

PERMISSION TO ENTER (TENANT) (February 2016)

(Complete all boxes)



Property to be entered

Property Owner Name

Contact/Phone

Council approved development address

Case No.

Developer Contact Name (Water Servicing Coordinator)

Phone

In order to service the development at the above address, a _____ will need to be constructed within your tenanted property. This is shown on the attached plan which has been submitted to Sydney Water. When construction is completed to Sydney Water's satisfaction, ownership of the _____ will transfer to Sydney Water. Sydney Water is legally obliged to facilitate the provision of water and wastewater services to this development but wants to ensure its impact on your tenanted property is minimised as far as is practicable. Below is a list of items you may need to consider with the Developer/agent.

ITEMS FOR CONSIDERATION AND NEGOTIATION (if insufficient space please attach a separate sheet)

Note: All items **must** be addressed OR, if crossed out, **must** be initialled by both parties OR marked 'Not Applicable'

Proposed start date for construction of works

Duration of work

Variation to this date must be advised in writing at least 5 working days prior or as soon as possible if inclement weather

Excluding inclement weather

Hours and days of the week work will be undertaken:

From _____ to _____ Cross days: **Monday Tuesday Wednesday Thursday Friday**

From _____ to _____ **Saturday Sunday**

Works to be Constructed (see plan)

Design/construct alternatives (see note 1 over page)

Authorised personnel and machinery entering property

Temporary access arrangements provided

How effects of dust and noise will be minimised

Safety and Security Provisions

Safeguards to protect buildings or other structures

Agreed restoration provisions (see note 3 over page)

Compensation for maintenance hole/main vent (see note 4 & 5)

Further agreed issues (see note 2 over page)

For the property shown above, construction of works under the terms detailed above/attached is: **(Delete one, see note 6)**

Agreed by us and Permission to Enter is given **OR**

There is disagreement, for reasons detailed, and there is **NO** Permission to Enter.

Developer _____

Property* Tenant _____
(*Property to be entered)

Developer/Authorised Agent signature/ _____ / / /
Date

Tenant/Authorised Agent signature/ _____ / / /
Date

(print name) _____

(print name) _____

I agree to meet the construction conditions detailed above/attached.

Constructor _____ Date ____/____/____

- Notes:**
- 1 Alternatives will only be accepted if they do not significantly and adversely affect Sydney Water's operating and maintenance objectives and meet Sydney Water's financial objectives.
 - 2 Developers may negotiate a commercial arrangement to avoid alternatives. This is not compensation under the Act and Sydney Water will not be involved.
 - 3 Compensation for physical damage is generally made by way of restoration except where payment must be made for damage not restored after construction completion. See extracts from the Act below.
 - 4 Payment of compensation for a sewer is for the presence of a new access chamber (maintenance structure) or main vent because compensation for disturbance/inconvenience and the presence of the pipe is not provided for in the Act. Any valuation should be based on the foregoing.
 - 5 Compensation issues talked about in note 4 should generally be resolved before entry and issues talked about in note 3 resolved before acceptance of the work. However Sydney Water may decide that it is appropriate to resolve some issues after either entry or construction of the work or issue of the Section 73 compliance certificate.
 - 6 Delete either clause entirely – alterations will NOT be accepted – and sign. If there is disagreement the reasons **must** be detailed. If the affected property tenant refuses to sign, the developer **must** address all items including the reasons for disagreement, sign unilaterally and submit for Sydney Water review.

