

# Works approvals webinar: responses to questions

**Responses to stakeholder questions asked at the works approvals webinar on 14 March 2024.**

## **Topic: Level of information needed for a Design and Construct (D&C) contract**

**Question: How is the department proposing to address the issue of requesting or requiring a level of information for a D&C contract which exceeds that of a detailed concept design?**

The department has assessed and approved projects prior to going to tender for design and construct based on tender specifics. However, local water utilities must demonstrate how the proposed infrastructure will manage risks and address regulatory requirements, necessitating a certain level of design development. We have found that while this aspect can be addressed in the design and construct tender documents, it may not be specifically addressed in a detailed concept report.

For D&C projects approved prior to tender, we set the scope of works according to the reference design. Local water utilities may need to revisit the approval if the contracted design differs from the scope of works the approval was based on. This relates to the “consistency of design” condition placed on all approvals.

For more information on the material that must be submitted with an application, view Table 4, on pages 40 - 41 of the Regulatory and Assurance Framework [for local water utilities](#).

## **Topic: 60-day target date**

**Question: We received an acknowledgement letter with an incorrectly calculated 60-day target date. What quality assurance has the department implemented to verify that when local water utilities (LWUs) are advised of a 60-day target date that the date is correct?**

We are confident in our Water Actions Management System (WAMS) portal and the automated data it provides to our dashboard.

### **Topic: Variations to an existing Section 60 approval**

**Question: If it is just a variation to technical requirements of Section 60 to accommodate a possible alternative, does the department commit to a shorter approval period than 60 working days?**

The applicant can request expedited assessment if a variation of design re-assessment is required. The level to which the assessment can be expedited will depend on how well the application documents and evidences the proposed changes (and their impacts on the originally approved design and documentation submitted), the complexity of the change, requirement for co-regulator involvement and current workloads on the team/s. Expedited timeframes should be agreed on a case-by-case basis, and where possible accommodations to meet a utilities required timeframe will be made.

### **Topic: Issues with other agencies and impact on timeframes**

**Question: If the "clock stops" due to issues with other agencies, what are the communication processes and protocols to be followed with the LWU?**

We aim to align the queries to the co-regulators with the Request for Information (RFI) sent to the applicant. Where possible, we combine the co-regulator and department RFI as one process to provide clarity and efficiency. This depends on how quickly we receive feedback from co-regulators.

If we need to issue an RFI specifically to the co regulator, we will notify the utility and clarify the information we are seeking.

All clock stoppages will be reflected in the online works approval status noted as "Awaiting Customer Response".

### **Topic: Seeking further clarity on Strategy 2 for creating a quality Works Application**

**Question: Could you expand on Strategy 2, which came up earlier in the webinar?**

Strategy 2 relates to the importance of preparation. It is beneficial to consult with the relevant regulators prior to submitting an application, rather than submitting a Section 60 application without prior consultation.

Do not assume that following other guidelines, such as the Water Services Association of Australia (WSSA), will cover the requirements set by your regulator. It is crucial to directly confirm with them. A good example is determining the Health Based Risk category of a water source that must be provided by NSW Health.

**Question: Is the intent of the pre-submission meeting for the LWU to brief the department on the project background, or is it to confirm the submittal and approvals process? It seems that anything said in the pre-submission meeting is "non-reliance" so it could be taken as a "we have worked with the Regional Engineer and we plan to submit next month"?**

The pre-submission meetings vary depending on the council's experience with the Section 60 process. If it's your first time applying under a Section 60 application, we will spend more time explaining the process, how it works and the expectations.

If you've been through the process before, we will focus more on the project specifics, including timelines, requirements and what you need from us. We will also look at how well you have involved the advisory function leading up to the application process, including if you have spoken to the relevant regulators and if you have clear guidance on how you've addressed the criteria. Therefore, the meetings focus depends on the council's experience and the department's involvement before the application.

Our aim is to ensure you are prepared to submit your application. We discuss any key technical concerns we have noticed in the past, and how you have resolved them to meet the assessment criteria. We want to help you anticipate and avoid any potential issues once you have submitted the application.

### **Topic: Cost estimations for Section 60 applications**

**Question: Is the department working on any further guidance about the level of cost estimation detail and confidence (and associated rigour) required for Section 60 applications? We are currently seeing the cost estimation requirements as one of the main drivers behind the additional level of detail required for concept designs that would not normally be included. It could be useful for the department to engage with a quantity surveyor (QS) to work through what the current cost estimate requirements actually mean for the required level of design (LOD) in projects. An output of this could be some generic examples of how the cost estimates should be developed.**

We do not ask for cost information for Section 60 applications. We may use information available to inform a risk-based approach to the assessment of the project. We think this question relates more to the Safe and Secure Water Program gateway processes.

### **Topic: Consistency between final design and scope of works approved**

**Question: One requirement of the approval is that the final design/construction has consistency with the scope of works approved (assuming the application was submitted during the concept design). How is this measured? Is it an outcomes-based and focused assessment.**

The key is significant change. If there are changes between scope of works approved and the final designs that affect project expectations, and these changes are deemed significant, meaning they have not been assessed under the risk assessment or may change the outcomes or the intent of the project, then we need to look at that from a technical standpoint. We would review if another Section 60 assessment is required. This additional assessment would focus on just that change and not on what has already been assessed.

During the webinar, we defined significant change as a change in process that will impact the ability to meet the treatment objectives, introduce new risks that have not been considered in the risk assessment, or new potential impacts on the environment.

## **Topic: Communication before a works approval application**

**Question: LWUs will communicate with many parts of government in the lead up to submission of a works approval application. If this was a Development Application, we would be told who needs to be consulted with and provide concurrence. Is there a list of which parts of DCCEEW need to be engaged?**

In the lead up to a Section 60 application it is a requirement for LWUs to consult directly with the regulator for the project type. NSW Health are consulted for water projects and ensuring their participation in all risk assessments for drinking water safety. The EPA should also be consulted for sewer and recycled water projects.

Your Regional Engineer will assist with understanding project requirements in the lead up to works approval and can help initiate the following:

- Optionally, seek technical advisory input towards strategic justification of the project (if you do not already have Strategic Planning Assurance under section 3 of the RAF).
- Optionally, seek technical input into the design of the project (Options Report, Concept Design, Tender Request etc.).
- Request a works approval pre-submission meeting to review the application content and works approval process.

Our team is here to help. For further support, contact your Regional Engineer.

## **Topic: Appropriate contacts for Section 60**

**Question: In terms of engagement with the department specifically, do we talk to a Regional Engineer, advisory group or approvals group? Do they all need to be there in the same meetings each time we interact with the department, or do they talk internally and update internal tracking systems?**

Contact your Regional Engineer first who will direct your query to the relevant internal team and track progress where required. Once you have submitted your Section 60 application, the contact for your assessment will be provided on the notification of assessment document. The nominated lead assessor will organise the relevant contacts for any related meeting or correspondence. The applicant can view the application history and communications in the WAMS portal. This database is an internal tracking system for the application.

## Message from NSW Health

Please contact NSW Health before submitting an application. If you are working on a Section 60 application that relates to drinking water, please talk to your public health unit early in the design process, but at least before you submit the application.

Having a conversation when beginning the design ensures that the relevant risk assessments are done. It also allows you to identify the microbial health-based target category for your catchment. This is the information you need to prepare a design with appropriate barriers to deal with the pathogen risks before you submit the application. Doing this work before the application means that you don't eat into your 60 days having to follow it up afterwards.