

Listed Provider Scheme Management

1. Overview

1.1 At a glance

Sydney Water's (**us, we, our**) Listed Provider Scheme (**the scheme**) ensures that developers engage pre-approved listed providers to construct, modify and/or protect our assets when building new property developments or infrastructure projects.

Listed providers must comply with our mandatory criteria and follow our policies, standards and instructions to maintain their listing on the scheme. This Policy outlines action we may take against a listed provider for non-compliance.

1.2 Scope

This policy will assist listed providers to understand how we manage different types of non-compliances under the Listed Provider Scheme, and the actions we may take in relation to those non-compliances.

While a Water Servicing Coordinator (WSC) is a listed provider, WSCs have separate contractual arrangements with us. Non-compliance by WSCs are dealt with under those contracts and are excluded from this Policy.

1.3 Objective

This policy will explain:

- a. the actions we may take in relation to non-compliances
- b. how the different types of non-compliances are raised against and issued to a listed provider
- c. the level of severity we attach to the different types of non-compliances under the scheme
- d. the factors we consider when investigating non-compliances
- e. the steps a listed provider must take when it receives a non-compliance
- f. what potential actions we may take following the issuing of a non-compliance to a listed provider.

2. Policy in detail

2.1 The Listed Provider Scheme

Sydney Water operates under the *Sydney Water Act 1994 (NSW) (SW Act)*. We have two pathways to modify or deliver assets. We either directly contract with third parties to build assets or, in the case of new property developments and infrastructure projects (**developer works**), the developer is responsible for the asset design and construction, with the assets ultimately vesting with Sydney Water.

Whenever developer works involves:

- construction of an asset
- connection to an asset
- modification of an asset
- works within a zone of influence to an asset,

the developer is required to engage a pre-approved listed provider to undertake those types of developer works.

Our Listed Provider Scheme is established under Section 5(3) of the SW Act. Under the scheme, the categories of listed providers who can be engaged by developers to construct, modify or protect our assets are:

- Constructors - authorised to construct new water, recycled water, wastewater and stormwater pipes
- Field Testers - testing of new pipes to meet our standards and applicable codes
- Service Protection Reporters – reports on location of our assets
- Water Service Connection Drillers - authorised to carry out drilling into our water pipes and
- Water Servicing Coordinators (**WSCs**) - performs design, management and site services related to the required infrastructure (Refer to Section 1.2).

Critical aspects of works undertaken by listed providers include compliance with our policies, standards and instructions as well as any applicable legislation regarding:

- Customer outcomes
- Safety in and around assets
- Properly authorised connections to our systems
- Environmental risk from wastewater leaks, spills, and surcharges.

To maintain a listing, listed providers are required, as a minimum, to meet and maintain a set of mandatory criteria listed on the Sydney Water website and updated from time to time.

In addition to the mandatory criteria, listed providers may receive Corrective Action Requests (**CARs**) for work-related issues arising while undertaking developer works.

Non-compliance with either the mandatory criteria or non-compliance resulting in the issuing of CARs may require listed providers to take action to remedy non-compliance(s) and to avoid future non-compliance(s). For certain non-compliances or where there is a systemic history of non-compliances, we may issue the listed provider with a Show Cause Notice as to why we should not suspend or terminate that listed provider from the scheme.

2.2 Non-Compliance with mandatory criteria under the scheme

If we identify that a listed provider has failed to meet their obligations under the mandatory criteria, it is considered a non-compliance with the scheme. We will issue a Non-compliance Notice (**NCN**) to the listed provider setting out the observed non-compliance and the reasons why we believe the non-compliance exists.

2.2.1 Action we may take in relation to non-compliance with mandatory criteria

Non-compliance Under the scheme by Listed Provider	We may decide to:
Failure to maintain required insurances	Issue a Non-compliance Notice. Immediate suspension until insurances are in place. Where this has occurred for a continuous period greater than two (2) months, Issue a Show Cause Notice (termination).
Failure to comply with obligations related to Quality Management System (QMS)	Issue a Non-compliance Notice. Immediate suspension until necessary QMS certification is in place. Where this has occurred for a continuous period greater than six (6) months, Issue a Show Cause Notice (termination).
Failure to demonstrate an ability to plan and implement safety and environmental requirements	Issue a Non-compliance Notice and/or Issue a Show Cause Notice (suspension or termination).
Failure to conform to our codes, instructions, and Business Ethics Code	Issue a Non-compliance Notice and request a written response to that notice to prevent reoccurrence of the non-compliance, or Where the listed provider has a history of repeated or systemic non-compliances, Issue a Show Cause Notice (suspension or termination).
Company is insolvent, is in administration, voluntary administration, receivership or similar	Issue a Non-compliance Notice. Immediate suspension until company is no longer under these categories. Where this has occurred for a continuous period greater than six (6) months, Issue a Show Cause Notice (termination).
Failure to comply with obligations under the mandatory criteria not listed above	Issue a Non-compliance Notice and request a written response to that notice to prevent reoccurrence of the non-compliance, and/or Where the listed provider has a history of repeated or systemic non-compliances, Issue a Show Cause Notice (suspension or termination).

