



Water Management Consortium

PLANNING AND BYELAW POLICY

Including Development Control Charges and Fees

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**Lindsey Marsh Drainage Board
Isle of Axholme and North Nottinghamshire Water Level Management Board
Trent Valley Internal Drainage Board
Doncaster East Internal Drainage Board**

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The Water Management Consortium Boards reserve the right to update or change this living document at any time without notice.

1 INTRODUCTION

The **Lindsey Marsh Drainage Board**, the **Isle of Axholme and North Nottinghamshire Water Level Management Board**, the **Trent Valley Internal Drainage Board** and the **Doncaster East Internal Drainage Board** (the Boards) each have permissive powers under the Land Drainage Act 1991 to exercise a general supervision over all matters relating to the drainage of land within the respective Board's District. The Boards work to ensure that water levels are maintained at an appropriate and safe level, the Boards also have a duty to conserve and enhance the natural environment. The Boards have such other powers to perform such other duties as are conferred or imposed on internal drainage boards by this Act.

The purpose of this document is to set out the Boards' policy and approach in relation to development within the Boards' Districts.

2 BYELAWS RELATING TO BOARD MAINTAINED WATERCOURSES

2.1 Lindsey Marsh Drainage Board

Is the largest drainage board in England, the Board is responsible for the maintenance of 973km of arterial watercourse of which 75km is culverted and 30 pumping stations, draining a catchment of 86,550 hectares with a Board area of 52,757 hectares on the East Coast of Lincolnshire. The **Lindsey Marsh Drainage Board's** Byelaws were made by the Board on 24th January 2018 under the powers vested in it by the Land Drainage Act 1991. The Byelaws were confirmed by the Department of Environment, Food and Rural Affairs (Defra) on the 29th June 2018.

2.2 Isle of Axholme and North Nottinghamshire Water Level Management Board

The Board is located on the western Bank of the River Trent extending from the River Ouse down to Markham Moor. The Board is responsible for the maintenance of 457km of arterial watercourse and 21 pumping stations, with a Board area of 28,950 hectares. The **Isle of Axholme and North Nottinghamshire Water Level Management Board's** Byelaws were made by the Board on 25th January 2018 under the powers vested in it by the Land Drainage Act 1991. The Byelaws were confirmed by the Department of Environment, Food and Rural Affairs (Defra) on the 29th June 2018.

2.3 Trent Valley Internal Drainage Board

The Board covers an area of low lying land from the west of Gainsborough, straddling the River Trent and its tributaries, down to the south of Nottingham. The Board is responsible for the maintenance of 778km of arterial watercourse and 18 pumping stations, with a Board area of 44,093 hectares.

The **Trent Valley Internal Drainage Board's** Byelaws were made by the Board on 25th January 2018 under the powers vested in it by the Land Drainage Act 1991. The Byelaws were confirmed by the Department of Environment, Food and Rural Affairs (Defra) on the 29th June 2018.

2.4 **Doncaster East Internal Drainage Board**

The Board covers an area of low lying land from the east of Doncaster predominantly within the River Torne catchment. The Board is responsible for the maintenance of 457km of arterial watercourse and 25 pumping stations, with a Board area of 28,950 hectares. The **Doncaster East Internal Drainage Board's** Byelaws were made by the Board on 27th April 2012 under the powers vested in it by the Land Drainage Act 1991. The Byelaws were confirmed by the Department of Environment, Food and Rural Affairs (Defra) on the 20th December 2012.

2.5 **Background**

The primary purpose of these Byelaws is to ensure efficient drainage within each Boards' District. Byelaws seek to guarantee that the Boards' maintained watercourses can be accessed for maintenance or improvement in the future and ensure the unimpeded flow of water on all watercourses within the respective Board's District at all times.

To ensure those proposing developments are aware of the Byelaws, the Boards take the opportunity to provide comments on Planning Applications within, or affecting, its District. It must be noted that the granting of Planning Permission does not override the need for the respective Boards' formal consent to be obtained.

