

Managing agreements for Complex, Major and Minor Works

1. Overview

1.1. At a glance

What

This work instruction provide a process for compiling, issuing and then executing either a Complex Works Agreement (Agreement) (used for complex works) or a Developer Works Deed (Deed) (used for the major or minor works).

It also gives instructions on the processing of Schedules 2 and 3 to the Deed. This instruction will stay in force until e-Developer can be enhanced to manage this process.

1.2. Scope

Who

This applies to all e-Developer cases that require either complex, major or minor works to be constructed. It is used by a Development Services Officer (DSO) and a Water Servicing Coordinator (WSC).

The instruction is split into three sections:

- Developer Works Deed and Complex Works Agreement
- Deed Poll
- Novation Deed

1.3. Objective

Why

All DSOs and WSCs will effectively manage this process.

2. Work instruction

2.1. Background

The previous Major and Minor Works Agreements and Deviation/ Adjustment Deeds were reviewed to better define what is expected of all parties to those documents, minimise risks around safety and the environment during the process and to generally update the wording.

The outcome for complex, major and minor works is:

2.1.1 Complex Works:

Reminder: Complex works cover ONLY a Water Pumping Station (WPS), Sewage Pumping Station (SPS), Sewer Rising Main (RM) or Water Reservoir (Res)

Complex works use a revised version of the previous “Major Works Agreement” – named a “Complex Works Agreement”

Only Sydney Water and the Developer are parties to this agreement

The agreement is processed the same as the previous Major Works Agreement.

2.1.2 Major and Minor Works:

ONE Developer Works Deed document (or Deed) created replacing the two (Major and Minor Works) Agreements and two (Deviation/ Adjustment) Deeds previously in place.

The Developer, Water Servicing Coordinator (Coordinator), Designer, Constructor and Sydney Water ALL now sign the Deed document.

Also, three other documents – Developer Works Deed - Schedules 1, 2 and 3 – created that are related to the Deed. They are:

Schedule 1 - Standard Terms – the document that sets down in detail the roles and responsibilities of all five parties when developer (major and minor) works are being designed and constructed

Schedule 2 – Novation Deed – used where the Developer has terminated their involvement and wants to transfer ownership of the site with the new owner (Developer) assuming that Developer’s responsibilities under the current Developer Works Deed – under clause B6.1 of the Schedule 1 - Standard Terms.

This needs all ongoing (including the new Developer) parties to sign a Novation Deed

Schedule 3 - Deed Poll – used where:

- EITHER, the Constructor is not known when the Developer Works Deed is to be signed.

The Deed Poll is issued with the Job Specific Schedule Letter – Partial Package

Note: This includes where Sydney Water is funding all or part of the works and so the Constructor cannot be nominated until that funding is approved.

- OR, a provider has signed a current Developer Works Deed, but either loses/ fails to maintain their accreditation or has their services terminated by the developer and so –

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under clause C5.1 of the Schedule 1 - Standard Terms - a new provider needs to sign up to that current Deed.

This is achieved by the new provider signing a Deed Poll.

Note:

The Deed plus the three Schedules can be downloaded from Sydney Water's website. These documents can also help you in the processing if you follow the blue italics instructions (together with this work instruction).

2.2. Instruction - Developer Works Deed and Complex Works Agreement

Introduction:

This instruction follows the work steps in e-Developer related to the managing of the agreements for major, minor and complex works by both the DSO and WSC. The e-Developer work steps are shown in *blue italics*.

1.1 *Create draft NOR* (DSO work step)

1.1.1 Producing the Notice Of Requirements/ Letter of Approval:

This step depends on what type of works, the DSO is requiring ie:

- **Minor and Major Works required (including Adjustment/ Deviations/ Extensions):**

Because the DSO has already selected either the minor or major works stream in eDeveloper, the correct and relevant words will automatically appear in the Notice Of Requirements (NOR)/ Letter of Approval (LoA) template they selected.

Also, the Major and Minor Works NORs have been combined into a Major/ Minor Works NOR/LoA (called 'NOR Developer Works').

- **Complex Works required:**

The DSO will have already selected the major works stream in eDeveloper. The DSO will have to select the 'Letter of Approval_Complex Works' and then, where relevant, the 'Sewage Pumping Station' optional paragraph for the template.

Go to step 1.1.2.

1.1.2 Producing the agreement:

This depends on what type of works the DSO is requiring ie:

- **Minor and Major Works (including Adjustment/ Deviations/ Extensions):**

If there is a minor or major works requirement in the NOR/ LoA, the DSO must first choose the *Developer Works Deed* template.

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Then, go to Attachment 1 for what to do next. Then go to step 1.2.

- **Complex Works:**

If the DSO has a Water Pumping Station, Sewage Pumping Station, Wastewater Rising Main or Water Reservoir works requirement in the NOR/ LoA, they must first choose the *Complex Works Agreement* (or, as needed, *Complex Works Deed*) template.

Then, the DSO checks that the WSC reference, Case Number, Developer name, Lead address, WSC company name and WSC contact are correct.

Attach to NOR/ LoA and release.

Go to step 1.2.

1.2 *Review draft NOR* (DSO work step)

No change here – refer to DSOs e-Developer On-line Help located at: iConnect > Asset Creation Developer Process > (e-Developer) Online Help > Determine and Issue Requirements.

Go to step 1.3

1.3 *View S73 requirements* (WSC work step)

Change here – refer to the WSCs e-Developer on-line Help – Define Requirements located at

sydneywater.com.au/plumbing-building-developing/developing/wsc-documents/.