2.3 Corrective Action Request (CAR)

Sydney Water or a WSC, when attending a developer works site, may identify non-compliances with applicable industry codes or standards, or our policies or instructions which may result in a Corrective Action Request (CAR) being raised by us against the listed provider (see section 3.2).

A CAR is a set of steps used in quality management to eliminate process discrepancies and prevent root cause recurrence. CARs require systematic changes to address work-related issues and improve business operations.

If a listed provider receives a CAR, then the listed provider must respond to the non-compliance outlined in the CAR by providing the following information:

- identify the root cause of the non-compliance
- formulate a **Corrective Action Plan (CAP)** to eliminate the re-occurrence of the detected non-compliance.

CAR related non-compliances are classified as either major or minor. This classification is determined by the potential impact of the non-compliance. The following table provides a general description of CAR types as major non-compliances and minor non-compliances.

	Major non-compliance CAR	Minor non-compliance CAR
Description	<p>Non-compliances that could lead to or have resulted in:</p> <ul style="list-style-type: none"> • serious injury or death of persons, • risk to public health, • compromise the continued delivery of water and wastewater services to Sydney Water customers, • interfere or impede the operation of water and wastewater systems, • cause damage to the environment. <p>Major non-compliances include but are not limited to:</p> <ul style="list-style-type: none"> • Illegal connections • Breaches of safety or environmental laws. 	<p>Non-compliances that:</p> <ul style="list-style-type: none"> • are more administrative, procedural, or process-based in nature and • do not materially impact safety, public health, the environment or the continued delivery of water and wastewater services to customers. <p>If not remedied, minor non-compliances may lead to major non-compliances.</p>
Action causing the non-compliance	<p>Significant failure or systemic failure to a Listed Provider's process and procedures to comply with:</p> <ul style="list-style-type: none"> • Sydney Water policies, standards or instructions. • Applicable laws or codes. 	<p>This is a minor non-compliance in the Listed Provider's process and procedures.</p>

2.3.1 Actions we may take in relation to CARs

CARs received by listed provider	We may decide to do any of the following or any combination of the following
<p>One CAR that is a major non-compliance CAR (see Appendix 1).</p>	<p>Ask the listed provider to provide a Corrective Action Plan, which will outline measures undertaken to address and/or prevent reoccurrence of the non-compliance.</p> <hr/> <p>Where the listed provider has a history of repeated or systemic non-compliances, hold a debrief meeting with the listed provider to discuss the CAR and CAR history and / or Ask the listed provider to provide a Corrective Action Plan which will outline measures undertaken to prevent reoccurrence of the non-compliance.</p>
<p>Two CARs within 2 years related to safety or illegal connections or environmental non-compliances with a very high or high-risk rating (see Appendix 1).</p>	<p>Hold a debrief meeting with the listed provider to discuss the CAR and CAR history and / or Ask the listed provider to provide a Corrective Action Plan which will outline measures undertaken to prevent reoccurrence of the non-compliance.</p>
<p>Receives three CARs within 2 years related to safety or illegal connections or environmental non-compliances with a very high or high-risk rating (see Appendix 1).</p>	<p>Hold a debrief meeting with the listed provider to discuss the CAR and CAR history and /or Issue a Show Cause Notice (suspension or termination).</p>
<p>Listed provider has completed less than ten Cases within a two-year period and within that 2-year period receives five CARS.</p>	<p>Hold a debrief meeting with the listed provider to discuss the CAR and CAR history and / or</p>
<p>Listed provider has completed ten cases or more within a two-year period and receives a CAR with a medium or low risk rating on more than 25% of cases (see Appendix 1).</p>	<p>Ask the listed provider to provide a Corrective Action Plan which will outline measures undertaken to prevent reoccurrence of the non-compliance.</p>

Note - multiple non-compliances on a single case may be subject to multiple CARs being raised.

Note - following a debrief meeting, we may determine to issue a Show Cause Notice.

