

WATERCOURSES

PART 1 ; STRUCTURES IN, ON, OVER OR ADJACENT TO WATERCOURSES

1.0 Introduction

The purpose of this section is to set out the policy of the Boards towards the ownership and construction of structures applicable to “ordinary watercourses” (both “viewed rhynes” maintained by the Boards and “private” ditches).

Part 1 deals with structures in, on, over or adjacent to watercourses generally. Part 2 deals more specifically with the culverting (by piping or other means) of watercourses, and the infilling of watercourses.

2.0 Ownership

2.1 Structures neither owned nor adopted by an IDB

All culverts, pipes, bridges and any structures constructed in, on, over or adjacent to **any “other watercourse”** within a Drainage Board area should be consented by the IDB, and financed, constructed, owned, maintained and ultimately removed by the **riparian owner** or the legally assigned owner. (It should be remembered that a consent to construct or take away a structure may also require the approval of another licensing authority.)

2.2 Drainage Board structures

An IDB, as part of an improvement or environmental scheme, may undertake the construction of culverts or other structures on watercourses in their district. These structures, constructed under the Board’s statutory powers, will be operated and maintained by the Board. The Board will not generally own the land on which the structure or culvert has been constructed. The riparian owner will usually own the land through which a culvert passes and may also own the pipes themselves or other embedded items. Sometimes the Board will retain ownership of a culvert under a previous legal agreement.

Unless the operation and maintenance of a structure is handed back to the riparian owner, the structure or culvert will remain the liability of the Board.

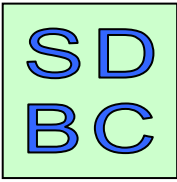
In Somerset, the Consortium Drainage Boards do not generally own watercourses and are not therefore subject to duties associated with riparian ownership. Most work therefore is carried out under statutory permissive legal powers.

2.3 In many situations (eg common droves) the ownership of a structure or culvert can be unclear.

This may only be of interest to a Board if the capacity or condition of the structure effects the efficient drainage of the area and serves more than one owner.

2.4 Fencing Associated with Culverts

Any fencing or gate erected in association with the construction of a culvert will normally be owned and maintained by the riparian owner. The fencing and gates will be of adequate extent and durability to prevent circumvention of the fencing and potential bank damage.



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From time to time a Board may construct a culvert (with associated fencing) in a watercourse to facilitate access for maintenance activities only. Fencing and gates erected over the culvert will be maintained by the Board. Any gates will normally be locked and no access through for riparian owners will be permitted.

Where riparian owners wish to benefit from this opportunity for additional access, the Board may agree provided all of the maintenance and replacement liability for the fencing and gates is accepted by the riparian owner.

3.0 Repair of Structures

The repair or replacement of existing private structures, access culverts or bridges will be undertaken at the expense of the riparian owner. Where the structure, culvert or bridge is operated or originally installed by the Board it will be repaired at the expense of the Board under its permissive legal powers if there is sufficient justification to provide the funding. If adequate funding is not available and sufficient justification does not exist then the Board may remove the structure and restore the land to its original condition.

If the ownership of the culvert is unknown then the Board will apply a series of tests to determine if Board funding should be applied to the problem.

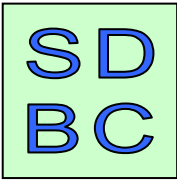
- a. How long has the structure been in place?
- b. If only constructed recently has the structure been installed with consent?
- c. Is the structure significantly impeding the flow of water or leading to blockages?
- d. If the structure collapses will it impede the drainage of a significant area or properties?
- e. If the structure is removed will it disadvantage more than one owner/occupier?

If the answer is positive to questions c, d, and e then the Board will consider the provision of funding to work at that site.

4.0 Contributions

The Board may make a contribution to the repair or replacement of an existing riparian access culvert or bridge based on the use of the access for Board (or its contractors) maintenance plant and equipment. Annual use by the Board's maintenance equipment will normally lead to a 10% contribution to the cost of repair or replacement. The Board may also provide pipes or goods to the equivalent value of the 10% contribution. An increased use of the access over the culvert or bridge may result in an increased contribution up to a maximum 50% of the cost of repair or refurbishment.