Go to step 1.4.

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1.4 Submitting the various agreements (WSC)

What the WSC does here depends on the type of works ie:

1.4.1 Minor works - *Submit Minor agreement* (WSC)

The WSC uses Attachment 2 - Part A to complete.

Go to step 1.5.1.

1.4.2 Major works - *Submit a Major Works Agreement* (WSC)

The WSC uses Attachment 2 – Part A to complete.

Go to step 1.5.2.

1.4.3 Complex works - *Submit Major agreement* (WSC)

The WSC will complete:

- all the details in the Complex Works Agreement that were not completed by the DSO and
- get the name, address, ABN and signature of the Developer and complete the WSC details.

Go to step 1.5.3.

1.5 Reviewing the various agreements (DSO)

What the DSO does here depends on the type of works ie:

1.5.1 Minor works - [Review Minor agreement](#) (DSO)

Go to Appendix 1 – Part A for more details.

This instruction ends here.

1.5.2 Major works - [Review a Major Works agreement](#) (DSO)

Go to Appendix 1 – Part A for more details. **Then go to step 1.6.**

1.5.3 Complex works - [Review a Major Works agreement](#) (DSO)

REMEMBER: ‘Complex Works’ refers ONLY to works that either are a Water Pumping Station, Sewage Pumping Station, Rising Main or Water Reservoir.

The DSO checks that all the required information is correct ie the Developer’s name, address, ABN and signature before executing the agreement.

This instruction ends here for complex works.

1.6 Submitting a Design Package (WSC)

If the Constructor signed the Deed in step 1.4.2, go to step 1.6.1.

If the Constructor did NOT sign the Deed in step 1.4.2, go to step 1.6.2.

1.6.1 [Submit Design Package](#) (Full package) (WSC)

The Constructor has signed the Developer Works Deed at the same time as all the other parties (and Sydney Water is NOT funding any of the works. If they ARE funding works then you must use step 1.6.2.)

This instruction ends here if the Constructor signs with everyone else.

1.6.2 [Submit Design Package](#) (Partial package) (WSC)

This is where either:

- Sydney Water IS funding part of the works and the constructor has NOT signed the Developer Work’s Deed OR
- Sydney Water is not funding any part of the works and the Constructor has NOT signed the Developer Works Deed at the same time as all the other parties (and so will sign a Deed Poll later).

The WSC must therefore submit the Design Package as a ‘Partial Design Package’.

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Go to step 1.7.

1.7 Create Job Specific Schedule Letter (DSO)

DSO creates the Job Specific Schedule Letter (Partial Package).

DSO then retrieves the Developer Works Deed - Deed Poll template and follows the steps in Attachment 1 – Part B.

Go to step 1.8.

1.8 View Job Specific Schedule Letter (WSC)

WSC retrieves JSSL and Deed Poll from work item and reviews contents.

WSC manages execution of Deed Poll by Constructor – go to Attachment 2 – Part B for instructions.

Go to step 1.9.

1.9 Submit ITP (WSC)

WSC attaches executed Deed Poll to work item (zipped with the ITP) and releases to Sydney Water. The WSC retains the original of the Deed Poll (and gives a copy to the Constructor) – see Attachment 2 – Part B for details.

Go to step 1.10.

1.10 View ITP (DSO)

DSO retrieves Deed Poll from work item and follows steps in Attachment 1 – Part B.

This instruction ends here.

2.3. Instruction – Deed Poll

This instruction is used where a provider has signed a current Developer Works Deed, but either:

- loses/ fails to maintain their accreditation or
- has their services terminated by the developer

and so – under clause C5.1 of the Schedule 1 - Standard Terms - a new Provider needs to sign up to that current Deed.

This is achieved by the new provider executing a Deed Poll.

Go to Attachment 1 – Part B (for DSOs) or Attachment 2 – Part B (for WSCs) to find out how to process a Deed Poll.

2.4. Instruction – Novation Deed

This instruction is used where the Developer has terminated their involvement and wants to transfer ownership of the site to a new developer – under clause B6.1 of the Schedule 1 - Standard Terms.

This needs all ongoing (including the new Developer) parties to sign a Novation Deed.

Go to Attachment 1 – Part C (for DSOs) and Attachment 2 – Part C (for WSCs) to find out how to process a Novation Deed.

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3. Definitions

Term	Definition
Complex works	Usually a Water Pumping Station, Sewage Pumping Station, Wastewater Rising Main or Water Reservoir
Designer	The Provider who will design, and specify classes of infrastructure for, the Developer Works
Development Services Representative (DSO)	Development Services Officer of the Urban Growth team, a Sydney Water employee who manages the Developer Process
e-Developer	Sydney Water's web-based software that WSCs can use to manage and distribute applications and related documents about Developer activity
Letter of Approval (LoA)	A letter of approval issued for applications in e-Developer for adjustment, deviation or extension of Sydney Water pipes. This letter usually contains conditions to be met by the applicant for that approval.
Major works	Works in the construction categories W1, W2 W3, S1, S2 and RW, on Sydney Water's website
Minor works	Works in the construction category MS, on Sydney Water's website
Notice of Requirements (NOR)	Notice of Requirements: a formal notice issued to the Developer by SWC under Section 74 of the Sydney Water Act 1994, in response to an application for a Section 73 Certificate. Also known as NOR and Notice Letter
Water Servicing Coordinator (WSC)	The Provider who will manage the design and construction of any water, wastewater or stormwater works and asset protection

Sections 1 to 3 can be made available to the public, if needed.

Sections 4 and 5 are for internal use only.

