

Stormwater Issues on Private Property

Background

As a result of MidCoast Council's climate and topography, flooding issues from stormwater can be a common problem for property owners. Flooding and nuisance issues from stormwater can sometimes result in damage to property and distress to residents.

Stormwater is rainwater that runs off surfaces such as lawns, roads, roofs, car parks and natural ground surfaces. Stormwater that is unable to enter the underground drainage system will find its natural way to the nearest watercourse via overland flow paths. These overland flow paths are typically natural depressions (that often occur through private property), open channels, roadways and public reserves.

Property Owner's Responsibilities

Property owners have a range of responsibilities, which if carried out correctly, will minimise the threat of stormwater damage to properties and council infrastructure during rainfall events;

- You must maintain your roof water drainage, stormwater pipes, gutters, downpipes, stormwater inlet pits and any other components of your approved drainage system on your property in good condition and in compliance with any Council requirements, this includes drainage located on Council's land to the approved point of discharge (kerb & gutter, pit, pipe, table drain etc.)
- You must not divert, redirect or concentrate natural overland flow from its natural path on to neighbouring properties,
- It is important to note that a downstream property owner cannot erect any type of barrier by way of large walls or closed fencing that causes or concentrates the natural overland flow of water onto neighbouring properties,
- Ensuring that all buildings (including sheds) have an adequate storm water drainage system connected to a legal point of discharge (e.g. connected to kerb and gutter or inter-allotment drainage system),
- When constructing hardstand areas, you must control stormwater in order to prevent it from flowing on to adjacent property. It is preferable to minimise the area of water-resistant surfaces such as concrete or paved areas and driveways,
- If there is an easement on your property it is to be maintained and kept clear of debris to allow the natural flow of stormwater.
- You must maintain your driveway and any associated drainage structures associated with the driveway (Pipes, V-Drains etc.), this includes the part of the driveway located on Council land (Section 142, Roads Act 1993)

Property owners generally need to ensure that roof water and stormwater is drained to one of the following to comply with AS/NZS 3500.3:2018 Plumbing and Drainage Part 3: Stormwater Drainage.

- Council street kerb and gutter,
- An inter-allotment drainage system; or
- Council controlled drainage easement or drainage reserve.

When Council May Take Action

Council Officers may investigate and take action in relation to stormwater drainage complaints only where it relates to the flow of surface water from one property across the common land boundary onto another property, and where the following criteria has been met;

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

When Council Will Not Take Action

Council Officers have the discretion to take no action or are unable to take action in the following circumstances;

- Surface water run-off occurs only in periods of exceptionally heavy rainfall,
- The surface water is natural run-off from the property or properties above due to the topography and isn't redirected in any manner,
- The location of an approved dwelling, building or outbuilding impacts on surface run-off,
- The drainage problem involves discharges from defective or blocked private inter-allotment drainage easement infrastructure e.g. pipes and drainage pits. Note: private inter allotment easements are the responsibility of the property owners who are burdened by and/or benefited by the easement, see Council's interallotment drainage line document.

How to Report a Stormwater Drainage Issue

If you are experiencing stormwater issues as a result of stormwater being directed onto your property, you may contact Council via email to report your concern (council@midcoast.nsw.gov.au)

When reporting a stormwater drainage issue on private land, please include the following information;

- Describe what is occurring,
- When did it occur and the frequency of occurrence,
- What is the source on the neighbouring land that is causing the problem,
- Take photos or video of the stormwater problem as it is occurring,
- Whether you liaised with your neighbour to address this matter.

Natural Flow / Sloping Blocks

Natural flow is the flow path down the slope following the contours of the land and occurs before any excavation, development or building. An upstream property owner cannot be held liable merely because surface water flows naturally from their land on to the lower land of a neighbour.

The upstream property owner may be liable if the water is made to flow in a more concentrated form than it would naturally flow. Ideally, runoff should be directed to the street, or to a drainage system if provided. Property owners need to be aware that landscaping can change the topography of a property and the way it distributes water.

Council is unlikely to investigate stormwater complaints involving the natural flow of stormwater from one property to another.

Buildings Currently Under Construction

Complaints about buildings under construction that are subject to a current building approval should, in the first instance, be referred to the responsible Principal Certifying Authority (PCA) or the Builder.

The details for the Principal Certifying Authority and Builder should be visible on the building sign on the front of the premises.

In some circumstances, stormwater emanating from a construction site may adversely impact neighbouring properties, this can be expected until stormwater installations are finalised and connected to an approved stormwater disposal method and location

Seepage Water

Where sloping blocks have been excavated to obtain a flat yard or building site, water seepage often occurs. Seepage drains should be constructed to collect and redirect water to an approved stormwater drainage system. Seepage water is the responsibility of individual property owners.

You should liaise with neighbours to address any problems. If necessary, drainage easements can be created to direct water to a Council stormwater drainage system.

Localised Overland Flooding

Localised overland flooding may occur when one or more of the following happens:

- The amount of rainfall exceeds the design capacity of the stormwater and roof drainage system,
- Private inlet pits and pipes can become blocked,
- A structure is obstructing the overland flow path,

You can be held liable for damages if changes on your property increase flood levels and associated risk on an adjoining property.

Drainage Easements

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.

Generally, no structures or improvements (such as dwellings, buildings and landscaping treatments including earthworks, retaining walls and fill) are permitted within the easement boundaries.

If there is an easement on your property it is to be maintained and kept clear of debris to allow the natural flow of stormwater, this includes vegetation maintenance, including the clearing of weeds and trees or any other maintenance of overgrown vegetation. Council may carry out maintenance work to stormwater drainage infrastructure located within drainage easements on private property, as deemed necessary, to ensure the efficient operation of the system.

Another type of drainage easement is an interallotment drainage line (IAD). More information on interallotment drainage lines can be found on Council's website.

Disputes Resolution

If you wish to formally manage dispute resolutions, you may consider contacting the Community Justices Centre. The Centre offers free advice and mediation services and can be contacted on 1800 990 777 or through their website www.cjc.nsw.gov.au

Who Can I Contact If My Property Is Flooding?

For emergency help in flood events, contact the State Emergency Service (SES) on 132 500.