In making a contribution to the cost of repair to a riparian structure, it does not infer any future liability or precedent that future funding will be available as work priorities and access routes will change over time.



5.0 Blockages and Safety Matters

Any culverts or bridges that deteriorate to a condition where the safety of the public is put at risk due to collapse, or the Board considers that a blockage of the watercourse may occur, then the Board may remove the structure and make safe the site. In the case of riparian ownership of the structure if the owner has failed on notice to remedy the problem the Board will recharge the cost of removal to the owner.

6.0 Load-bearing Capacity

Any culvert, bridge or structure repaired with the benefit of a Board contribution will need to be capable of taking the load of a 20 Tonne tracked excavator and 15 Tonne Tractor Flail. In the case of a piped culvert the riparian owner or occupier should comply with the pipe manufacturer's recommendations and also should not overload the structure with his own plant or equipment.

7.0 Accommodation Works and Ownership

Permanent new culverts or other structures (including fencing) constructed by the Board to facilitate the construction of a scheme which have no long term function in the Board's operation of the drainage network, are classified as 'Accommodation Works' and are considered to be in the ownership and operation of the riparian owner.

Temporary structures constructed by the Board to facilitate the construction of a scheme and removed on completion of the scheme are considered to be in Board ownership for the duration of the works.

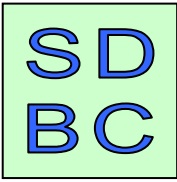
8.0 Design and Construction

8.1 Any structure that is the subject of a consent application will need to ensure that it is properly 'fit for purpose' and should be constructed to the current standards. The Board's assessment of its acceptability will generally only relate to the hydraulic and environmental impact of the proposal on the watercourse network if the structure is not to be adopted by the Board. (Issues such as structural stability will not generally be assessed.) However where the proposal is in or adjacent to a Site of Special Scientific Interest (SSSI) the Board will undertake a wider consultation and will assess the impact of the proposal on the site.

If the structure is to be adopted by the Board on completion of the work then the Board will wish to be assured about all aspects of the structure. The developer is advised to consult Part 9 "Structures to be adopted by the Board"

8.2 The installation of a structure in a watercourse will have an impact on the hydraulics and the ecology of that watercourse. Those impacts will need to be properly understood and therefore it will be incumbent on the developer to undertake and provide to the Board adequate survey and information to support the proposal.

In particular, proper consideration should be given to increases in the size of culverts, bridges and sluices due to its impact on flood storage and downstream flood risk. Oversized structures may require downstream control structures.



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In addition, the design of the invert level of any proposal will be of important. For example culverts constructed with inverts higher than general bed levels can allow for retention of water to achieve minimum water depths.

9.0 Environmental Considerations

There is an expectation that any environmental damage associated with the construction of a structure in a watercourse will be minimized as part of the design and that any residual damage will be the subject of mitigation works. Mitigation works to reduce the impact of the culvert on the local environment will be taken into account when determining applications for consent to culverting and these could include:

- Re-opening a previously culverted length of watercourse
- Enhancing an adjacent open channel with berms and planting native wetland species
- Creating a new pond or wetland nearby

See Part 7 [Environmental Mitigation](#)

10.0 Other Matters

- 10.1 The issue of a Land Drainage Consent by an IDB does not absolve a person, proposing to execute works, from the need to obtain such other licences, consents or permissions which may be required by law.
- 10.2 **If the consent or approval of a third party is required before the applicant is able to carry out any of the works proposed, documentary evidence of this consent or approval must be submitted with the application. The Board will assume that the property boundaries run along the centre line of a watercourse where land ownerships differ on opposing banks of a watercourse, rhyne or ditch. The applicant will have to demonstrate at the time of consent application that both banks are in his ownership for any proposal or that he has consulted and obtained the agreement of the owner of the opposing bank and can produce the necessary evidence.**
- 10.3 Under normal circumstances reference should also be made to “Guidance Notes for Applicants”, “Summary of Requirements for Small Pipe Outfalls” and “[Environmental Mitigation](#)”. The Consortium office will endeavour to supply all applicants with information relevant to the particular Board and area to which the application relates. Applicants are advised to specify the precise location and give a general description of the works proposed when requesting application forms.