

## Information required before completing Article 161 Agreement

After Northern Ireland Water have completed our technical assessment of your application for an Article 161 agreement, we will issue a draft agreement offer to the developer. Once an agreement offer has been issued, the developer will have 13 weeks to meet the financial obligations set out in the agreement and ensure all the relevant signatories are party to the agreement.

This document sets out the requirements as to who must sign the agreement, what is required to prove who currently owns the land where sewers being laid will be offered for adoption under the agreement and the developer's choice of bond.

### Requirements email addresses for signatories to the Article 161 agreement

The signing of Article 161 agreements will be carried out by electronic signature. When the final agreement is issued for signing, a sequence of emails will be sent, in order, to the intended recipients. Each email will have a link in it to direct the recipient to the section of the agreement that they have to sign. The next email in the sequence will not be sent until the most recent recipient applies their signature. Recipients will receive more than one email if they are required to sign multiple sections of the agreement.

As we must ensure that the individuals signing the agreement are the intended recipients, the email address that developers provide for each individual signatory to the agreement must be a personal email address for the intended recipient. **We will not accept email addresses which go to shared inboxes.**

The individual witnessing the signing of the bond should do so in the presence of the director signing the agreement on behalf of the developer.

### Who can sign the Article 161 agreement on behalf of the Developer?

If signing on behalf of a Company either

- a) 2 x Authorised Signatories (Authorised Signatory is any Director or Company Secretary)  
Or
- b) 1 x Director in presence of 1 x witness (there are no restrictions to who can act as a witness – no prohibition on spouse or employee)

If signing as an individual

- a) Individual in presence of 1 x witness (there are no restrictions to who can act as a witness – no prohibition on spouse or employee)

Before the final agreement will be released for electronic signing, Northern Ireland Water will verify that the individuals nominated to sign the agreement are active directors.

## **Who signs the Article 161 agreement for the landowner if they are different from the developer?**

Where the developer and landowner are not the same for the area of land that the developer controls (as denoted by the green land map), then the landowner must also sign the Article 161 agreement, signifying that they give the developer permission to lay sewers in adjoining land. Please note the following requirements.

- Even if there is a common ownership / directorship between the land-owning company / individual and the developer, then the agreement must be signed separately on behalf of the landowner.
- If the land is owned by a company, only one active director need sign on behalf of the land-owning company.
- If the land is jointly owned by several land-owning entities, i.e. several individuals and or companies, then each of these entities must sign the agreement separately, indicating that they consent to the developer laying sewers for future adoption in their lands.
- If the land being developed consists of multiple folios, all the owners of each of the folios must be signatory to the Article 161 agreement.

It is the responsibility of the developer to contact the landowner(s) and obtain the details of who will be signing the agreement on their behalf.

## **Who signs the agreement on behalf of the adjoining landowner or the owner of unadopted downstream sewers?**

Where the developer must lay sewers in land outside of the area that they own / control or discharge to a downstream sewer network which has not been adopted, the owner of those lands or sewer network must sign the Article 161 agreement. These are lands in which sewers laid under the agreement will appear within the boundary of the statutory charges map, but outside the boundary of the green land map.

- Where a folio of land is owned by the developer in the name of the company or individual who will be entering into the Article 161 agreement, there is no requirement for them to sign separately as the landowner.
- If the adjoining land is owned by a company, only one active director need sign on behalf of the land-owning company.
- If the adjoining land is jointly owned by several land-owning entities, i.e. several individuals and / or companies, then each of these entities must sign the agreement separately, indicating that they consent to the developer laying sewers for future adoption in their lands.
- If the land being developed consists of multiple folios, all the owners of each of the folios must be signatory to the Article 161 agreement.

It is the responsibility of the developer to contact the adjoining landowner(s) and obtain the details of who will be signing the agreement on their behalf. In multi-phase developments in which different phases are being completed by different developers and an upstream land needs to connect their sewers in to the

