

LAND DRAINAGE

RIPARIAN RIGHTS EXPLAINED:

Who is a Riparian Owner?

The term 'Riparian Owner' describes anyone who owns property alongside or through which a natural water course flows. Under common law such owners possess rights and responsibilities in relation to the stretch of the watercourse that flows through or adjacent to their property. A watercourse may be anything from a ditch to a main river. It is normally presumed that a Riparian Owner owns land up to the centre line of a non-tidal watercourse.

Your Rights as a Riparian Owner

You are entitled to:-

- Receive the upstream flow of water in its natural state, without undue interference in quantity or quality;
- Protect your property from flooding;
- Protect your banks from erosion;
- Extract a maximum of 20m³ of water per day for domestic purposes;
- Fish the waters

These rights are modified by your duty to other riparian landowners, to the wider community and to the environment (refer to 'Your Responsibilities' below). In particular:

- Any protection works will nearly always require prior consent of the Environment Agency and others;
- Fishing must be by legal methods, and you must be in possession of a current Agency rod licence.

Your Responsibilities as a Riparian Owner

You are responsible for:-

- Passing on flow without obstruction, pollution or diversion affecting the rights of others;
- Accepting flood flows through your land, even if caused by inadequate capacity downstream;
- Maintaining the bed and banks of the watercourse (including trees and shrubs growing on the banks), and for clearing any debris, including litter and animal carcasses, whether or not it originated from your land;
- Maintaining free passage for fish;
- Keeping the beds and banks clear of any obstruction;

- Keeping clear any structures that you own such as culverts, trash screens, weirs and mill gates;
- Maintaining the flood defences such as walls and embankments;
- Protecting your property from seepage;

In general terms, Riparian Owners should not proceed with any proposed works before consulting the Land Drainage Authority, which can either be the Environment Agency or the Isle of Wight Council Planning Services.

In particular, section 23 of the Land Drainage Act 1991 requires consent of the Environment Agency and the Local Authority before constructing or altering any culvert, mill, dam, weir or any similar construction in a non main (ordinary) watercourse. If in doubt, always seek approval first, and remember that in some circumstances planning and/or building regulation consents may also be required.

Flooding

Riparian Owners have duties to those upstream and downstream of their land, and obviously should not do anything that is likely to cause flooding, particularly piping or culverting a watercourse. Furthermore, Riparian Owners must not cause or perpetuate a nuisance, nor cause obstruction to the flow of water in a watercourse by causing the channel to become blocked. Importantly, garden waste (including hedge trimmings, grass cuttings and tree debris) must never be tipped into the river or watercourse.

Further Information

A more detailed explanation of riparian issues can be found at the Environment Agency's website:

<http://www.environment-agency.gov.uk/homeandleisure/floods/38309.aspx>

The agency also publish a booklet, 'Living on the Edge', a guide to the rights and responsibilities of a riverside owner, which is available free of charge on request.

Additional information on the role of the local authority in consenting works to ordinary watercourses can be found on the IW Council website:

<http://www.iwight.com/Residents/Environment-Planning-and-Waste/Planning/Watercourse-Consents/Ordinary-Watercourse-Land-Drainage-Consent>