2.4 Subcontractors

Under the scheme, listed providers are considered by us as fully liable for any non-compliances resulting from works, actions or inactions undertaken by their subcontractors. Any actions or inactions by a listed provider's subcontractor that results in a Non-compliance Notice or a CAR, that Non-compliance Notice or CAR will be raised against and issued to the listed provider and the listed provider must respond. As listed providers are fully accountable for their subcontractors, it is possible that the listed provider can be suspended or removed from the scheme due to the actions of its subcontractor(s).

3. Non-compliance process

3.1 Non-Compliance Notices

Where we have identified non-compliance with the mandatory criteria by the listed provider, we may issue a Non-compliance Notice. The Non-compliance Notice will:

1. Identify the non-compliance with or failure to meet our requirements under the mandatory criteria and the reasons we believe this to be the case.
2. Outline the actions required to remedy or address the non-compliance.
3. In the case of some specific non-compliances, notify the listed provider if it is suspended from the scheme until the non-compliance is remedied.
4. Outline the consequences to the listed provider if the non-compliance is not remedied or addressed and the date by which the non-compliance needs to be remedied or addressed.

3.2 Corrective Action Requests

CARs are issued by us when we observe a non-compliance related to developer works. The process involves a CAR first being raised in our system and then being issued to the listed provider either through e-Developer, directly to the listed provider, via a WSC or an alternate system identified by us.

Only we can raise a CAR.

The CAR will describe the non-compliance including:

1. Details of the non-compliance, to clearly identify to the Listed Provider of the date, approximate time, service type and description of the CAR incident observed or that occurred
2. Our standards, instructions and/or codes that were not followed
3. Type of non-compliance: safety, environment, administration, compliance, performance, and quality
4. Any other action we require the listed provider to take in relation to the non-compliance.

When attending a developer's site, if a WSC identifies an issue on a site that that could be the subject of a CAR, the WSC can request we raise a CAR against the identified listed provider. A WSC has no authority to raise a CAR.

If a WSC asks us to raise a CAR against a listed provider, the WSC must provide items 1-3 above, and any other evidence, including time-stamped photos.

3.2.1 Responding to or disputing a Corrective Action Request

If a listed provider receives a CAR, the listed provider must submit a response to us within five (5) business days.

If we have not received a response within the prescribed time limit (five business days), we may require the listed provider to attend an urgent meeting or we may issue a Show Cause Notice.

Non-Disputed CAR

If the listed provider does not dispute the CAR, then the response must address:

1. The root cause of why the non-compliance occurred and what will be done to resolve the non-compliance.
2. Prevention description (i.e What changes have been made or will be made to address the non-compliance from reoccurring).

Disputed CAR

If the listed provider disputes the CAR, then the response must:

1. address what is disputed
2. provide evidence in support of position.

When we receive the listed provider's response, we may request further information to be provided within a prescribed time.

If we don't need further information, we will investigate the disputed CAR.

If we need further information, we will not commence an investigation into the disputed CAR, until the information is received. If the further information is not provided by the listed provider within the prescribed time, then we may require the listed provider to attend an urgent meeting or we may issue a Show Cause Notice.

Within one month of us receiving all the necessary information needed to investigate the disputed CAR, we will notify the listed provider of our finding and whether:

- the CAR stands
- the CAR will be rescinded or
- a new CAR will be issued in its place.

3.3 Sydney Water review of listed provider non-compliance history

When issuing any NCN or CAR, we will also review the listed provider's history of non-compliance to determine if there is a pattern of repeated or systemic issues related to any of the non-compliances. We will also review any previous Corrective Action Plans and compliance with undertakings made under those plans by the listed provider. This review will guide any potential follow-up actions from the NCN or CAR as outlined in sections 2.2.1 and 2.3.1

3.4 Corrective Action Plans

We may require the listed provider to submit a Corrective Action Plan in respect of non-compliance(s). A Corrective Action Plan is a detailed document that records what the listed provider will do to rectify non-compliances and should detail how the listed provider will prevent a reoccurrence of the non-compliance. If we believe the Corrective Action Plan submitted by the listed provider fails to address the non-compliances, we may give one opportunity to the listed provider submit a revised Corrective Action Plan to us. We will then assess the Corrective Action Plans on their merits with respect to any further actions by Sydney Water.

