

# STANDARD

## DEVELOPER WORKS – ENTRY ONTO THIRD PARTY PROPERTY

SEPTEMBER 2016

VERSION: 1.0

HUNTER WATER



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## DOCUMENT INFORMATION

### Version History

Version	Author	Sections Changed	Approved By	Date Approved
1.0	M Withers	New Document	Chief Customer Services Officer	12 Sept 2016

### Summary of Changes in this Version

Section Title	Section No.	Change Summary

### Document Control

Document Owner	Group Manager Developer Services
Approvals	Chief Customer Service Officer
Related Documents	Developer Policy Bonding of Outstanding Development Requirements Standard Provision of Backlog Sewer Services Standard
Associated Regulations / Standards	Hunter Water Act Hunter Water Customer Contract Hunter Water Operating Licence
Public Document	Yes

## 1 PURPOSE

- a) The purpose of this standard is to help achieve a fair and reasonable balance between:
- b) The developer's commercial objectives;
- c) Hunter Water's statutory function of providing water and sewer services; and
- d) The rights of a land owner or other interested party where their property is affected by the provision of water and sewer infrastructure to a Development.

## 2 SCOPE

This standard applies to all developers who are proposing to design and construct network infrastructure that is to be located on land which is not wholly owned by the developer (**Third Party Land**).

## 3 DEVELOPER REQUIREMENTS

The developer is responsible for managing the land entry process and gaining approval of all impacted land owners, occupiers or other stakeholders in the Third Party Land (**Stakeholders**) including all commercial negotiations as necessary.

The developer must:

- Consult with Hunter Water as to the preferred network design;
- Select a design that minimises any residual impacts over the Third Party Land;
- Consult with Stakeholders; and
- Incorporate Stakeholder views into the design and construction of works to mitigate residual impacts.

### 3.1 Design Alternatives

Assets are to be designed on a least life cycle cost basis. The design and construction methodology must consider the impact on stakeholders. Adoption of the lowest capital cost solution may not represent the least life cycle cost or most appropriate solution when stakeholder considerations are taken into account.

It may become necessary for the developer to consider various alternative designs, alternative alignments, construction methodologies, and future operational or maintenance requirements, to minimise or eliminate any residual impacts to the Stakeholder(s).

In such circumstances the developer should inform Hunter Water of the proposed amendments prior to offering any commitment to the relevant Stakeholder(s) of a particular outcome.

Designs must comply with the WSAA Water and Sewer Design Standards Hunter Water Edition, as amended from time to time, and be approved by Hunter Water..

### 3.2 The role of the Developer

The developer is required to undertake all negotiations to agree the terms of the land impact and/entry to the mutual satisfaction of the Stakeholders, including the execution of an Entry Permit and where relevant, commercial agreements and/or compensation. Any commercial settlement is a matter for the developer to consider, balancing their need to progress Development with the needs of the Stakeholder. Compensation may include reinstatement, repair, construction of works, or monetary payment.

Developers shall minimise disturbance and mitigate all adverse impacts to the extent practical to do so.

The developer must furnish to Hunter Water completed Entry Permits executed by the land owner as evidence of satisfactory agreement being reached between the parties.

### **3.3 The role of Hunter Water**

Hunter Water will not take part in, or be a party to, developer's commercial negotiations with impacted land owners and will not comment on the appropriateness of any commercial arrangement entered into by a developer.

### **3.4 Dispute Resolution**

If the developer is not able to reach agreement with the Stakeholders on the terms of the land impact and/or entry, the following further actions may be necessary to resolve the dispute:

- The developer should obtain a registered valuer's valuation report to support the offer of compensation and provide a copy to the relevant Stakeholder;
- The developer should ensure that any other forms of compensation that may form part of the offer to a Stakeholder are accompanied by adequate supporting documentation;
- If the Stakeholder disputes the offer, they should produce their own registered valuer's report, expert advice and provide it to the developer; and
- If the two parties still cannot resolve the dispute then it will be necessary for the parties to enter formal mediation to resolve the matter.

Hunter Water may involve itself when development consent has been issued by the relevant consent authority, and where:

- Mediation is unsuccessful;
- The developer has provided Hunter Water with all supporting documents and has entered into satisfactory arrangements with Hunter Water regarding the proposed development; and
- Hunter Water considers it appropriate to do so.

If Hunter Water agrees to involve itself, Hunter Water may:

- Write to the Stakeholder advising of its powers to enter land under Sections 20 and 21 of the Hunter Water Act and setting a reasonable timeframe for the Stakeholder to submit any objections; and
- Giving consideration to any objections raised by the Stakeholder, determine whether it is appropriate to authorise entry to the Third Party Land and if so, advise the Stakeholder of this outcome and the planned date and time of entry.

### **3.5 Timing of Resolution**

Compensation issues must be resolved before:

- Entry; or
- The work is accepted; or
- A Section 50 Compliance Certificate is issued or a bond is released

## 4 DEFINITIONS, ACRONYMS AND ABBREVIATIONS

Term	Definition
Bond	An Agreement entered into between Hunter Water and a developer allowing for the early release of the Section 50 Compliance Certificate for a specific development in return for satisfactory security being lodged with Hunter Water.
Section 50 Compliance Certificate	A certificate referred to in Section 50 of the Act
Development	Any activity relating to land that needs approval as specified in Section 50 of the Act
Entry Permit	A form that needs to be completed when a developer requires access to Third Party Land. This requires the land owner's signature as evidence of consent.
Hunter Water Act	Hunter Water Act 1991 and regulations in force under it (the Act)
Stakeholders	Impacted land owners, occupiers or other stakeholders with an interest in the Third Party Land
Third Party Land	Land other than that wholly owned by the developer