



Entry onto third party property

1. Purpose

This guide will help you achieve a balance between our statutory function to provide water and sewer services and the common law rights of our existing customers who are affected by a development.

2. Scope

This guide applies to all customers when your altering or extending our services and need to enter someone's property to do so.

3. Guide

3.1 Agreement by parties

You or the person representing you negotiate with the property owner or tenant by using our Sydney Water's Entry Procedures and related documents.

You need to ensure you've identified all the important issues and have them documented clearly and correctly.

3.2 There are alternatives to minimise impact

3.2.1 Alternatives

If the works are going to make more than a slight impact, you must think about whether there are different designs, construction work and operation methods that could be used instead. The idea behind this is to cause as little damage as possible and to help ensure there are no problems for the property owner or tenant.

3.2.2 Negotiated options

If there's an alternative way of working, but the you don't want to use it you can always compensate the owner for working the way you want. This is not classed as compensation under section 41(2) of the Act – see the below section 3.3.2.

3.2.3 Limitations to negotiated options

If you come up with an alternative but doesn't fit with our operating, maintenance and renewals objectives, we won't allow you to use it. An example is you won't be allowed to build extra structures or have an extremely long service.

3.2.4 Acceptance of no alternatives

If a property owner or tenant does not want you to enter the property we will look at all options available. If none of those options are appropriate we have to agree to this fact in writing.

3.3 Compensation

3.3.1 Statutory basis

You have to provide compensation and meet all of the obligations that are set out in the Act. The compensation can be in the form of reinstatement, repair, construction of works or money, this is based in Section 41(2) of the Act.

3.3.2 Summary of compensation principles

When it comes to compensation, the legal advice is:

- physical damage is usually compensated by restoring the damaged property, disputes usually need to be resolved before we will take over the works

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- we only pay compensation for wastewater infrastructure where there is physical damage to a building or structure on the relevant block of land not rectified by restoration or a new maintenance hole or main ventilator
- the compensation for a maintenance structure or main ventilator depends on the property
- there is no compensation for disturbance or inconvenience and no compensation for the presence of a pipe, if there was a little damage as possible caused when it was fitted.

To be sure that damage is kept to a minimum you should follow our design and installation standards.

3.3.3 Dispute resolution

Sometimes the property owner or tenant may dispute a compensation offer. The following steps will help you resolve the dispute:

- you'll need to the registered valuers valuation report that was used as the basis of the offer
- if the affected property owner or tenant wants to dispute this valuation then they will need to produce their own registered valuers report
- if you and the owner or tenant still can't resolve the dispute then we may decide to consult and pay another registered valuer to make an independent decision about the valuations. If we don't engage another valuer we'll decide ourselves. Our decision will be based on how the two valuation reports meet the obligations and principles talked about in sections 3.31 and 3.32 above
- We'll tell you and the affected property owner or tenant the result of our decision and you will have to reimburse us for the costs of that decision.

Please note

The compensation process including the reports must be based on sections 3.3.1 and 3.3.2 above and any property owner or tenant valuations report that's not appropriate should be rejected. For example it should not cover the presence of the pipe.

3.3.4 Timing of resolution

Compensation issues should usually be resolved, as appropriate and before:

- entry
- the work is accepted
- a certificate is issued, or the bond is released.

3.3.5 Assurance of rights

If a compensation dispute is going to be resolved after entry, the affected property owner or tenant has to be assured they have a right to compensation and it's your responsibility to deal with those issues. The issues should be finalised between you and the owner to minimise any exposure to us.

3.3.6 Sydney Water mediation

We may get involved in a dispute if:

- the connect authority (usually council) has given development consent

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- you have given us completed and signed Permission to Enter from(s) and all supporting documents particularly in relation to any disputed items
- you have signed the form(s).

3.3.7 Issue of notice of entry

If we have not been able to help the parties agree, we may:

- Go back to you if we think your offer is not good enough
- or
- Resolve the issue by a Notice of Entry action, we'll do this if Management thinks appropriate.

4. Definitions

Name	Meaning
Act	The <i>Sydney Water Act 1994</i> and any regulation in force under it.
Bond	Money given to us before the applicant meets our conditions. The money covers the costs of construction of works.
Section 73 Certificate	A certificate referred to in Division 9 of the <i>Act</i>
Consent authority	Authority who gives consent to develop – usually Council
Development	Any activity relating to land that needs approval as specified in Section 69 of the <i>Act</i>
Maintenance structure	A structure on a sewer that allows access to it for maintenance
Notice of Entry	A notice issued under Section 40 of the <i>Act</i>
Permission to Enter	A form that is used when an applicant wants to go onto another person's property as detailed in Section 38 – 40 of the <i>Act</i>