A full copy of the Boards' Byelaws can be obtained from the Consortium's offices during normal working hours or alternatively, downloaded electronically from the website, www.wmc-idbs.co.uk

Any person wishing to carry out works covered by the Boards' Byelaws must make a Byelaw consent application to the respective Board. Works must not commence until the Boards have issued consent.

The Boards welcome the opportunity to comment on proposals in advance of formal Byelaw consent applications being made. Early involvement will help to minimise delays and reduce amendments to development proposals. Persons wishing to discuss proposals should contact the Boards' Planning and Development Control Officers in the first instance.

3 PRIVATE WATERCOURSES

Section 23 (1) of the Land Drainage Act 1991 states that:

"No person shall-

(a) erect any mill dam, weir or other like obstruction to the flow of any ordinary watercourse or raise or otherwise alter any such obstruction; or

(b) erect any culvert that would be likely to affect the flow of any ordinary watercourse or alter any culvert in a manner that would be likely to affect any such flow, without the consent in writing of the drainage board concerned."

Persons wishing to carry out works described above must receive the Boards' consent prior to works commencing.

4 APPLICATIONS FOR THE BOARDS' CONSENT

Applications for Byelaw consent and/or consent under Section 23 (1) of the Land Drainage Act 1991 should be made to the Boards in writing, using the appropriate section(s) of the application form.

Application Forms and Advice Notes are available from the Consortium's office during normal working hours or alternatively, can be downloaded electronically from www.wmc-idbs.co.uk.

Under normal circumstances the consent application process will take between four and six weeks. However, this timescale will be dependent on the scale and nature of the proposals.

The Boards have delegated their powers for determining certain consent applications to the Chief Executive and Engineer to the Boards. The following types of consent application can be determined using delegated powers:

- Applications complying with guidance in the advice notes referred to in Section 9 of this document.
- Applications to culvert up to 25 metres of Board maintained watercourse.
- All applications under Section 23 (1) of the Land Drainage Act 1991.

All other consent applications will be referred to the respective Board for determination at the next appropriate Board meeting.

In all cases consent will not be withheld unless the grounds for doing so are reasonable.

If consent is granted, it should not be regarded as an approval of the design and integrity of the proposals. Consent will only be granted in relation to the impact the proposals may have upon the watercourse and effect on the Boards' maintenance activities.

Consent may be refused if the proposed works could increase flood risk. Similarly, consent may be refused if it is considered a detriment to the environment. This is in accordance with the Boards' environmental and sustainability duties.

Applicants should be aware that the Boards' consent does not override the need for any other consent or approval that may be required under any other statutory provision, byelaw, order, regulation or landowners' permission.

Applicants have the right to appeal if they believe consent has been withheld unreasonably or unreasonable conditions have been imposed. Representations should be made in writing for consideration at the next available Board meeting.

5 FEES

5.1 Consent Application Fees

The charges associated with consent application fees are set out in table 1 below.

Description	Reason for the charge being levied	Fee Due ¹
Application to alter a riparian watercourse	Application under Section 23 of the Land Drainage Act 1991	£50.00
Application for relaxation for one of the Boards' Byelaws (not Byelaw 3)	Application for a relaxation of Boards' Byelaws (usually Byelaw 10 and 17).	£100.00
Application to install land tile outfalls into a Board maintained watercourse	Application for a relaxation of Boards' Byelaws (per watercourse).	£100.00
Application to discharge surface water to a watercourse	Application for a relaxation of Byelaw 3 (and possibly other Byelaws).	£200.00
Application to discharge treated foul water to a watercourse	Application for a relaxation of Byelaw 3 (and possibly other Byelaws).	£200.00

Table 1 – Consent Application Fees

¹ Application fees will be reviewed in 2023 and then on a 5 year basis.

Where an application is submitted without payment of the relevant fee due, the application is not deemed valid and may not be considered by the Boards.

5.2 Inspection Fees

The fees associated with inspection of works within 9m of a Board maintained watercourse or within the channel of an ordinary watercourse to ensure compliance with the consent issued by the Boards.