Delete or overtype all the instructional text in this template before finalising the document.

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4. Context

4.1. Accountabilities

Position	Accountabilities
DSO	Application of work instruction
Manager, Urban Growth Land Development Manager, Urban Growth Property Development Manager, Urban Growth Asset Services	Implementation of work instruction
Manager, Urban Growth Assurance	Maintenance of instruction document

4.2. Training and competencies

Position	Training or competency
DSOs	Email
WSCs	Email

4.3. Attachments

Attachment	Title
1	DSOs managing the Deeds
2	WSCs managing the Deeds

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5. Document control

5.1. Document details

Record	Detail
Work instruction title	Managing agreements for complex, major and minor works
Registered file no.	ACDP0366

5.2. Ownership and approval

Role	Name	Position title	Date
Author	Bruce Hansard	S/DSO, Assurance Team, Urban Growth	30-03-2016
Owner	Kathy Bain	A/Manager, Assurance Team, Urban Growth	30-03-2016
Endorser	Matt Britton	A/Manager, Land Development Team, Urban Growth	30-03-2016
Approver	Kathy Bain	A/Manager, Assurance Team, Urban Growth	30-03-2016

5.3. Review

Stage	Date
Original work instruction	23-06-2013
This review	30-03-2016
Next review	30-03-2019

5.4. Change history

Version	Key changes
1	New document
2	Improved Cover page instruction in Attachments
3	Include help on how to sign Deed in Appendix; remove 'accredited' term due to DIPA termination from 1 July 2012
4	Update links for new website and improve cover page instructions
5	New template; bookmarks added for easier navigation.
6	Added stormwater connection signing information

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Attachment 1: DSO managing the Deeds

Part A - Developer Works Deed

Below are the steps DSOs need to go through to compile, issue and then execute the Developer Works Deed.

1. Compile and issue Deed:

After you have retrieved the Deed, follow these steps to compile and issue it:

Step 1 - Cover page (of Deed):

1.1 Check that the Case number, Site (Development address) and Applicant WSC reference inserted by e-Developer are all correct.

1.2 Go to Step 2.

Step 2 - Page 3:

2.1 Check that the Case Number (both in Header and at top of page), Site (Development address), Developer and WSC names inserted by eDeveloper are all correct.

2.2 If the required works are ONLY 'Wastewater Minor Works', strike through '(Designer)' and 'ABN'

2.3 Go to Step 3.

Step 3 – Case Number all pages:

3.1 Check that the correct Case Number appears in the Header on each page in Deed.

3.2 Go to Step 4.

Step 4 – Final checks and issue:

4.1 Do a final check that all of the above has been done then attach and release Deed (with NOR/ LoA).

4.2 Wait for completed Deed to be returned by WSC then go to **2. Execute Deed**.

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2. Execute the Deed:

After you receive the Deed from the WSC follow these steps to execute it:

Step 1 - Cover page:

This step depends on (1) how many asset types there are; (2) if any of the works are 'Wastewater – Minor Works' (and so the Designer does not sign the Deed); and (3) if the Constructor is signing at this stage. Also see notes below. That is:

1.1 You will have one of these two main scenarios:

- There is just **one** asset type being constructed or
- There is **more than one** asset type being constructed.

This means:

1.1.1 Where there is just **one** asset type being constructed, only **ONE** Deed (plus duplicate) is needed. Go to step 1.2.

1.1.2 Where there is **more than one** asset type being constructed, you only need **ONE** Deed (plus duplicate) if either:

- a) one of the asset types is NOT 'Wastewater – Minor Works', AND the Developer, WSC and Designer are the same for all asset types, AND the Constructor is the same and signing for ALL asset types now (See Note (2) below).... Or
- b) one of the asset types is NOT 'Wastewater – Minor Works', AND the Developer, WSC and Designer are the same for all asset types, AND a Constructor is NOT signing for ANY asset types now (See Note (2) below).

For all other situations, more than one Deed is needed so the WSC must have printed enough copies of this Deed to **equal the number of asset types** (plus a duplicate for each). The WSC must have ticked the asset box against each asset being constructed for each Deed copy. Go to step 1.2.

NOTES:

- (1) The Constructor must always sign at this stage for 'Wastewater – Minor Works'.
- (2) The Constructor must NOT sign now if there is a Sydney Water 'share of works' to be approved.
- (3) For stormwater connections only, if the Designer or Constructor is NOT a listed provider then the WSC will strike out the relevant signing section and write 'Not applicable – connection only' (or similar).

1.2 Check that a tick has been inserted in the asset type box(es) relating to the asset(s) being constructed.

1.3 Go to Step 2.

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Step 2 - Page 3:

2.1 Check that the Developer and WSC have written in their ABNs. If not you will need to reject the Deed.

2.2 Check that the Designer and Constructor have written in their company name and ABN EXCEPT in the following three situations:

- If the asset type is 'Wastewater Minor Works', there will be no 'Designer'. You should have already struck through 'Designer' and 'ABN' – if not, strike through now;
- If the works are 'Major Works' and the Constructor is not known at this stage. The WSC must have struck through 'Constructor' and 'ABN'. (If the works are 'Minor Works' the Constructor MUST have written in their Company name and ABN at the same time as the other parties.)
- For stormwater connections only, if the Designer or Constructor is NOT a listed provider then the WSC will strike out the relevant signing section and write 'Not applicable – connection only' (or similar).

