

Bonding of Works

1. Overview

1.1 At a glance

Sydney Water issues a Notification of our requirements to Customers applying for a Compliance Certificate and who want to deviate, adjust, connect to or extend our Assets. By exception, we may provide Compliance Certificates before completing the Works specified in the Notification, if you meet certain conditions and execute a bonding agreement.

This policy covers:

- our bonding arrangements
- the value of the bond we require
- the consequences of failing to meet bonding conditions
- information requirements for a bonding application.

1.2 Scope

This policy applies to:

- Works where Sydney Water requires you to bond
- Applications for bonding arrangements with Sydney Water for the early release of Compliance Certificates before completing Works that involve adjusting, deviating, connecting to or, extending Sydney Water's existing Services.

1.3 Objective

This policy ensures that any existing Sydney Water Services being adjusted, deviated, connected to or extended do not adversely impact our existing Customers and do not affect our *Operating Licence* or environmental protection licence requirements.

2. Our bonding arrangements

2.1 Why we bond

Sydney Water is governed by a range of regulatory and licence requirements that set out how we operate, ensuring that the continuity, pressure, water quality or other Services of our existing customers are not affected by work on our Assets. These requirements include:

- *Sydney Water Act 1994.*
- *Sydney Water Operating Licence 2015-2020.*
- *Sydney Water Customer Contract 2015-2020.*
- Sydney Water environmental protection licences.

These regulatory and licence requirements help determine how and when we require Customers to enter into bonding arrangements with us. We will not enter into bonding arrangements with Customers if there is a risk to any of these regulatory and licence requirements.

2.2 When we will not bond

We do not accept requests for bonding for early release Compliance Certificates:

- for Minor Works
- where development consent has not been granted
- where developer charges and capital contributions are outstanding
- if you have not resolved any existing 'permission to enter' third party property issues
- if you can complete Works in up to four weeks construction time. Construction time does not include the time to:
 - design the Works
 - test, disinfect (where applicable) and/or connect the Works
 - submit the project completion package
- where you require Major Infrastructure
- where we deem that the Works depend on other Works
- until disinfection of water and / or recycled water Works, as we deem relevant, have passed successfully
- for standard wastewater connections, until pre-connection inspection of wastewater Works has been completed and passed successfully.

2.3 Bonding for changes to existing Sydney Water Assets

2.3.1 When you must bond

We require bonding arrangements:

- for any existing Assets being adjusted, deviated, connected to or extended
- where you need to create easements or transfer property
- for homestead subdivisions, to ensure Services are connected within 12 months of subdividing the original parcel of land.

2.3.2 Bond value

The amount of the bond, as a minimum, must:

- be of sufficient value to cover contingencies (including completing or rectifying any partially outstanding or completed Works to Sydney Water requirements):

- If there is one quote for the Works, 'sufficient value' is the quoted cost multiplied by two to cover contingencies
- If there are three quotes, 'sufficient value' is the average of three quotes for the Works multiplied by 1.5 to cover contingencies
- not limit the liability of the Customer to Sydney Water under a Developer Works Deed or other Agreement; and
- be at least \$25,000.

You must provide an additional bond, where we require you to re-establish, then maintain for 12 months, any disturbed waterfront vegetation after connecting to a natural waterway. This is necessary to restore native vegetation cover to disturbed areas within the riparian corridor. You must provide a quote / quotes, for the total cost of the revegetation and its maintenance to allow us to determine the additional bond amount.

Note - The quotes for the cost of the Works must include GST.

2.4 Bonding for Compliance Certificate Works

2.4.1 When we may consider bonding

Purely at our discretion, we may consider bonding arrangements to:

- allow the early release of a Compliance Certificate before completion of the Works. With reference to Section 2.2 (When we will not bond), we will consider bonding at the following work steps for:
 - **drinking water / recycled water:** mains have passed disinfection to ensure tap water meets Australian and our strict drinking water standards
 - **sewer:** the fully constructed Asset has been inspected and passed by Sydney Water, to ensure the system is hydraulically sound and correctly connected
 - **sewer where there is an upfront connection:** to be assessed on a case-by-case basis, based on risk, as there are a number of potential bonding stages
- allow suspension of Sydney Water's objection to a road closure application.

Note – an upfront connection must have pre-approved by Sydney Water. Contact your Water Servicing Coordinator for further information.

2.4.2 Bond value

The amount of the bond must:

- cover the cost of all connections, inspections and finalisation of Works as decided by Sydney Water
- not limit the liability of the Customer to Sydney Water under a Developer Works Deed or other Agreement
- be at least \$25,000 per Service.

