



# FACT SHEET

## Water and Stormwater Drainage Issues

**Disclaimer:** This information is provided in good faith as a guide. The relevant legislation and planning documents take precedent over the information in this fact sheet.

**This factsheet provides guidance and answers on frequently asked questions regarding Water and Stormwater issues amongst individual properties and neighbouring properties.**

**Stormwater is rainwater that runs off surfaces such as lawns, roads, roofs, carparks, and natural ground surfaces. Flooding and nuisance issues from stormwater can sometimes result in damage to property and distress to residents. Hence, it is important to ensure you undertake certain measures to eliminate any damage to your property and your neighbouring properties.**

**Note:**

- *It is an offence under the Local Government Act 1993 to discharge storm water to Council's sewer main.*
- *Property owners are responsible for the maintenance of vegetation on and surrounding a drainage easement.*
- *Council is responsible for the upkeep of the stormwater drainage infrastructure located within a drainage easement.*
- *Drainage easements can be created to direct water to a Council public roadside kerb and gutter drainage system.*

*Who is responsible for stormwater issues and disputes amongst neighbours?*

You, the property owner and/or occupier, are required to accept natural overland flow from adjoining properties and public land and not undertake works that will change the flow of water. Natural overland flow is the path rainwater takes when it flows along a natural gradient over properties on its way to a watercourse.

You are responsible for the drainage and flow of stormwater within your own property to the extent that it does not adversely affect neighbouring properties or land nearby.

You are responsible for the maintaining of water easements, stormwater pits, pipes, drains, gutters and/or any other components of a drainage system related to your house and any other structures located on your land.

Overland flow through your property can be minimised by installing stormwater pits, pipes and/or drains.

Stormwater drainage systems located within a property are required to be connected to a legal point of discharge to comply with *AS/NZS 3500:3:2003 Plumbing and Drainage Part 3: Stormwater Drainage* such as a public drainage system i.e., kerb and gutter. Alternative drainage system approvals are at the discretion of Council.

If stormwater from a neighbouring property is being directed in such a way that it is affecting your property, it is recommended that you first approach your neighbour in a friendly manner to seek a mutually satisfactory solution. Drains and diversion paths in both your property and your neighbours' properties are likely to be the best outcome. Council can not intervene in neighbourly disputes, Council will however endeavour to do it's best to ensure appropriate enforcement action is taken if required.

<p><i>What work is considered changing the flow of the water?</i></p>	<p>A property owner will be held liable if they have undertaken work that results in the water flow affecting neighbouring properties. This includes any of the below activities:</p> <ul style="list-style-type: none"> <li>• Redirecting and/or concentration of storm water flow onto neighbouring properties.</li> <li>• Earthworks such as excavation, filling, and topdressing.</li> <li>• Constructing retaining walls and/or drains.</li> <li>• Carrying out paving or landscaping.</li> <li>• Erecting fencing that interrupts natural flow paths of water.</li> </ul>
<p><i>What is a legal point of discharge?</i></p>	<p><i>AS/NZS 3500:3:2003 Plumbing and Drainage Part 3: Stormwater Drainage</i> states that roof water and surface water should be collected and directed to a legal point of discharge.</p> <p>This includes:</p> <ul style="list-style-type: none"> <li>• Council public roadside drainage systems i.e., kerb and gutter, culverts, etc.,</li> <li>• Inter-allotment drainage systems, and</li> <li>• Natural watercourses.</li> </ul> <p>Connecting to the Council public roadside kerb and gutter drainage system must be conveyed through underground piping.</p> <p>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.</p> <p>A drainage easement is a legal encumbrance on the title of a property to provide Council with the authority to carry out whatever works are required on drainage infrastructure within the easement. A drainage easement can incorporate a drainage pipe, a surface ditch or simply an overland flow path. Maintenance of the vegetation in and around the drainage easements is the responsibility of the property owners who are burdened by and/or benefited by the easement.</p> <p>Council is responsible for the upkeep of Council owned stormwater drainage infrastructure located within a drainage easement to ensure the efficient operation of the system. No structures are permitted within easement boundaries, further details can be found in <i>Council's Building over Sewer Policy 2020</i>.</p> <p>In certain circumstances, on-site detention and absorption of storm water may be an alternative solution where access to a legal point of discharge is not available. On-Site solutions are subject to soil type and site conditions and must be designed by a suitably qualified engineer and will only be approved by Council where no other solution is possible.</p>
<p><i>What if I have a sloping block?</i></p>	<p>If you're an owner of a sloping site, you should be aware that natural surface water run off flows downhill following the natural 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 control measures on your land that you consider necessary.</p>

You also have the responsibility to ensure that any water intercepted, concentrated and/or diverted by your control measures do not have a detrimental effect on any other properties downhill.

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

*When can Council get involved?*

Council is unlikely to investigate stormwater complaints involving the natural flow of stormwater from one property to another, this includes periods of excessive rainfall. Council can not intervene in neighbourly disputes. However, Council staff will do their best to ensure appropriate enforcement action is taken if required.

Council will investigate and act in relation to stormwater drainage complaints only when the below is applicable:

- Evidence is produced that substantiates the surface water has caused or is likely to cause physical damage to land or buildings on a neighbouring property,
- Surface water has been directed to and or/concentrated in a particular way by a man-made structure and/or drain,
- Surface water is a result of defective roof drainage on a building.

Section 124 of the *Local Government Act 1993*, states that Council has the power to issue an order to the owner or occupier of a property to undertake works to remedy the flow.