2.3 Go to Step 3.

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Step 3 – Page 7/ Signing pages:

3.1 On each signing page, check that each party has completed one of the signing sections in line with the notes below EXCEPT in the following three situations:

- **If the asset type is 'Wastewater Minor Works'**, the 'Designer' signing page should be blank
- **If the Constructor is not known at this stage**, the 'Constructor' signing page will be blank
- **For stormwater connections only**, if the Designer or Constructor is NOT a listed provider then the WSC will strike out the relevant signing section and write 'Not applicable – connection only' (or similar).

Notes:

1. For a company with more than one director/ secretary:

This section is completed by a company with either:

- Two directors, or
- One director and a company secretary (whether or not the secretary is also a director).

If two directors are completing the clause, each director must complete the appropriate part of the clause by ensuring their names and signature appear clearly in the indicated places.

If a company secretary and a director are executing the clause, the company secretary, whether or not they are also a director, must execute in the indicated section of the clause and the director who is not the company secretary, in the other section.

2. For a company with a sole director and company secretary:

This section is completed by a company with a sole director who is also a company secretary.

A sole director and company secretary can execute this Deed by alone signing the document. Ensure that their name and signature appear in the appropriate places.

3. For a party executing under power of attorney/delegated authority to bind the company/ Council/ other Authority:

'Delegated authority' allows a person in a company to be delegated authority to sign this Deed eg if a director and/ or secretary are not always available to sign. For information on how to set this up, the party must seek their own legal advice.

4. Sole trader/ individual:

This section is for a sole trader or individual.

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The sole trader/ Individual applicant must sign. Also, if two people own the property both have to sign.

5. Witness details:

Note: A witness is NOT required for the signatures in the first two company sections of each signing page in the Deed.

The other signatures must be **witnessed by** any adult who is prepared to give their full name and who is:

- not a parent and
- not a child of and
- not a sibling of

anyone signing the document. (A spouse may be a witness.)

6. Also:

- facsimiles are not valid for these purposes
- **names must be clear and legible.**

3.2 Go back through the document and make sure all required information has been completed as set down above

3.3 Go to Step 4.

Step 4 – Page 6/ Execute Deed:

4.1 Write in date after 'Date:' - Format example is '24 March 2011'.

4.2 Delegated Sydney Water officer (ie signatory) prints name and then signs Deed

4.3 Witness prints name and signs Deed

4.4 Follow e-Developer On-Line Help for next step ie Original scanned and saved to e-Developer. One original copy goes to WSC and other original copy to Records Management.

4.5 Return to work instruction – step 2.5.

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Part B - Deed Poll (DSO)

Below are the steps DSOs need to go through to compile, issue then execute the Deed Poll.

1. Compile and issue Deed Poll:

After you have retrieved the 'Developer Works Deed_Deed Poll' follow these steps to compile and issue it:

Step 1 - Cover page of Deed Poll:

- 1.1 Check that the Case Number, Site (Development address) and Applicant WSC reference inserted by e-Developer are all correct.
- 1.2 Go to Step 2.

Step 2 - Page 3:

- 2.1 Check that the Case Number (both in Header and at top of page), Site (Development address), Developer Works Deed date, Developer and WSC names inserted by e-Developer are all correct.
- 2.2 If the required works are ONLY 'Wastewater Minor Works', strike through '(Designer)' and 'ABN'.
- 2.3 Go to Step 3.

Step 3 – Case Number all pages:

- 3.1 Check that the correct Case Number appears in the Header on each page in Deed Poll.
- 3.2 Go to Step 4.

Step 4 – Final checks and issue:

- 4.1 Do a final check that all of the above has been done then, EITHER:
 - **if part of Partial Design Package**, attach and release Deed Poll as 'pdf' (with Job Specific Schedule Letter) OR
 - **if NOT a part of a 'Partial Design Package' ie Deed Poll prepared due to change of a Provider party to the Developer Works Deed**, send Deed Poll as 'pdf' to WSC.
- 4.2 Wait for completed Deed Poll to be returned by WSC then go to **2. Execute the Deed Poll**.

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2. Execute the Deed Poll:

Note: The WSC can use the one Deed Poll when **all** the asset types ticked are ready to proceed to construction and the same Constructor is being engaged (**and, if applicable, funding has been finalised**) **at the same time**.

After you receive the scanned Deed Poll from the WSC (either through ITP work step or Project Variation work step) follow these steps:

Step 1 - Cover page:

Check that a tick has been inserted in the asset type box(es) relating to the asset(s) being constructed.

Go to Step 2.

Step 2 - Page 3:

2.1 Under the 'Execution dates' heading, check that the Constructor has written in the execution date alongside 'Deed Poll',

2.2 Under the 'Parties' heading:

- check that the Developer and WSC have written in their ABNs.
- check that the Designer and Constructor have written in their company name and ABN EXCEPT if the asset type is 'Wastewater Minor Works', there will be no 'Designer'. (You should have already struck through 'Designer' and 'ABN'.)

2.3 Under the 'Agreement' heading, check that EITHER:

- **if Deed Poll is for a Partial Design Package**, the Constructor has written in their company name in clauses (a), (b) and (c) OR
- **if Deed Poll is for a replacement Provider for the Developer Works Deed**, the replacement Provider has written in their company name in clauses (a), (b) and (c).

Go to Step 3.

Step 3 – Page 4 Execution page:

3.1 Check that the Constructor (or, if applicable, replacement Provider party) has completed one of the signing sections in line with the notes below.

Notes:

1. For a company with more than one director/ secretary:

This section is completed by a company with either:

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- Two directors, or
- One director and a company secretary (whether or not the secretary is also a director).