3. Accepted bonds

The bond may be in the form of either:

- a cash bond in the form of a bank cheque. Corporate cheques will take at least five business days to clear
- electronic funds transfer (EFT)
- a guarantee or insurance bond from:
 - a) an approved financial institution regulated by Australian Prudential Regulatory Authority (APRA) (<http://www.apra.gov.au/adi/Pages/adilist.aspx>). An 'approved financial institution' is either:
 - an Australian owned bank, listed on the APRA website under its register of 'authorised deposit-taking institutions'

- any other ‘authorised deposit-taking institution’ regulated by APRA and listed on the APRA website, provided it has a current credit rating of ‘A’ or above as assessed by Standards and Poors or Fitch Rating Services, or ‘A2’ or above as assessed by Moody’s Investor’s Services
- an insurer authorised to conduct new or renewal insurance business in Australia listed on the APRA website, provided it has a current credit rating of ‘A’ or above as assessed by Standards and Poors or Fitch Rating Services, or ‘A2’ or above as assessed by Moody’s Investor’s Services
- b) from an APRA regulated authorised deposit-taking institution or insurer having a lesser credit rating than an approved institution, that can only be accepted with the prior approval of Sydney Water’s Chief Financial Officer.
- an undertaking or interface agreement acceptable to Sydney Water. We only accept these from Government (and declared government) trading enterprises. We do not accept these from councils (councils are not Government trading enterprises) or corporations doing relevant business with government
- a blanket or rolling guarantee from an approved financial institution, with conditions we have approved for staged development areas.

4. Bond extensions

You must ask for a bond agreement extension as soon as you realise you cannot meet the conditions of your bond agreement and before the agreement’s expiry. We may call up the bond if you have not asked for an extension before the agreement expires (See Section 6 Bond releases).

If you need a bond extension, you must explain why you cannot meet the bonding agreement conditions and include a revised project management plan (See Section 8 Definitions).

5. Failing to meet bond conditions

5.1 Bond call ups

If you fail to comply with any of the conditions of the bond agreement and you haven’t asked for and been granted an extension, we will contact you to ask why you have not complied. We may then call up the bond if we believe immediate Works are required to prevent a potential breach of our regulatory and licence requirements, as outlined in Section 2.1 Why we bond.

If we call up a bond we may use the money, at rates determined by us, to:

- complete and/or assess the Works, so we can complete and/or take ownership of the Works
- compensate us for all the costs we incur, including:
 - all costs to complete the Works, including administration and operational costs
 - any payments we must make for breaching our *Customer Contract* (including Customer redress)
 - reimbursement for Service charges that we would must make to Sydney Water’s existing customers, if the Customer had not completed Works on time.

Notes

- Calling up of a bond is a serious matter as it may jeopardise the Customer’s credit rating.
- Rectification costs may not be limited to the value of the bond. We may seek to recover additional amounts over and above the bond from the Customer.

6. Bond releases

We will hold the bond until you transfer the Asset to us and pay us all outstanding expenses and fees owed to Sydney Water. After this occurs, we will return the bond (or the remaining part of the bond if we have called it up).

6.1 Stormwater Works

Connecting to natural waterways

We will release the additional bond for revegetation and maintenance after the 12-month maintenance period and satisfactory completion of the Works.

Note – We will return cash bonds only to the nominated bank accounts that you provided when you submitted the signed bond agreement. We will return bank guarantees to the issuing financial institution.

7. Submit your application

7.1 For Works where Sydney Water require you to bond

If you must apply for a bonding arrangement (Section 2.3 Bonding for changes to existing Sydney Water Assets):

- we must have received and accepted a design package for all Services required and the signed Developer Works Deed
- you must provide a schedule of construction costs for the Works
- you must give us a project management plan (see Section 8 Definitions)
- we must have a Head Case and a signed Agreement for Major Infrastructure projects
- you must provide us with the return details for the release of the bond.

7.2 For early release Compliance Certificates

To allow Sydney Water to assess if we will consider a bond (Section 2.4 Bonding for Compliance Certificate Works), you must provide us with:

- a letter requesting the bond explaining why the bond is required
- a schedule of construction costs for the Works
- a project management plan (See Section 8 Definitions), of outstanding and Dependant Works
- a site-specific construction method statement
- details of your Listed Provider's availability and schedule to complete the Works
- evidence that we have received and accepted a signed Developer Works Deed
- your plans as to how Services will be provided without risk to Sydney Water's regulatory and licence requirements (See Section 2.1 Why we bond)
- interim pre - WAC plans in a format we can upload
- return details for the release of the bond.

8. Definitions

Term	Definition	Source
Act	The <i>Sydney Water Act 1994</i> and any regulations in force under it. Also known as the Act.	Sydney Water
Agreement	A formal contract between a developer and Sydney Water.	Sydney Water
Asset	A physical facility that supports or enables service provision and which has economic value to Sydney Water.	Sydney Water
Bond	Financial security given to Sydney Water before the Customer meets our conditions.	Sydney Water

