

# Riparian rights

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# Outline

1. Definitions
2. Riparian ownership
3. Riparian rights and responsibilities
4. Land drainage authorities
5. Consents
6. Enforcement

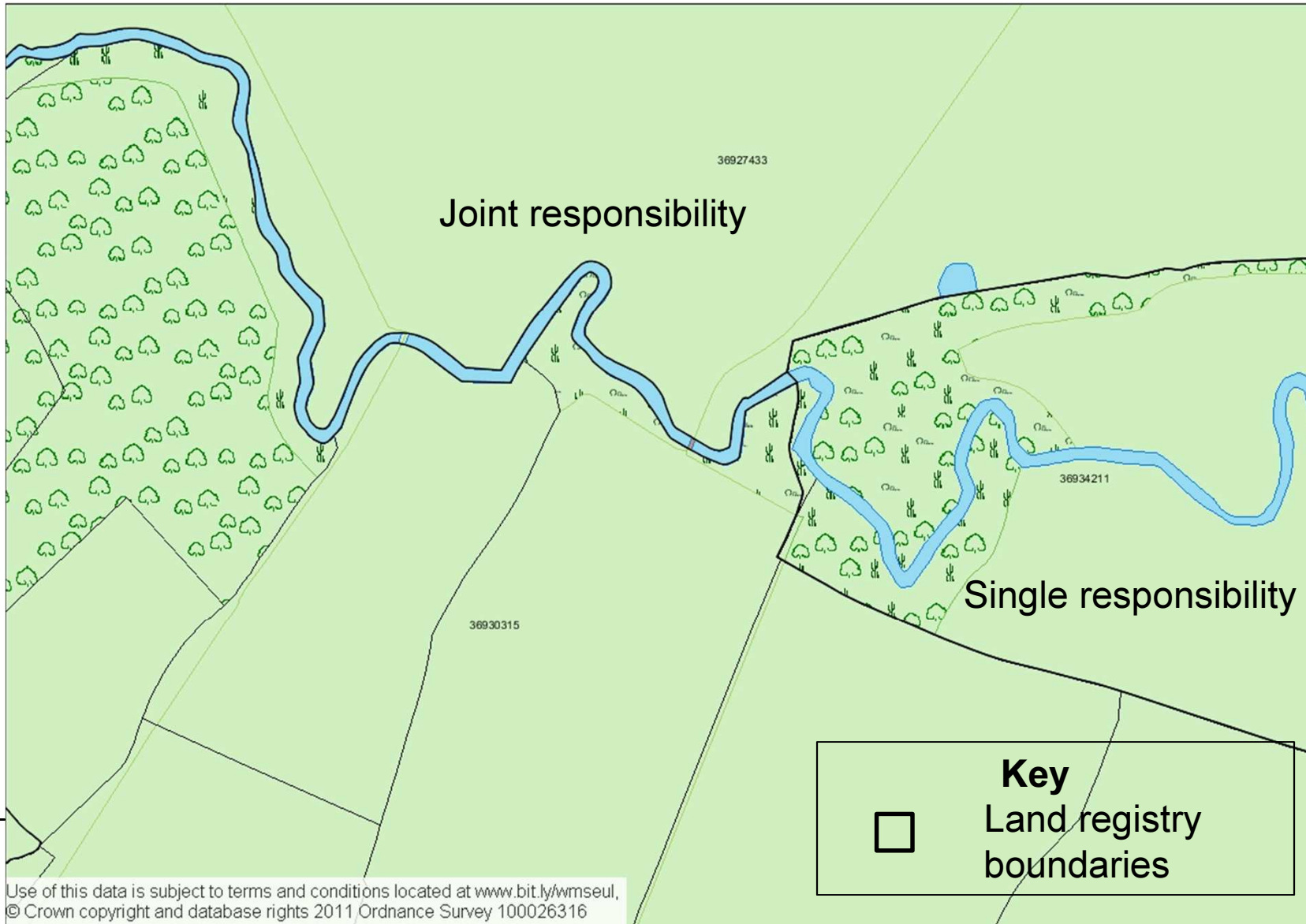
# Definitions

- A watercourse is any channel through which water flows, whether it is natural or man-made
- Main river – a watercourse designated by the Environment Agency
- Ordinary watercourse – any watercourse that is not a main river
- Ponds and lakes are not watercourses unless they are online (ie a watercourse passes through them)
- Culverts are pipes that watercourses flow through, there are regarded as watercourses

# Riparian ownership

- A riparian owner is someone who owns land that adjoins a watercourse
- Where land ownership boundaries stop on either side of a watercourse it is generally assumed each land owner is responsible up to the middle of the watercourse and the principle of *ad medium filum*
- Land title deeds often do not show the entire land a property owner is responsible for
- Land owners are normally responsible for ordinary watercourses between their land and a highway

# Examples of riparian ownership



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# Examples of riparian ownership



# Riparian rights

- to receive flow of water in its natural state
- to protect their property from flooding and erosion.
- to fish in their watercourse
- to abstract a maximum of 20 cubic metres per day of water for the domestic purposes and some agricultural uses

# Riparian responsibilities

- to pass on the flow of water
- to accept flood flows through their land, even if caused by inadequate capacity downstream, as there is no common law duty to improve a watercourse
- to maintain the bed and the banks of the watercourse
- to not cause any obstructions to the free passage of fish
- to not dispose of waste in the watercourse.
- to keep the bed and banks clear of any matter that could cause an obstruction
- to keep clear any structures that they own
- to protect their property from seepage
- to maintain any culvert on your land



# Land drainage authorities

- Land drainage authorities have some powers over the watercourses in their jurisdiction
- The appropriate land drainage authority should be consulted before any construction in or near a watercourse
- Some land drainage authorities have the power to adopt bye-laws which give them more powers of watercourses

# Land drainage authorities

- Environment Agency – authority for main rivers, their consent may be required for a wide range of activities in or near main rivers
- Internal Drainage Boards (IDBs) – have powers to do works on ordinary watercourses in their area. They can (and generally do) adopt bye-laws. They have powers to issue consents for works on or near watercourses in tier areas
- Lead Local Flood Authorities (LLFAs) – have powers to issue consents for works in watercourses outside IDBs
- District Authorities – have powers to undertake works in ordinary watercourses

# Land Drainage Consent

- Consent may be required from the appropriate land drainage authority for works in or near an ordinary watercourse
- Any construction activity that may interfere with the flow in a watercourse
- Bye-laws also give provision for consenting to ensure access to a watercourse for maintenance
- Land drainage consent is separate from planning permission, one does not confer the other

# Enforcement

- Land drainage authorities have limited powers of enforcement for watercourses
- The Environment Agency have powers over many activities in main rivers and should be contacted before any activities are undertaken
- LLFAs and IDBs have enforcement powers over maintenance of ordinary watercourses and unconsented works in them
- Land drainage enforcement powers only give the enforcing authority the power to undertake the necessary works themselves and recharge – they are not the same as planning enforcement powers
- Land owners cannot be compelled to improve their watercourse, even if it is causing flooding

# QUESTIONS?