to property ownership and can restrict development over a site. Registered easements provide a means for landowners and successors in title to see that their land is encumbered and the conditions of the easement.

An easement does not place on the owner of the land burdened an obligation to act nor does it give exclusive and unrestricted use to a piece of land.

There are two types of easements:

1. Private easements – easements made between the owners of two or more parcels of land. The land having the benefit is the dominant tenement and the land having the burden is the servient tenement.
2. Easements in gross – easements created in favour of the Crown or public/local authority. They do not have a dominant tenement.

## Are additional terms required for my easement?

If you are creating an easement where the terms are not defined by statute, terms must be annexed to the dealing. If you are intending to use the terms defined by statute, it is permissible to omit them from the dealing. Any deviation from the terms defined by statute must be detailed within the application.

To view the terms defined by statute see:

- Easement benefitting land - Schedule 8 Conveyancing Act 1919
- Easement in gross - Schedule 4A Conveyancing Act 1919

A positive covenant may be imposed requiring the maintenance and/or repair of land that is subject to the burden of the easement. This is an additional requirement outside of the standard easement process. Should this be required, this must be detailed within your application under the Easement Details section.

## Community land requirements

Easements proposed over community land must be compliant with the Local Government Act 1993 LGA. Sections 45 – 47 of the Act detail Council's use and management of community land in terms of granting a lease, licence or any other estate. Under section 21(1) of the interpretation Act 1987, easements are defined as an estate.

In accordance with Section 47 of the Local Government Act 1993, Council must give public notice of the proposal including advertising in the local newspaper, exhibiting a sign on the affected land and giving notice of the proposal to owners or occupiers of the land adjoining the community land or within close vicinity to the land that may be directly affected by the proposal.

Should Council receive an objection to the proposal during the public notification period, Council must refer the application to the Minister for Local Government for determination (s.47 of LGA). Council accepts no liability if the Minister refuses to consent to granting the proposed easement.

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## Key stages of the Easement Process

Council has broken down the application assessment process and dealing registration into five stages as detailed below. All applications are subject to formal Council approval obtained in stage 3.

Stage	Description	Est. Timeframe
<b>Stage 1A:</b> Preliminary Assessment	Assessment of the proposal's permissibility and suitability	4 weeks
<b>Stage 1B:</b> Owners Consent for DA Lodgement (if Applicable)	Owner's consent issued for the submission of a Development Application (DA) for assessment. Only required if a DA is required for the proposed works.	1 week**
<b>Stage 1C:</b> Public Notification (Community Land Only)	Public notification of the proposal in accordance with s.47 of the LGA. Only required on community land.	8-10 weeks*
<b>Stage 2:</b> Negotiate Terms and Conditions	Negotiation between the applicant and Council on the terms and conditions of the proposal including compensation payable.	8-10 weeks
<b>Stage 3:</b> Council Resolution	Council resolution is sought to support the proposal and the agreed terms and conditions.	4 weeks
<b>Stage 4:</b> Document preparation and execution	Preparation and execution of the required documentation by all parties to the request.	4-6 weeks
<b>Stage 5:</b> LRS Registration	Registration of the required documentation with NSW Land Registry Services.	6-8 weeks
<b>Total Estimated Timeframe</b>		<b>26-32 weeks</b>

\* An additional 8-10 weeks is added to the estimated timeframe for completion if the request is on community land.

\*\* The estimated timeframe does not include owner's consent, submission or assessment of a development. Application DA.

## Fees and Charges

Please refer to Council's Fees and Charges for the fees applicable to easements available on our website (<https://www.penrithcity.nsw.gov.au/council/council-business/rates-payments-fees>).

## Compensation

Compensation is determined by means of a Market Valuation conducted by a Certified Practising Valuer jointly appointed by Council and the applicant.

The valuation report and the draft Terms and Conditions will be provided to the applicant for their consideration and approval prior to the request being reported to Council for final consideration and resolution

## Need additional information or help with your application?

Please contact Council's Property Development Department on (02) 4732 7777 or [council@penrith.city](mailto:council@penrith.city) for further information or assistance with completing this application.