

IWA Position Statement on Riparian Owner Statutory Rights

1. IWA recognises the existence of statutory rights which can affect the interests of waterside landowners and navigation authorities. The differing interpretations of the wording or original intentions of ancient legislation, which varies in detail from one waterway to another, have often led to uncertainty, dispute and litigation.

2. IWA recognises that navigation authorities have a need to protect their property and financial interests. This may involve them in resisting the claimed statutory rights where there is reasonable doubt as to their existence, extent or enforceability and in seeking reasonable returns from activities associated with the exercise of such rights.

3. IWA also recognises that riparian owners and other individuals may have legitimate claims to exercise certain rights conferred by original enabling legislation or subsequent statute, and that the exercise of such rights should not be unreasonably prevented, hindered or financially penalised by the navigation authority.

4. IWA further recognises that there is a public interest involved in such cases and that Parliament in approving private legislation for the construction and operation of inland waterways, sought to balance the interests of the waterway proprietors, the affected landowners, and the general public. The public interest in statutory rights, or in any consequences that may arise from them, should be established by considering whether or not any such consequences would enhance the public use or enjoyment of the waterways in question. The public interest is best served by the avoidance of unnecessary litigation, by parties working together to identify the extent and limits of statutory rights, by full consultations with users about proposals and by reasonable charges being agreed which recognise the balance of costs and benefits accruing to the public.

5. IWA will continue to campaign against the wholesale repeal of statutory rights of mooring, connection, drainage, bridging etc. However, where such rights are individually identified and can be shown to be obsolete or no longer operable in the public interest, IWA may support legislation which seeks to rationalise and codify those rights and to substitute a modern regulatory regime which includes an independent appeals procedure on charges.

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