If two directors are completing the clause, each director must complete the appropriate part of the clause by ensuring their names and signature appear clearly in the indicated places.

If a company secretary and a director are executing the clause, the company secretary, whether or not they are also a director, must execute in the indicated section of the clause and the director who is not the company secretary, in the other section.

2. For a company with a sole director and company secretary:

This section is completed by a company with a sole director who is also a company secretary.

A sole director and company secretary can execute this Deed by alone signing the document. Ensure that their name and signature appear in the appropriate places.

3. For a party executing under power of attorney/delegated authority to bind the company/ Council/ other Authority:

‘Delegated authority’ allows a person in a company to be delegated authority to sign this Deed eg if a director and/ or secretary are not always available to sign. For information on how to set this up, the party must seek their own legal advice.

4. Sole trader/ individual:

This section is for a sole trader or individual.

The sole trader/ Individual applicant must sign. Also, if two people own the property both have to sign.

5. Witness details:

Note: A witness is NOT required for the signatures in the first two company sections of each signing page in the Deed.

The other signatures must be **witnessed by** any adult who is prepared to give their full name and who is:

- not a parent and
- not a child of and
- not a sibling of

anyone signing the document. (A spouse may be a witness.)

6. Also, names must be clear and legible.

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3.2 Either:

Where the Deed Poll is received through ITP work step, go back through the document and make sure all required information has been completed as set down above. If it is not complete, return ITP work step (with Deed Poll) to WSC and contact WSC to fix.

Once complete, extract Deed Poll from compressed ITP file along with executed Developer Works Deed (and other Deeds). Compress together and update existing 'Major Works Agreement' document type in Case Enquiry.

Or:

Where the Deed Poll is received through Project Variation work step, go back through the document and make sure all required information has been completed as set down above. If it is not complete, reject variation work step back to WSC.

Once complete, extract Deed Poll from compressed file along with executed Developer Works Deed (and other Deeds). Compress together and update existing 'Major Works Agreement' document type in Case Enquiry.

3.3 Either release ITP work item or approve variation work item.

Note: The DSO must select "Update" and not attach the executed Deed Poll as a **new** attachment. (If the DSO does NOT select "Update", the WSC cannot view and refer to these documents in the future.)

End.

Part C - Novation Deed (DSO)

Below are the steps DSOs need to go through to compile and issue then receive the Novation Deed.

1. Compile and issue Novation Deed:

After you have retrieved the 'Developer Works Deed_Novation Deed' follow these steps to compile and issue it:

Step 1 - Cover page (of Novation Deed):

1.1 Check that the Case Number and Site (Development address) and Applicant WSC reference inserted by e-Developer are all correct.

1.2 Go to Step 2.

Step 2 - Page 3:

2.1 Check that the Case Number (both in Header and at top of page), Site (Development address) and Developer Works Deed execution date inserted from e-Developer are all correct.

2.2 If the required works are ONLY 'Wastewater Minor Works', strike through '(Designer)' and 'ABN'.

2.3 Go to Step 3.

Step 3 – Page 6:

3.1 Check that the Site (Development address) and Developer Works Deed execution date have been added alongside 'Principal Document' in section C2.

3.2 Go to step 4.

Step 4 – Case Number all pages:

4.1 Check that the correct Case Number appears in the Header on each page in Deed.

4.2 Go to Step 5.

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Step 5 – Final checks and issue:

5.1 Do a final check that all of the above has been done then issue Deed via email in 'pdf' to WSC.

5.2 Wait for completed Deed to be returned by WSC then go to **2. Execute the Novation Deed.**

2. Execute the Novation Deed:

This step depends on (1) how many asset types there are; (2) if any of the works are 'Wastewater – Minor Works' (and so the Designer does not sign the Deed); and (3) if the Constructor is signing at this stage. See also the notes below. That is:

1.1 You will have one of these two main scenarios:

- There is just **one** asset type being constructed or
- There is **more than one** asset type being constructed.

This means:

1.1.1 Where there is just **one** asset type being constructed, only **ONE** Deed (plus duplicate) is needed. Go to step 1.2.

1.1.2 Where there is **more than one** asset type being constructed, you only need **ONE** Deed (plus duplicate) if either:

- a) one of the asset types is NOT 'Wastewater – Minor Works', AND the Developer, WSC and Designer are the same for all asset types, AND the Constructor is the same and signing for ALL asset types now (See Note (2) below).... Or
- b) one of the asset types is NOT 'Wastewater – Minor Works', AND the Developer, WSC and Designer are the same for all asset types, AND a Constructor is NOT signing for ANY asset types now (See Note (2) below).

For all other situations, more than one Deed is needed so the WSC must have printed enough copies of this Deed to **equal the number of asset types** (plus a duplicate for each). The WSC must have ticked the asset box against each asset being constructed for each Deed copy. Go to step 1.2.

NOTES:

(1) The Constructor must always sign at this stage for '**Wastewater – Minor Works**'.

(2) The Constructor must NOT sign now if there is a Sydney Water 'share of works' to be approved.

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(3) For stormwater connections only, if the Designer or Constructor is NOT a listed provider then the WSC will strike out the relevant signing section and write 'Not applicable – connection only' (or similar).

1.2 Check that a tick has been inserted in the asset type box(es) relating to the asset(s) being constructed.

Go to Step 2.

Step 2 - Page 3:

2.1 **New Party** - Check that the (new) Developer's name and ABN (if it applies) have been written in.

2.2 **Outgoing Party** - Check that the (old) Developer's name and ABN (if it applies) have been written in.