Description	Reason for the charge being levied	Fee Due ¹
Application to alter a riparian watercourse	Application under Section 23 of the Land Drainage Act 1991. To confirm the conditions of consent are complied ² with.	£250.00 per visit.+ £100.00 per additional structure
Application for relaxation for one of the Boards' Byelaws (usually Byelaw 10 or 17 not Byelaw 3)	Application for consent under Boards' Byelaws. To confirm the conditions of consent are complied ² with.	£250.00 per visit. + £100.00 per additional structure
Application to install land tile outfalls into Board maintained watercourse	Application for consent under Boards' Byelaws (per watercourse). To confirm the conditions of consent are complied ² with.	£100.00 per visit + £10.00 per outfall
Application to discharge surface water to a watercourse	Application for a consent under Byelaw 3 (and possibly other Byelaws). To confirm the conditions of consent are complied ² with.	£250.00 per visit
Application to discharge treated foul water to a watercourse	Application for a consent under Byelaw 3 (and possibly other Byelaws). To confirm the conditions of consent are complied ² with.	£250.00 per visit

Table 2 – Inspection of consented works Fees

Multiple inspections may be required for large, staged or complex projects.

¹*Inspection of consented works fees are index linked and will increase in April each year.*

²*Where conditions of the consent are not met the applicant will be notified in writing with the steps required to resolve the issues. Any additional visits will be charged at the above fees*

The relevant inspection fees will be stipulated as part of a notification of intent to consent, including the number of inspections required.

The applicant will be given three months to accept the Inspection Fees as a condition of consent. The fee is payable when formal consent is issued following the applicant's confirmed acceptance of the conditions of consent and prior to any works commencing.

Should significant increases in volumetric discharge into Board maintained watercourses or alteration of Board catchments be granted they would be subject to detailed further assessment on an individual basis to account for potential watercourse and pumping plant upgrades that may be required to facilitate the additional volumetric discharge. All costs are to be met by the developer.

5.3 Consultation Fees

5.3.1 Application Advice

The Boards offer guidance documents for the completion of the application for consent forms and the Boards' Planning and Development Control Officers are available to clarify minor queries where the aggregate consultation time does not exceed 1 hour. Where this is insufficient, and a more detailed technical consultation is required this can be offered on a recharge basis.

5.3.2 Flood Risk Assessments

Consultations for information to support Flood Risk Assessments where a plan of the Boards' assets, pumping station operational data and where available any flood data we hold will be charged at **£180**. Where this is insufficient (eg. multiple catchments) and a more detailed technical consultation is required this can be offered on a recharge basis.

5.3.3 Significant Development

Where the development is of such a size or complexity that regular technical advice from the Boards' officers is required, work will be undertaken on a recharge basis.

5.3.4 The Boards are not profit-making entities. Costs charged will be actual cost. As a guide the charge rate will be around £60/hour with any disbursements recharged at actual cost. A detailed cost estimate breakdown of hours charged can be provided.

Consultation Fees are baselined in April 2021 and index linked in line with CPI with an annual review.

5.4 Surface Water Development Contribution (SWDC) Rates

Prior written consent is required from the Boards where a development will result in an increase in the rate or volume of flows in any watercourse and, one of the conditions imposed as part of any such approval is the payment of a development contribution to the Boards. The charge is made to help fund the cost of improvements to the drainage network that are required to cater for increases in the rate and/or volume of surface water flows.

The charge also reflects projected long term increases in the Boards' power costs for pumping. Where substantial changes to infrastructure are made that increase pumping capacity, new equipment will necessarily comply with current legislation which could lead to charges associated with environmental improvements. Some of the Boards' infrastructure means that water can pass through more than one pumping installation before discharge. Where this is the case the full impact to point of discharge will be evaluated.

The relevant fee will be stipulated as part of a notification of intent to consent, including the number of inspections required. Applicants will be given three months to accept the development charge as a condition of consent.

Where a developer's point of discharge is into a third party system (highway drainage, Water Authority network or riparian system) but ultimately increases the run-off to the Boards' network, the development charge will apply and the Boards' consent will be required.