Extracts of the Sydney Water Act 1994

Section 38 Entry on to land

- (1) The Corporation may, by persons issued with certificates of authority under Section 39, enter and occupy land or a building in accordance with this Division for any one or more of the following purposes:
 - (a) to operate, repair, replace, maintain, remove, extend, expand, connect, disconnect, improve or do any other things that the Corporation considers are necessary or appropriate to any of its works or to construct new works and, for these purposes, to carry out any work on, below or above the surface of the land;
 - (h) to ascertain the character and condition of the land or a building to enable the Corporation to operate, repair, replace, maintain, remove, extend, expand, connect, disconnect or improve, or do any other thing to the Corporation's systems and services for the purposes of carrying out the terms and conditions of an operating licence;
 - (i) to ascertain the condition and location of any pipe, sewer, drain, channel or fitting or other work used in connection with the land or a building to enable the Corporation to operate, repair, replace, maintain, remove, extend, expand, connect, disconnect or improve, or do any other thing to the Corporation's systems and services for the purposes of carrying out the terms and conditions of an operating licence.

Section 39 Certificate of Authority

- (1) The board of the Corporation may authorise an officer of the Corporation or the holder for the time being of an office in the Corporation's establishment to issue certificates of authority for the purposes of this Act.
- (3) A certificate of authority must:
 - (a) state that it is issued under this Act; and
 - (b) specify the person or class of persons who are authorised to exercise the power of entry under this Act; and
 - (c) describe the nature of the powers proposed to be exercised; and
 - (d) state the date (if any) on which it expires; and
 - (e) bear the signature of the person by whom it is issued.

Section 40 Exercise of powers of entry

- (1) Before a person enters any land or building under a power conferred by this Division, the Corporation or a person must serve on the owner or occupier of the land or building notice in writing of the intention to enter the land or building on a day or days specified in the notice unless:
 - (a) entry to the land or building is made with the consent of the owner or occupier of the land or building.
- (2) A power conferred by this Division to enter any land or building may not be exercised unless the person proposing to exercise the power:
 - (a) is in possession of a certificate of authority issued under Section 39; and
 - (b) exercises the power at a reasonable time during daylight, unless this would defeat the purpose for which the power is to be exercised or the power is exercised in an emergency; and
 - (c) produces the certificate of authority if required to do so by the occupier of the land; and
 - (d) uses no more force than is reasonably necessary to effect the entry.
- (3) Nothing in this section authorises the use of force to enter a dwelling-house or any enclosed part of a building occupied as a dwelling or authorises the entry of such premises at night without the consent of the owner or occupier of the premises unless entry is required urgently and the case is one in which the board of the Corporation has authorised in writing (either generally or in the particular case) entry without notice.

Section 41 Compensation

- (1) The Corporation, in exercising its functions under this Division, is to do as little damage as practicable and is, subject to this Division, to compensate all persons who suffer damage by the exercise of the functions.
- (2) Compensation may be made by reinstatement, repair, construction or works or payment.
- (3) If the Corporation installs a sewer on land in exercise of powers under this Division, the Corporation is required to pay compensation only if the sewer damages, or interferes with, a building or other structure on the land or causes other physical damage to property or if an access chamber or main ventilator is constructed on the land.

FOR OFFICE USE ONLY

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Ownership details correct?
<input type="checkbox"/>	<input type="checkbox"/>	Permission to Enter satisfactorily completed? (<i>i.e. all items addressed, blanks and crossed out items initialled</i>)
<input type="checkbox"/>	<input type="checkbox"/>	Permission to Enter signed by both parties?
<input type="checkbox"/>	<input type="checkbox"/>	Design satisfied Sydney Water Standards? (<i>refer Sewer Design Checklist</i>)
<input type="checkbox"/>	<input type="checkbox"/>	Is design Sydney Water's preferred option?
<input type="checkbox"/>	<input type="checkbox"/>	If agreement has not been reached, has all required correspondence been submitted?
<input type="checkbox"/>	<input type="checkbox"/>	Has affected property owner been given reasonable time to reply?
<input type="checkbox"/>	<input type="checkbox"/>	Does the reply by the affected property tenant raise any new issues?
<input type="checkbox"/>	<input type="checkbox"/>	Is a redesign required?
<input type="checkbox"/>	<input type="checkbox"/>	Is Sydney Water review required?

Sydney Water Signatory

___/___/___