2.3 **Continuing parties**- Check that the WSC, Designer (if NOT 'Wastewater – Minor Works') and Construction have written in their names and ABNs. If not, contact the WSC to fix.

2.4 Go to Step 3.

Step 3 – Clause B3 Notices (page 5):

Check that both the New Party and the Outgoing Party have CLEARLY written in all the required contact details. If not, contact the WSC to fix.

Go to Step 4.

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Step 4 - Page 7/ Signing pages:

4.1 If asset type is 'Wastewater Minor Works', the 'Designer' pages will be unsigned.

4.2 On each signing page, check that each party has completed one of the signing sections in line with the notes below. If not, contact the WSC to fix.

Notes:

1. For a company with more than one director/ secretary:

This section is completed by a company with either:

- Two directors, or
- One director and a company secretary (whether or not the secretary is also a director).

If two directors are completing the clause, each director must complete the appropriate part of the clause by ensuring their names and signature appear clearly in the indicated places.

If a company secretary and a director are executing the clause, the company secretary, whether or not they are also a director, must execute in the indicated section of the clause and the director who is not the company secretary, in the other section.

2. For a company with a sole director and company secretary:

This section is completed by a company with a sole director who is also a company secretary.

A sole director and company secretary can execute this Deed by alone signing the document. Ensure that their name and signature appear in the appropriate places.

3. For a party executing under power of attorney/delegated authority to bind the company/ Council/ other Authority:

'Delegated authority' allows a person in a company to be delegated authority to sign this Deed eg if a director and/ or secretary are not always available to sign. For information on how to set this up, the party must seek their own legal advice.

4. Sole trader/ individual:

This section is for a sole trader or individual.

The sole trader/ Individual applicant must sign. Also, if two people own the property both have to sign.

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5. Witness details:

Note: A witness is NOT required for the signatures in the first two company sections of each signing page in the Deed.

The other signatures must be witnessed by any adult who is prepared to give their full name and who is:

- not a parent and
- not a child of and
- not a sibling of

anyone signing the document. (A spouse may be a witness.)

6. Also:

- facsimiles are not valid for these purposes
- names must be clear and legible.

4.3 Go back through the document and make sure all required information has been completed as set down above.

4.4 Go to Step 5.

Step 5 – Page 6/ Execute Deed:

5.1 Delegated Sydney Water officer (ie signatory) prints name and then signs Deed.

5.2 Witness prints name and signs Deed.

5.3 Write in date on page 3 alongside 'Execution dates/ Novation Deed'. Format example is '24 March 2011'.

5.4 Once complete, scan original/ executed Novation Deed, extract existing Deeds, compress together and update existing 'Major Works Agreement' document type in Case Enquiry.

One original copy goes to WSC and the other original copy to Records Management.

5.5 End.

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Attachment 2: WSC managing the Deeds

Part A - Developer Works Deed

Below are the steps WSCs need to go through to complete the Developer Works Deed. Also, see the documents on the website for more details about how to complete the various sections.

Step 1 - Cover page:

This step depends on (1) how many asset types there are; (2) if any of the works are 'Wastewater – Minor Works' (and so the Designer does not sign the Deed); and (3) if the Constructor is signing at this stage. See also the notes below. That is:

1.1 You will have one of these two main scenarios:

- There is just **one** asset type being constructed or
- There is **more than one** asset type being constructed.

This means:

1.1.1 Where there is just **one** asset type being constructed, you only need **ONE** Deed (plus duplicate). Go to step 1.2.

1.1.2 Where there is **more than one** asset type being constructed, you only need **ONE** Deed (plus duplicate) if either:

- a) one of the asset types is NOT 'Wastewater – Minor Works', AND the Developer, WSC and Designer are the same for all asset types, AND the Constructor is the same and signing for ALL asset types now (See Note (2) below).... Or
- b) one of the asset types is NOT 'Wastewater – Minor Works', AND the Developer, WSC and Designer are the same for all asset types, AND a Constructor is NOT signing for ANY asset types now (See Note (2) below).

For all other situations, you will need **more than one** Deed so you must first print enough copies of this Deed to **equal the number of asset types** (plus a duplicate for each). The asset box must be ticked against the asset being constructed for each Deed copy. Go to step 1.2.

NOTES:

- (1) The Constructor must always sign at this stage for '**Wastewater – Minor Works**'.
- (2) The Constructor must NOT sign now if there is a Sydney Water 'share of works' to be approved.

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- (3) For stormwater connections only, if the Designer or Constructor is NOT a listed provider then the WSC will strike out the relevant signing section and write 'Not applicable – connection only' (or similar).

1.2 Check that the Case Number, Site (Development address) and Applicant WSC reference inserted by the DSO are all correct. If wrong contact the case DSO to fix Deed.

1.3 Insert a tick in the asset type box(es) relating to the asset(s) being constructed. (See also 1.1 above.)

1.4 Go to Step 2.

Step 2 - Page 3:

2.1 Check that the Case Number (both in Header and at the top of the page), Site (Development address), Developer and WSC names inserted by the DSO are all correct. If wrong contact DSO to fix Deed.