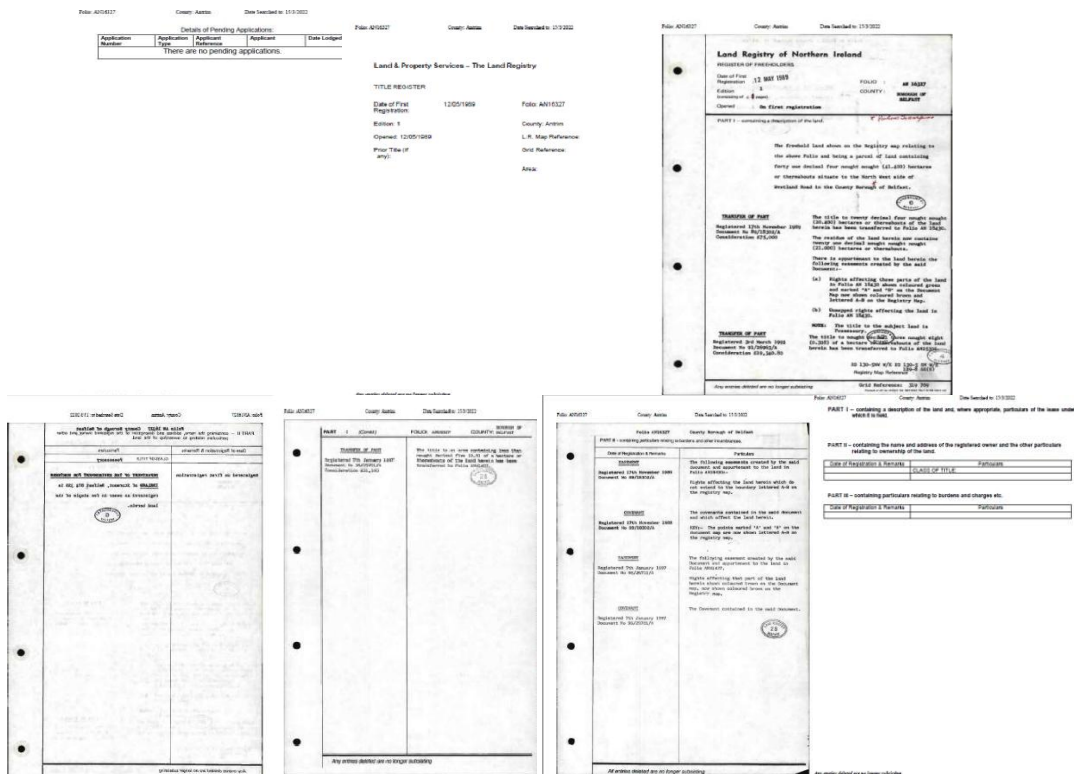
unadopted sewers belonging to downstream developer(s), then the upstream developer must seek the permission of the downstream developer(s) to connect into their sewers and provide their details to sign the agreement. Unadopted downstream sewers should not be included in the stat charges and green land maps.

### Provision of Land Registry Maps and Folios to confirm land ownership

To verify ownership of the land where sewers are being laid to be offered for adoption under an Article 161 agreement, it is the responsibility of the developer to provide details as to who the current landowner is. To that end, the developer must provide current copies of the folio documents and land registry map for the entire area denoted by their statutory charges map. If the area where sewers are being laid consists of multiple folios, the developer must provide the folio document and land registry map for all the folios within the area covered by the Article 161 agreement.

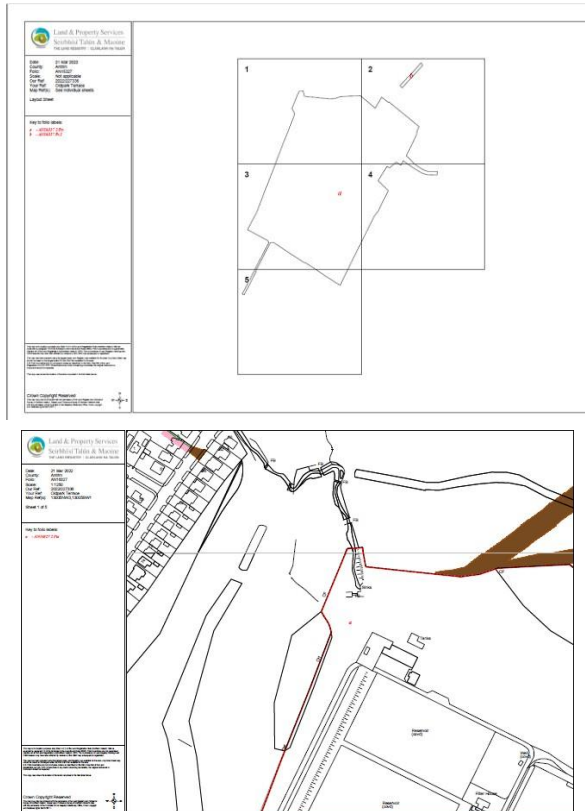
Developers must provide current folio documents and folio maps that have been issued by Land Registry, i.e. **they have been searched within the three months** prior to their submission to Northern Ireland Water. Screenshots from Landweb are not acceptable.

Below is an example of a folio. The developer must provide the complete document, including the Details of Pending Applications sheet. The document will provide the folio number, in this case AN16327, and the date on which it was searched.



Corresponding to the folio is the land registry map, which will show the corresponding folio number, in this case AN16327. Where a land registry map covers

multiple map sheets, such as the example below, the developer must provide all the map sheets for that folio (we have only shown one map sheet in this example).



The Article 161 agreement must be signed by the current landowner. In cases where the land registration of a folio is in the process of being updated following a sale, in addition to providing a current folio and land registry map per above, the developer must also provide a copy their application to Land Registry (Form 11) to have the ownership of the folio updated, as well as a copy of the letter from Land Registry acknowledging receipt of their application.