The fee is due when the applicant confirms acceptance of the development charge. Formal consent will be issued following payment of the development charge and prior to any works commencing. *The SWDC is not due at the point of the application.*

The contribution is calculated by;

- Determining the impermeable area of the site to be positively drained (in square metres, m²)
- Establishing the charging band based on the impermeable area (in hectares) of the site that is to be positively drained will fall into (see table 3 below)
- Establishing the charging band based on the proposed discharge rate (in litres/second/impermeable hectare) will fall into (see table 4 below)

The Surface Water Development Contribution equation is therefore;

SWDC = Impermeable Area Band Contribution Rate x Impermeable Area (m²) x SWDC Rate Band

Banding	Impermeable area, A discharging (ha)		Surface Water Development Contribution Rate (£/m ²)
	Is greater than (>)	And is less than or equal to (≤)	
1	0	5	12.35
2	5	10	10.33
3	10	15	8.87
4	15	20	7.43
5	20	25	5.97
6	25	N/A	3.97

Table 3 : Impermeable Area Bandings

Banding	Equivalent run-off rate (litres/second/hectare)		SWDC rate (as a % of full contribution rate)
	Is greater than (>)	And is less than or equal to (≤)	
1	0	1.4	3
	Is greater than (>)	And is less than (<)	
2	1.4	5	10
	Is greater than or equal to (≥)	And is less than (<)	
3	5	10	15
4	10	15	20
5	15	20	25
6	20	25	30
7	25	30	35
8	30	35	40
9	35	40	45
10	40	45	50
11	45	50	55
12	50	55	59
13	55	60	63
14	60	65	67
15	65	70	71
16	70	75	75
17	75	80	79
18	80	85	83
19	85	90	87
20	90	95	91
21	95	100	95
22	100	N/A	100

Table 4 : Discharge Rate Bandings

- The current maximum charge applicable is £123,500 per impermeable hectare for sites with less than 5ha of impermeable area proposing to discharge at an un-attenuated rate.
- The Surface Water Development Contribution rates stated within this document are increased by inflation annually and will be reviewed in detail on a 5 yearly basis.
- The next detailed review is scheduled for Q2 2023. CPI will be used for inflationary calculations. The impermeable area of the site to be positively drained (in square metres, m²) should only reflect the additional impermeable area that is positively drained post development. It is therefore determined by taking away the area of the proved/demonstrated impermeable surface positively drained to the watercourse prior to development from the proposed area of impermeable surface to be positively drained to the watercourse post development.
- Where developments do not contain all of the surface water on site and the Boards' systems receive the excess then development charges will apply as follows;
 - Where high level overflows to watercourses are proposed from retention/soakaway systems that exceed the 1 in 100 year plus climate change design event (*) then these proposals will be charged at the 10% discharge rate banding (band 2)
 - Where high level overflows to watercourses are proposed from retention/soakaway systems that exceed at return events below the 1 in 100 year plus climate change design event (*) then these proposals will be charged at the applicable discharge rate banding obtained from Table 3 (with the minimum charge being 10% band 2).
- Surface Water Development Charges are payable at the rate applicable when the consent application is granted by the Board but prior to the issue of the formal document.
- Although the table does indicate free discharge or increased discharge rates are available, discharges into pumped catchments will be restricted to 1.4l/s/ha where practical with the SWDC paid at the appropriate Band rate to account for the additional volume from impermeable areas.
 - All developments and requests for discharge into the land drainage network will have to demonstrate that the discharge hierarchy has been followed (1, Infiltration, 2, Surface Water Body, 3, Culverts – (Surface Water, Highway or other), or 4, combined sewer.)
 - Where small developments are unable to restrict to 1.4l/s/ha due to flow control practicalities the discharge rate will be factored up to reflect the site area and the appropriate banding in Table 4 will be applied.

Example SWDC calculations are available should they be requested.

5.5 Commuted Maintenance Fee (CMF) Rates

A Commuted Maintenance Fee (CMF) is a one-off charge, payable where the Boards will become responsible for the future maintenance costs associated with a new culvert, bridge,

weir, outfall, watercourse, pumping station or other structure within their internal Drainage District.

The relevant fee will be stipulated as part of a notification of intent to consent, at which point the applicant will be given three months to accept the CMF as a condition of the consent. The fee is due when the applicant confirms acceptance of the CMF.