A Corrective Action Plan must be in the form of a letter and:

1. Be signed by company's director/ owner
2. Address each non-compliance raised
3. Outline measures the listed provider has undertaken to prevent reoccurrence
4. Provide supporting evidence of actions or policy changes already completed to date, for example revised Safety Management Plan, any toolbox talks held in relation to recent incident

3.5 Debrief Meetings

We may require the listed provider to attend a debrief meeting in respect of non-compliance(s). A debrief meeting is a meeting between us and the listed provider to discuss non-compliances. Minutes will be taken. Where required, we will advise the time, date, location and duration of the debrief meeting and provide the listed provider with an agenda prior to the meeting. The debrief meeting would normally be held within two business days of our request for a meeting.

We expect that the listed provider will attend the debrief meeting prepared with:

1. An explanation of why the non-compliance occurred.
2. How the non-compliance may have been avoided.
3. Current or amended documentation and policies to demonstrate to us what steps the listed provider have undertaken to address the non-compliance.

At the debrief meeting the following items (not exhaustive list) may be discussed:

1. The current and historical non-compliance issues including NCN(s) and CAR(s).
2. We will present any investigation findings.
3. Listed provider will present their case, by addressing each non-compliance raised; outline measures the company has undertaken to prevent reoccurrence of non-compliances and provide supporting evidence of actions undertaken and policy changes.
4. Listed provider may be asked to submit a Corrective Action Plan.
5. We will detail the consequences and impact on people or businesses, and possible actions that it may take against the listed provider.

3.6 Show Cause Notice

We may issue a listed provider with a Show Cause Notice following our investigation and the listed provider's submissions regarding non-compliances. A Show Cause Notice will provide background and details concerning non-compliance(s) and the reasons why the Show Cause Notice is being issued. A Show Cause Notice will request that the listed provider to provide a written submission, by a specified date, on why it should not be either suspended or removed from the scheme. The response would ideally address the non-compliance(s) the subject of the Show Cause Notice in setting out its case to us.

3.7 Suspension or Termination from the scheme

Following receipt of a listed provider's response to a Show Cause Notice, we will review the response and may determine to take any of the following actions:

1. seek further information from the listed provider
2. take no further steps
3. suspend the listed provider from the scheme for a period of time or
4. remove the listed provider from the scheme.

If our decision is to suspend or remove a listed provider from the scheme, a notice will be sent to the listed provider specifying the reasons for the suspension or removal (as applicable).

The listed provider must:

1. Stop working on assets unless we consent to the listed provider finalising open cases, subject to the consent of the engaging developer.
2. Notify developers with current active projects, advising them of the suspension or removal of the listed provider from the scheme. If the developer requests another listed provider to finalise their case, assist with the transfer of those clients to the chosen listed provider.

4. Definitions

Term	Definition	Source
Act	The <i>Sydney Water Act 1994 (NSW)</i> and any regulations in force under it.	Sydney Water
Asset	A physical facility that supports or enables service provision and which has economic value to Sydney Water.	Sydney Water
Business Ethics Code	Our Code of Business Ethics for Listed Providers (the Code) sets out our expectations for listed providers to promote and maintain ethical conduct in their dealings with us, developers and the community.	Sydney Water
Case	The works to be performed under the Developer Works Deed, including design, construction, supervision, testing and certification. Works might relate to drinking water, recycled water, wastewater, or stormwater.	Sydney Water
Corrective Action Plan	A written undertaking from the Listed Provider as described in Section 3.4	Listed Provider
Corrective Action Request or CAR	as described in clause section 2.3	Sydney Water
Debrief Meeting	A meeting between Sydney Water and a Listed Provider as described in Section 3.5	Sydney Water / Listed Provider

Term	Definition	Source
Developer	A person who has been given an approval as defined in Division 9 of the Act.	Sydney Water
Developer Works	The Works for which the Developer is responsible under a Notification of Sydney Water's requirements.	Sydney Water
Developer Works Deed	The Developer Works Deed is a multiparty deed signed by project participants including the developer, constructor, WSC, Listed Providers, other providers, and Sydney Water. The Deed sets out the terms and conditions of engagement and imposes obligations on parties to Sydney Water.	Sydney Water
Instructions	Detailed information telling Listed Providers how a process should be followed	Sydney Water
Listed Provider	A company listed on Sydney Water website to carry out particular parts of the Developer Works relating to Assets.	Sydney Water
Mandatory Criteria	Criteria specified on the Sydney Water website under the headings Listed providers (sydneywater.com.au) and Maintaining your listing (sydneywater.com.au) as updated from time to time	Sydney Water
Non-Compliance Notice	A notice issued by Sydney Water to a Listed Provider as described in Section 3.1	Sydney Water
Policy	A Sydney Water document that sets out a plan of action for Sydney Water in a distinct area of its business. A policy is read in conjunction with the related guideline.	Sydney Water
Scheme	Means the listed Provider Scheme described in section 2.1	Sydney Water
Show Cause Notice	The Show Cause Notice will request the Listed Provider to show cause as to why Sydney Water should not either suspend or terminate the Listed Provider from the Scheme.	Sydney Water
Water Servicing Coordinator	Water Servicing Coordinators act as an interface between the developer, Sydney Water and Listed Providers, who are involved in the delivery of water, wastewater, recycled water and stormwater services for property development and infrastructure projects.	Sydney Water