Below is a example of an application to Land Registry to have the ownership of a folio updated (Form 11).

Form 11  
001751686-004358828-00000-1-D  
User Ref: 01UR 2124 Old Mark at Yard

DATE: 2nd August 2024

A COUNTY: POLYOX APPLIED: REGISTERED OWNERS:  
TYRONE NONE NONE

B THE TRANSFEROR:  
DEPARTMENT FOR COMMUNITIES, one of the above registered owners of folio 30088 in County Tyrone (as trustee owner).

C THE TRANSFEREE:  
The Transferee named in Panel B in consideration of the proceeds transfer(s) the land is subject to the conditions in Panel F.

D THE LAND:  
Part of the land contained in folio 30088 County Tyrone edged by a red line on the map attached hereto.

E TRANSFEREE:  
NORTHERN IRELAND WATER LIMITED, of WESTLAND HOUSE, 46 OLD WESTLAND ROAD, OLD MARK, BELFAST, COUNTY ANTRIM, BT14 6TE.

F RIGHTS GRANTED:  
SCHEDULE ONE - RIGHTS GRANTED  
Any covenants or agreements relating to these rights will be included in Schedule Three.

G SCHEDULE THREE - COVENANTS BY TRANSFEROR  
SCHEDULE THREE - COVENANTS BY TRANSFEREE  
SCHEDULE THREE - MUTUAL AGREEMENTS

H OTHER APPLICABLE INSTRUMENTS:  
Both Section 6(1)(a), (b), (c) and (d) of the Land Registration Act 1996 apply to this instrument.

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Below is an example of a letter from land registry acknowledging receipt of this application.



On receipt of current land registry maps and folios, Northern Ireland Water will use it to verify that the details provided by the developer for the landowner and any adjoining landowners are correct and ensure that the names and email addresses of the nominated individuals to sign the Article 161 agreement are correct. **Please ensure that any transfers of land ownership for the area being developed have been completed prior to completing the details of who will sign the agreement, even if these have not yet been updated on Land Registry.** Land should not transfer to individual homeowners until after the Article 161 agreement has been signed.

The provision of current folios and land registry maps should be sufficient to confirm land ownership in most cases, however, Northern Ireland Water accepts that there are situations where this will not be the case. For example.

- In a scenario where a folio is registered in the sole name of someone who is deceased, the developer must provide a copy of the Grant of Representation (i.e. Grant of Probate/Letters of Administration) in this individual's estate. The deceased individual's ownership of the land will be referenced in the Article 161 agreement, and the personal representative (executor/administrator) will sign on behalf of the deceased individual."
- "In a scenario where a folio is registered in the names of a number of individuals as joint tenants and one of them is deceased, then NIW will require a copy of this individual's death certificate, and the surviving registered owners will sign the Article 161 Agreement."
- "In a scenario where a folio is registered in the names of a number of individuals as tenants in common and one of them is deceased, the developer must provide a copy of the Grant of Representation (i.e. Grant of Probate/Letters of Administration) in this individual's estate. The deceased individual's ownership of the land will be referenced in the Article 161 agreement, and the personal representative (executor/administrator) will sign on behalf of the deceased individual, while the surviving owners will sign as normal."
- Where an agreement is to be signed on behalf of a Company (outside of a director)

or an individual under Power of Attorney, a copy of the Power of Attorney must be provided.

- Where sewers will be laid in unregistered land, Northern Ireland Water still requires proof of ownership, therefore the developer will be required to provide a copy of the title deed to confirm who owns the land.

In any case where confirmation of land ownership is not straightforward, Northern Ireland Water will advise the developer of what additional documents are required to confirm ownership.

### **Provision of bonds**

As part of the Article 161 agreement, the developer will be required to provide a bond, either in the form a cash bond or guarantee and must notify us of their choice of bond provider at the same time they complete the details of who will sign the agreement.

- Where a cash bond is to be provided, Northern Ireland Water will issue a request for payment of the bond after the final Article 161 agreement is issued for electronic signing.
- Where a developer chooses to provide a guarantee bond, they can select from one of the guarantors listed on the self-service portal. Where a developer's chosen guarantor is not listed, the developer can either enter the manually details of their chosen bond provider or email [developerservices@niwater.com](mailto:developerservices@niwater.com) . This will allow Northern Ireland Water to carry out the necessary due diligence as to whether we can accept bonds from a nominated guarantor.
- Please note that it is the responsibility of the developer to obtain confirmation from their chosen guarantor that they will provide them with a bond, before selecting them on the portal.

### **Further Information**

If you have any questions about the signing of Article 161 agreements, requirements for proof of land ownership or provision of bonds for Article 161 agreements, please contact us at [developerservices@niwater.com](mailto:developerservices@niwater.com) or by telephone on 03458 770003.