Formal consent will be issued following payment of the CMF and prior to any works commencing. **The method of calculation will be provided as part of the consent conditions.**

The Boards will not seek to abandon the commuted responsibilities relating to any adopted structure for which a commuted sum has been paid and recorded in the commuted obligations register. Once the defined timeline of adoption has elapsed, the Boards will be at liberty to operate or relinquish the asset in line with prevailing Boards' policies and circumstances.

5.5.1 Culverts in Board Watercourses

Any consent granted to install a culvert within a watercourse maintained by the Boards will be subject to the payment of a CMF.

In such instances the Boards will be responsible for maintaining the clear flow of water through the structure (Including desilting and vegetation clearance at a frequency necessary to meet water level management requirements) and in some specific cases the structural integrity* of the culvert. The total CMF is derived from the costs that will be incurred by the Boards in maintaining both the clear flow of water through the structure as well as the structural integrity* where appropriate.

The CMF for culverts in watercourses owned by the Boards can be calculated by adding the relevant figure from table 5 below to the cost of replacement as determined by the Boards' Officers. For culverts over 150 metres in length the Boards' Officers will determine the commuted maintenance fee on a case by case basis.

**Structural Integrity*

- *Where the applicant does not wish the Boards to maintain the structural integrity of the culvert the relevant charge in table 5 below will apply and appropriate conditions will be included within the consent.*
- *The Boards reserve the right to decline the responsibility for the structural integrity of the culvert. In such instances the relevant charge in table 5 below will apply and appropriate conditions will be included within the consent.*

Length of Culvert	Internal Diameter of Pipe (Ø)	
	Ø < 750mm	Ø ≥ 750mm
< 18 metres	£1,858.22	£4,114.63
19 – 48 metres	£7,586.03	18,235.06
49 – 96 metres	£12,068.22	£29,241.44
97 – 150 metres	£20,899.87	£50,988.74

Table 5 : Culvert Maintenance Fees for culverts within Board Watercourses

The CMF can be negated where redundant access (of a length in excess of the proposed culvert), within the applicant's ownership is identified which can be removed from the drainage network. i.e. where the Boards have no net gain in maintenance liability.

5.6 Biodiversity and Habitat Mitigation

Most developments within the Boards' areas will impact or alter the local biodiversity and habitat. Where impacts cannot be avoided, mitigation must be provided with either restoration or biodiversity offsetting taking place to deliver a neutral or overall net gain position. In most cases measures to restore or offset the impact of any works must be undertaken in close proximity to the development. Where the site constraints or local land holdings do not permit this, the Boards will seek a developer contribution to undertake biodiversity improvements within their districts.

5.7 Payment of Fees

The Boards accept payment via cheque, credit / debit card or BACS transfer. Please note for all card payments made using a Commercial (Business) card there will be a non-refundable surcharge of 1.8% added to the charge. There is no surcharge payable for payments made by personal Debit Card or by personal Credit Card.

6 DEEDS OF INDEMNITY

In certain cases, applicants will be required to enter into a Deed of Indemnity with the Boards to protect the Boards and their future operation and costs thereof.

The Deed of Indemnity will be drawn up by the respective Board at the applicant's expense. It will then be lodged with Land Registry to ensure the Board is consulted prior to the property being sold. This allows subsequent owners to be made aware of the restrictions that apply to the property.

7 ENFORCEMENT

Wherever possible the Boards will seek to ensure drainage issues are rectified without the need for formal action. When aware of a drainage issue the Boards' Officers will conduct an investigation which will consist of:

- A site inspection to establish the cause and extent of the problem
- Consideration of possible remedial actions
- Making reasonable attempts to contact the responsible person(s) to discuss the issues
- If the person(s) responsible is/are willing to cooperate, a letter will be sent detailing the works that are required within a specified time period. If the persons(s) responsible is/are uncooperative, the Boards will take formal action as detailed in paragraphs 7.1, 7.2 and 7.3.

The Boards will undertake action where there is evidence of a significant drainage problem and persons affected are not the cause of the drainage issue and where there is evidence of a breach of the Boards' Byelaws or contraventions under Section 23 of the Act (further details below). The Boards will endeavour to resolve identified issues in a reasonable timescale, with priority given to flooding, risk of flooding of critical infrastructure or internal flooding of properties.