5. Context

5.1 References

Document type	Title
Policies and procedures	Listed Provider Scheme Management Procedure – under development
Other documents	Code of Business Ethics for Listed Providers

5.2 Attachments

Attachment	Title
1	Risk Assessment Matrix - Major non-compliance

Appendix 1 Risk Assessment Matrix

RISK ASSESSMENT MATRIX - Major non-compliance						
ID	Description	Identify the Risks		Analyse the Risks		
		Consequence Category	Potential exposure	Consequence level	Likelihood level	Risk rating
Major non-compliance						
1	No electrical safety control on site for connection inc. PPE gear	Injury / Illness	Critical	Extreme	Possible	Very High 1
2	No confined space rescue equipment or gas detector on site	Injury / Illness	Critical	Extreme	Possible	Very High 1
3	Illegal upfront connection	Public health	Critical	Critical	Possible	High 2
4	No confined spaces (other) equipment on site	Injury / Illness	Critical	Critical	Possible	High 2
5	No electrical safety procedure in constructor's Safety Plan	Injury / Illness	Critical	Critical	Possible	High 2
6	Unsafe Excavation Practices	Injury / Illness	Critical	Critical	Possible	High 2
7	Unsafe work practices onsite	Injury / Illness	Major	Major	Possible	High 3
8	Failure to adhere to Safety Management Plan	Injury / Illness	Major	Major	Possible	High 3
9	Failure to adhere to Environmental Management Plan	Environment	Major	Major	Possible	High 3
10	No on-site Site Representative and or accredited Key Personnel	Performance	Major	Major	Possible	High 3
11	No confined space accreditation on site	Injury / Illness	Major	Major	Possible	High 3
Minor non-compliance						
12	Listed Key Personnel does not have required capability to perform scope of work	Performance	Moderate	Moderate	Possible	Medium 4
13	Construction started before CCN or there was a failure to notify Construction start date	Compliance	Minor	Minor	Possible	Medium 5

RISK ASSESSMENT MATRIX - Major non-compliance						
ID	Description	Identify the Risks		Analyse the Risks		
		Consequence Category	Potential exposure	Consequence level	Likelihood level	Risk rating
14	No Pre poured thrust blocks	Performance	Minor	Minor	Possible	Medium 5
15	Not completing connection within allocated time frame	Reputation	Minor	Minor	Possible	Medium 5
16	Construction works requires minor rectifications	Performance	Minor	Minor	Possible	Medium 5
17	Failure to construct to relevant construction plans	Performance	Minor	Minor	Possible	Medium 5
18	Failure to construct to relevant SWC standards and Codes	Performance	Minor	Minor	Possible	Medium 5
19	Failure to follow accepted Project Specific Quality Plan	Performance	Minor	Minor	Possible	Medium 5
20	Failure to follow relevant SW Work Instructions	Performance	Minor	Minor	Possible	Medium 5
21	Failure to have current version of SW standards and codes on site	Performance	Minor	Minor	Possible	Medium 5
22	Missing or no use of PPE – depending on what PPE is missing and in what circumstance	Injury / Illness	Minimal	Minor	Possible	Medium 5
23	Post Inspection Booked; Construction not completed or completed unsatisfactorily	Performance	Minimal	Minimal	Possible	Low 6
24	Connection Cancelled due to insufficient Notice	Financial Loss	Minimal	Minimal	Possible	Low 6
25	Listed provider not on site	Compliance	Minimal	Minimal	Possible	Low 6
26	Failed field test result	Compliance	Minimal	Minor	Unlikely	Low 6

RISK ASSESSMENT MATRIX - Major non-compliance						
ID	Description	Identify the Risks		Analyse the Risks		
		Consequence Category	Potential exposure	Consequence level	Likelihood level	Risk rating
27	Failed Ozone and Chlorination	Compliance	Minimal	Minor	Unlikely	Low 6
28	Main ends not capped or plugged	Performance	Minimal	Minor	Unlikely	Low 6
29	On-site Paperwork incomplete or missing	Performance	Minimal	Minor	Unlikely	Low 6