Term	Definition	Source
Completion of the Works	When Sydney Water has accepted a project completion package (PCP); including the Work as constructed (WAC) plans, all documents and reports, that deem the Works completed.	Sydney Water
Compliance certificate	A compliance certificate referred to in Section 73 of the Act.	Sydney Water
Customer	A developer who wants to deviate, adjust, connect to or extend Sydney Water Assets and/or, wants to get an early release compliance certificate before completion of the Works.	Sydney Water
Customer Contract	A document that sets out the rights and obligations of Sydney Water and its Customers (see Section 55 of the Act). These rights and obligations are in addition to those under the Act or any other law.	Sydney Water
Customer redress	Compensation when an existing customer's property experiences service interruptions.	Sydney Water
Dependant Works	In the case of drinking water / recycled water, completion of connection to Sydney Water's supply network that enables continuous supply of drinking water. In the case of wastewater, the completion and connection of the wastewater pipe to a downstream wastewater network that allows the transfer of wastewater to Sydney Water's trunk sewer network.	Sydney Water
Developer	A person who has been given an approval as defined in Division 9 of the Act.	Sydney Water
Developer charges	A contribution towards the cost of systems (eg reservoirs, treatment plants) which serve a development. We calculate these using base charges registered with the Independent Pricing and Regulatory Tribunal (IPART). Sydney Water cannot waive or change these charges.	Sydney Water
Developer Works Deed	A formal contract between a developer, Water Servicing Coordinator (WSC), Sydney Water and other Sydney Water listed providers.	Sydney Water
Development	In relation to land, means any activity to which an approval relates to, as defined in Division 9 of the Act.	Sydney Water
Easement	A document that sets out the rights of one party to use land owned by another party.	Sydney Water
Environment Protection Authority (EPA)	The Environmental Protection Authority is an independent body that regulates and responds to activities that can affect the health of the NSW environment and its people. The EPA's goal is to improve environmental performance and waste management in NSW.	Sydney Water
Environment protection licence (EPL)	An environmental protection licence is a permit issued by the Environment Protection Authority under the <i>Protection of the Environment Operations Act 1997</i> (NSW). Licence conditions prevent and monitor pollution and promote cleaner production through recycling and re-using resources and adhering to best practice.	Sydney Water
Government trading enterprises (GTEs)	Government-owned or government-controlled entities that produce goods and services on a commercial basis by substantially or fully covering their costs. They are outside the general government sector and separate from government financial enterprises in banking, insurance and related sectors. GTEs are also commonly referred to as state owned corporations (SOCs), government owned corporations (GOCs) and government business enterprises (GBEs), amongst others.	Sydney Water

Term	Definition	Source
Homestead subdivision	A subdivision that creates a lot with an original dwelling on it (also known as a 'homestead') and that is separated from the original land parcel. The lot containing that 'homestead' can also be known as a 'homestead lot'.	Sydney Water
Major infrastructure	Works associated with constructing permanent storage reservoirs, treatment plants, pumping stations and trunk mains. Works may also include construction carried out as part of state significant infrastructure or by infrastructure agencies.	Sydney Water
Minor Works	Works in the construction category MS, as described on Sydney Water's website. These are generally shorter and not laid as deep as major Works.	Sydney Water
Notice of Requirements (NOR)	A formal notice under Section 74 of the <i>Sydney Water Act 1994</i> , sent to a developer stating Sydney Water's requirements to issue a compliance certificate.	Sydney Water
Notification	Any formal notice issued by Sydney Water, describing the Works required to either deviate, adjust, connect or extend Sydney Water's Assets. A notice may be a Notice of Requirements, Letter of Approval or, Letter of Requirements.	Sydney Water
Operating Licence	Operating Licence refers to the <i>Sydney Water Operating Licence</i> issued under the <i>Sydney Water Act 1994</i> (NSW) which allows Sydney Water to supply water, wastewater, recycled water and stormwater services. It also includes Sydney Water's <i>Customer Contract</i> . The licence includes requirements for water quality, asset performance (including system performance standards), water conservation, environmental indicators and management, and Customer and consumer rights.	Sydney Water
Permission to enter	Permission granted to enter and occupy land or a building as defined in Division 4 of the Act.	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
Project completion package (PCP)	A package consisting of a variety of documents that record the Works performed under the Developer Works Deed as detailed in the <i>Managing new development process</i> .	Sydney Water
Project management plan	A project management plan, in the form of a Gannt chart or similar, that includes the: • construction timeframe of all reticulation and dependant assets • potential delay risks, and mitigation measures • connection (and disinfection if applicable) of all assets • potential compliance certificate release date • potential development application completion date • potential lot registration date • number of proposed purchasers who have been given permission to seek building approval from Council • forecasted lot sale dates/staging • forecasted first building construction start date (potential first use of service) • forecasted occupancy.	Sydney Water

Term	Definition	Source
Service	A service is the provision, construction, operation, management and maintenance by Sydney Water of systems and services for: • storing and supplying water (including recycled water and drinking water) • providing wastewater (sewerage) services • providing stormwater drainage systems • disposing of wastewater.	Sydney Water
Water Servicing Coordinator (WSC)	A listed service provider engaged by the development industry and authorised by Sydney Water.	Sydney Water
Work as constructed (WAC)	Documents showing the details of Works as they were carried out.	Sydney Water
Works	The Works that the Customer is responsible under a Notification of Sydney Water's requirements.	Sydney Water

9. Context

9.1 References

Document type	Title
Compliance obligations	<i>Sydney Water Act 1994</i> and environmental protection licences.
Policies and procedures	Sydney Water Managing new development process and Land development guide .
Other documents	Sydney Water Operating Licence 2015-2020 , Customer Contract 2015-2020 and Developer Works Deed .