



Glen Innes Severn Council

Storm Water Factsheet

Storm Water Drainage on Private Property

Unwanted storm water run-off and drainage can be an issue for some residents, especially if they believe the water is coming from another property. These issues are generally matters to be resolved between the respective owners. Landowners are encouraged to talk to their neighbours about the problem and seek a mutually satisfactory solution.

Council has limited powers to intervene in disputes, however we do our best to ensure that proper action is taken if required.

Natural Overland Flow

Natural overland flow is the path rain water takes when it flows along a natural gradient over properties on its way to a watercourse. A property owner cannot be held liable when the resulting surface or seepage water flows onto an adjoining property.

However, a property owner may be held liable through private civil action, if works are undertaken that result in water damage to adjoining property. The redirection and/or concentration of storm water flow onto neighbouring properties may constitute a 'nuisance' at common law, giving affected owners a legal right of redress.

Changes to natural overland flow on private properties may occur when:

- Carrying out earthworks such as excavation, filling, terracing or topdressing;
- Constructing retaining walls, drains or other structures;
- Carrying out paving or landscaping;
- Collection of rainwater from a roof;
- Erecting fencing that interrupts natural flow paths.

If any changes to natural overland flow paths occur on a property, the resulting storm water run-off becomes the responsibility of the property owner. It is a legal requirement under the *Local Government Act, 1993* that property owners collect this water, and direct it to a legal point of discharge.

Legal Point of Discharge

Australian Standard AS/NZ 3500.3 states that roof water and surface water should be collected and directed to legal points of discharge, including:

- Council's public roadside kerb and gutter drainage system (normally in urban areas)
- Inter-allotment drainage systems (normally in residential subdivisions and rural residential areas)
- Natural watercourses (in areas where these exist)

In urban areas this water must be conveyed to the street gutter system through underground pipes.

An inter-allotment drainage system is an easement to drain through neighbouring properties to either Council's public drainage system or, in rural areas, a natural watercourse. A drainage easement may incorporate a drainage pipe, a surface ditch, or simply an overland flow path.

In the event your land does not have access to an adjoining legal point of discharge, it is your responsibility to obtain suitable easement/s across neighbouring properties to secure access to one. Access to a legal point of discharge often becomes necessary when development of vacant land changes the natural overland flow, as this water is now the responsibility of the person developing the land.

In certain circumstances, on-site detention and absorption of storm water may be an alternative where access to a legal point of discharge is not available. On-site solutions are subject to soil type and site conditions, must be designed by a suitably qualified engineer, and will only be approved by Council where no other solution is possible.

It is an offence under the *Local Government Act, 1993* to discharge storm water to Council's sewer.

Sloping blocks

If you're a resident living on a sloping site, you should be aware that natural surface water run-off flows down the slope, following the contours of the land. Where surface water enters your property as a result of natural overland flow, you carry the responsibility to install any surface water controls on your land that you consider necessary.

You have a legal responsibility to ensure that any water intercepted, concentrated and/or diverted by your control structures do not have a detrimental impact on any other properties further down the slope.

It is also your responsibility to ensure this water is conveyed to a legal point of discharge. Failure to do this may leave you liable to civil action by affected parties.

Seepage water

Seepage water is the responsibility of individual property owners. Where sloping blocks have been excavated to obtain a flat yard or building site, seepage drains should be constructed to redirect water to a legal point of discharge.

Problem Solving

You should liaise with neighbours to address any problems.

If you believe you have a storm water drainage issue that cannot be resolved in the first instance by liaising with neighbours, legal advice may be necessary to determine the next step.

If legal points of discharge are not available or accessible, drainage easements can be created to direct water across intervening property. It is your responsibility to negotiate these with neighbours. The assistance of a legal advisor is recommended.

Although Council has limited powers to intervene in disputes, we are authorised to take appropriate action where breaches of the relevant legislation have occurred.

When Council may take action

Council will investigate and may take action on a storm water drainage complaint only where it relates to the flow of surface water from one property across the common land boundary onto another property, and where some or all of the following criteria have been met:

- A man-made structure or drain has directed and/or concentrated surface water in an area that is not a legal point of discharge;
- Evidence shows that re-directed water has caused or is likely to cause significant soil erosion or physical damage to a building on other land;
- Surface water is the result of defective roof drainage from a dwelling or outbuilding;

When Council may not take action

Officers have the discretion to take no action in circumstances where:

- The surface water is natural run-off from an uphill property (or properties) due to the topography and isn't detrimentally redirected.
- Surface water is flowing down existing hard surface areas such as driveways, tennis courts, concrete slabs or paved areas.
- The location of a dwelling or outbuilding impacts on surface run-off.
- Surface water run-off occurs only in periods of exceptionally heavy rain.
- Surface water is a result of overflows from storm water absorption pits where contours of land and lack of access prevent direct connection of a building's roof water to the Council's storm water drainage system.
- The run-off is from new development work that is the subject of a development consent and has been constructed in accordance with that consent.
Note - Surface water resulting from ineffective water and sediment control measures on a building site are subject to the requirements of the *Environmental Planning & Assessment Act, 1979* and are likely to result in action by Council requiring breaches to be addressed.
- The drainage problem involves discharges from a defective or blocked private inter-allotment drainage easement.

Please note: Private inter-allotment easements are the responsibility of the property owners who are burdened by and/or benefited by the easement.