7.1 Byelaws

The Boards may serve notice under Section 66 (6) of the Land Drainage Act 1991 requiring any contravention of their Byelaws to be remedied within a period not exceeding 28 days.

If the breach is not remedied within the specified time scale the Boards may use Section 66 (7) of the Land Drainage Act 1991 to undertake the necessary works and recharge the costs of such works to the offender. Such action will be without prejudice to any proceedings under Section 66 (6) of the Land Drainage Act 1991.

Where the applicant fails to follow the Boards' application and consenting processes the relevant fees and charges will apply before the Board will consider the retention of any asset.

7.2 Section 23 (1) of the Land Drainage Act 1991

Where a contravention of Section 23 (1) of the Land Drainage Act 1991 occurs the Boards may serve notice under Section 24 (1) of the Act requiring the nuisance to be abated within a period not exceeding 28 days.

If the breach is not remedied within the specified time scale the Board may use Section 24 (4) of the Land Drainage Act 1991 to undertake the necessary works and recharge the costs of such works to the offender or landowner / occupier. Such action will be without prejudice to any proceedings under Section 24 (3) of the Land Drainage Act 1991.

Where the applicant fails to follow the Boards' application and consenting processes the relevant fees and charges will apply before the Boards will consider the retention of any asset.

7.3 Maintaining Flows on a Private Watercourse

The Boards may serve notice on the riparian owner(s) or person(s) responsible for the impediment under Section 25 of the Land Drainage Act 1991. This notice will identify the works that are required to restore proper flow within a specified period of time.

Subject to the right of appeal, if the proper flow is not restored within the specified period the Boards may undertake the necessary works and recharge the costs of the works to those responsible.

In many instances, landowners will be unaware of their riparian rights and responsibilities. If someone owns land or property alongside a watercourse they are known as the riparian owner (<https://www.gov.uk/guidance/owning-a-watercourse>). Those owning land abutting a watercourse do not necessarily need to own the watercourse itself to be held responsible. This means that many different landowners or occupiers on either bank can be responsible for ensuring the free flow of water along a watercourse.

8 PLANNING APPLICATIONS

The Boards provide comments to Local Planning Authorities (LPAs) on Planning Applications that are within, or impact upon, the Boards' Districts. This provides an opportunity for the Boards to advise the LPAs, landowners and their agents of the Boards' Byelaw requirements prior to development commencing.

When Planning Applications comply with the Boards' Byelaws, a letter will be issued to the LPA which details the Boards' position. Advisory comments will be included as appropriate.

If Planning Applications indicate the Boards' Byelaws may be contravened, a letter of objection will be sent to the LPA. The letter will provide reasons for the objection and give guidance on how the proposals may be revised to comply with the Boards' Byelaws.

The Boards strongly recommend that applicants or their agents liaise with the Boards' Officers at the earliest opportunity to ensure proposals are acceptable to the Boards.

9 FURTHER GUIDANCE

The Water Management Consortium Boards have the following documents available:

- Consent Application Form
- Technical Guidance Notes
- Lindsey Marsh Drainage Board Byelaws
- Isle of Axholme and North Nottinghamshire Water Level Management Board Byelaws
- Trent Valley Internal Drainage Board Byelaws
- Doncaster East Internal Drainage Board Byelaws

Guidance published by the Environment Agency on responsibilities and rules to follow for watercourses on or near your property, and permissions you need to do work around them can be obtained from <https://www.gov.uk/guidance/owning-a-watercourse>

The Water Management Consortium Boards have also produced a series of other advice notes including:

- AN01: Buildings, Structures, Planting and Fencing
- AN02: Culverts and Bridges
- AN03: Environmental Considerations
- AN04: Stability of Garden Fences Close to Board Maintained Watercourses
- AN05: Service Crossings
- AN06: Surface Water

The above documents are available from the Consortium's office during normal working hours or alternatively, can be downloaded electronically from <http://www.wmc-idbs.org.uk/>

If you would like to discuss any of the information in this document or associated advice notes, please do not hesitate to contact the Boards' Officers using the details provided below.

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