2.2 The Developer and WSC write in their ABN.

2.3 The Designer and Constructor write in their company name and ABN EXCEPT in the following situations:

- **If the asset type is 'Wastewater Minor Works'**, there will be no 'Designer'. The DSO should have already struck through '(Designer)' and 'ABN' – if not, strike through yourself.
- **For stormwater connections only**, if the Designer or Constructor is NOT a listed provider then the WSC will strike out the relevant signing section and write 'Not applicable – connection only' (or similar).
- **If the works are 'Major Works' and the Constructor is not known at this stage** strike through '(Constructor)' and 'ABN'.
- **If Sydney Water is funding any works**, the Constructor cannot be nominated until Sydney Water has advised you that the funding matters have been addressed. You will have to strike through '(Constructor)' and 'ABN'. **(This is in line with step 2.6.2 in Work Instruction.)**

2.4 Go to Step 3.

Step 3 – Page 7/ Signing pages:

To execute the Deed:

3.1 If asset type is 'Wastewater Minor Works', leave the 'Designer' page blank

3.2 For asset types OTHER THAN 'Wastewater Minor Works', if the Constructor is not known at this stage, leave the 'Constructor' page blank

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3.3 On each signing page, have each party complete the appropriate signing section in line with the notes below AND leave the sections not used blank.

Notes:

1. For a company with more than one director/ secretary:

This section is completed by a company with either:

- Two directors, or
- One director and a company secretary (whether or not the secretary is also a director).

If two directors are completing the clause, each director must complete the appropriate part of the clause by ensuring their names and signature appear clearly in the indicated places.

If a company secretary and a director are executing the clause, the company secretary, whether or not they are also a director, must execute in the indicated section of the clause and the director who is not the company secretary, in the other section.

2. For a company with a sole director and company secretary:

This section is completed by a company with a sole director who is also a company secretary.

A sole director and company secretary can execute this Deed by alone signing the document. Ensure that their name and signature appear in the appropriate places.

3. For a party executing under power of attorney/delegated authority to bind the company/ Council/ other Authority:

'Delegated authority' allows a person in a company to be delegated authority to sign this Deed eg if a director and/ or secretary are not always available to sign. For information on how to set this up, the party must seek their own legal advice.

4. Sole trader/ individual:

This section is for a sole trader or individual.

The sole trader/ Individual applicant must sign. Also, if two people own the property both have to sign.

5. Witness details:

Note: A witness is NOT required for the signatures in the first two company sections of each signing page in the Deed.

The other signatures must be witnessed by any adult who is prepared to give their full name and who is:

- not a parent and

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- not a child of and
 - not a sibling of
- anyone signing the document. (A spouse may be a witness.)

6. Also:

- facsimiles are not valid for these purposes
- **names must be clear and legible.**

3.4 IMPORTANT: Go back through the document and make sure ALL parties have completed all required information.

3.5 Follow existing e-Developer process to submit Deed to Sydney Water.

3.6 Return to Work Instruction - step 2.6.

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Part B - Deed Poll (WSC)

Below are the steps WSCs need to go through to complete the Deed Poll. Also, see the documents on the website for more details about how to complete the various sections.

Step 1 - Cover page:

1.1 Insert a tick in the asset type box(es) relating to the asset(s) being constructed.

Note: You can use the one Deed Poll when **all** the asset types ticked are ready to proceed to construction (and the same Constructor is being engaged) **at the same time**.

1.2 Go to Step 2.

Step 2 - Page 3:

2.1 Check that the Case Number (both in Header and at the top of the page), Site (Development address), Developer and WSC names inserted by the DSO are all correct. If wrong contact the case DSO to fix Deed Poll.

2.2 The Developer and WSC write in their ABN.

2.3 The Designer (or WSC on Designer's behalf) and Constructor write in their company name and ABN. If the asset type is 'Wastewater Minor Works', there will be no 'Designer' - the DSO should have already struck through '(Designer)' and 'ABN'.

2.4 Under 'Agreement', clauses (a), (b) and (c), Constructor (or replacement Provider, depending on reason for Deed Poll) writes in their Company name.

2.5 Go to Step 3.

Step 3 – Page 4/ Signing page:

To execute the Deed:

3.1 Get the Constructor to:

- complete the appropriate signing section in line with the notes below AND leave the sections not used blank
- write in the Deed Poll execution date under the 'Execution dates' heading on page 3 – format must be [DD Month YYYY] eg 24 March 2012'

Notes:

1. For a company with more than one director/ secretary:

This section is completed by a company with either:

- Two directors, or

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- One director and a company secretary (whether or not the secretary is also a director).

If two directors are completing the clause, each director must complete the appropriate part of the clause by ensuring their names and signature appear clearly in the indicated places.

If a company secretary and a director are executing the clause, the company secretary, whether or not they are also a director, must execute in the indicated section of the clause and the director who is not the company secretary, in the other section.

2. For a company with a sole director and company secretary:

This section is completed by a company with a sole director who is also a company secretary.

A sole director and company secretary can execute this Deed by alone signing the document. Ensure that their name and signature appear in the appropriate places.

3. For a party executing under power of attorney/delegated authority to bind the company/ Council/ other Authority:

'Delegated authority' allows a person in a company to be delegated authority to sign this Deed eg if a director and/ or secretary are not always available to sign. For information on how to set this up, the party must seek their own legal advice.

4. Sole trader/ individual:

This section is for a sole trader or individual.

The sole trader/ Individual applicant must sign. Also, if two people own the property both have to sign.

5. Witness details:

Note: A witness is NOT required for the signatures in the first two company sections of each signing page in the Deed.

The other signatures must be witnessed by any adult who is prepared to give their full name and who is:

- not a parent and
- not a child of and
- not a sibling of

anyone signing the document. (A spouse may be a witness.)

6. Also:

- facsimiles are not valid for these purposes
- **names must be clear and legible.**

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3.2 IMPORTANT: Go back through the document and make sure all required information has been completed.

3.3 Either:

Where the Deed Poll is submitted through the ITP work step (ie partial design package), scan executed Deed Poll and submit to Sydney Water (with ITP) in e-Developer. The WSC retains the original of the Deed Poll (and gives a copy to the Constructor).

Or:

Where the Deed Poll is received by email (for a replacement Provider), the WSC scans the executed Deed Poll and submits to Sydney Water via the Project Variation work item (attach to 'Attach ITP and Associated Checklist' field). The WSC retains the original of the Deed Poll (and gives a copy to the Provider).

Note:

The WSC will also need to submit any other relevant project documentation with the variation.

End.

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Part C - Novation Deed (WSC)

Below are the steps WSCs need to go through to complete the Novation Deed (Deed). Also, see the documents on the website for more details about how to complete the various sections.

Step 1 - Cover page:

This step depends on (1) how many asset types there are; (2) if any of the works are 'Wastewater – Minor Works' (and so the Designer does not sign the Deed); and (3) if the Constructor is signing at this stage. See also notes below. That is:

1.1 You will have one of these two main scenarios:

- There is just **one** asset type being constructed or
- There is **more than one** asset type being constructed.

This means:

1.1.1 Where there is just **one** asset type being constructed, you only need **ONE** Deed (plus duplicate). Go to step 1.2.

1.1.2 Where there is **more than one** asset type being constructed, you only need **ONE** Deed (plus duplicate) if either:

- a) one of the asset types is NOT 'Wastewater – Minor Works', AND the Developer, WSC and Designer are the same for all asset types, AND the Constructor is the same and signing for ALL asset types now (See Note (2) below).... Or
- b) one of the asset types is NOT 'Wastewater – Minor Works', AND the Developer, WSC and Designer are the same for all asset types, AND a Constructor is NOT signing for ANY asset types now (See Note (2) below).

For all other situations, you will need **more than one** Deed so you must first print enough copies of this Deed to **equal the number of asset types** (plus a duplicate for each). The asset box must be ticked against the asset being constructed for each Deed copy. Go to step 1.2.

NOTE(S):

- (1) The Constructor must always sign at this stage for '**Wastewater – Minor Works**'.
- (2) The Constructor must NOT sign now if there is a Sydney Water 'share of works' to be approved.
- (3) For stormwater connections only, if the Designer or Constructor is NOT a listed provider then the WSC will strike out the relevant signing section and write 'Not applicable – connection only' (or similar).

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- 1.2 Check that the Case Number, Site (Development address) and Applicant WSC reference inserted by the DSO are all correct. If wrong contact the case DSO to fix Deed.
- 1.3 Insert a tick in the asset type box(es) relating to the asset(s) being constructed. See also 1.1 above.
- 1.4 Go to Step 2.

Step 2 - Page 3:

- 2.1 Check that the Case Number (both in Header and at the top of the page), Site (Development address) and Developer Works Deed execution date inserted by the DSO are correct. If wrong contact the case DSO to fix Deed.
- 2.2 **Under 'New Party'**, get new Developer to write in name and ABN.
- 2.3 **Under 'Outgoing party'**, get outgoing Developer to insert name and ABN.
- 2.4 **Under 'Continuing parties'**, WSC, Designer (if applies) and Constructor write in their name and ABN.
- 2.5 Go to Step 3.

Step 3 – Clause B3 Notices (page 5):

The New Party and the Outgoing Party must complete the contact details in the table in clause B3 (b).

Go to Step 4.

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Step 4 - Page 8/ Signing pages:

To execute the Deed:

- 4.1 If asset type is 'Wastewater Minor Works', leave the 'Designer' page blank
- 4.2 On each signing page, have each party (with 'Developer' being the new Developer) complete the appropriate signing section in line with the notes below AND leave the sections not used blank.

Notes:

1. For a company with more than one director/ secretary:

This section is completed by a company with either:

- Two directors, or
- One director and a company secretary (whether or not the secretary is also a director).

If two directors are completing the clause, each director must complete the appropriate part of the clause by ensuring their names and signature appear clearly in the indicated places.

If a company secretary and a director are executing the clause, the company secretary, whether or not they are also a director, must execute in the indicated section of the clause and the director who is not the company secretary, in the other section.

2. For a company with a sole director and company secretary:

This section is completed by a company with a sole director who is also a company secretary.

A sole director and company secretary can execute this Deed by alone signing the document. Ensure that their name and signature appear in the appropriate places.

3. For a party executing under power of attorney/delegated authority to bind the company/ Council/ other Authority:

'Delegated authority' allows a person in a company to be delegated authority to sign this Deed eg if a director and/ or secretary are not always available to sign. For information on how to set this up, the party must seek their own legal advice.

4. Sole trader/ individual:

This section is for a sole trader or individual.

The sole trader/ Individual applicant must sign. Also, if two people own the property both have to sign.

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5. Witness details:

Note: A witness is NOT required for the signatures in the first two company sections of each signing page in the Deed.

The other signatures must be witnessed by any adult who is prepared to give their full name and who is:

- not a parent and
- not a child of and
- not a sibling of

anyone signing the document. (A spouse may be a witness.)

6. Also:

- facsimiles are not valid for these purposes
- **names must be clear and legible.**

4.3 IMPORTANT: Go back through the document and make sure ALL parties have completed all required information.

4.4 Scan the completed Novation Deed and submit to Sydney Water via the Project Variation work item (attach to 'Permission to Enter' field). (If the Project Variation work item is not available, use email.)

4.5 Post two originals of the Novation Deed to case DSO.

4.6 Receive one executed original from Sydney Water/ DSO and send to Developer (and copy to others as requested).

End.

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