

STORMWATER DISPOSAL SURFACE WATER AND WATER FROM STRUCTURES ON YOUR PROPERTY

Cairns has an average yearly rainfall of 1992mm while Port Douglas has an average yearly rainfall of 2011mm. This high rainfall results in Cairns Regional Council receiving a large number of complaints regarding the discharge of stormwater and overland flow of stormwater causing nuisance to neighbouring allotments.¹



Ground water inundation due to the contours of the land. In this case inter allotment drainage pits would need to be constructed at the top of the bank to collect the water to prevent inundation of the dwelling.

Overland surface water flow

Overland surface water flow between private properties usually occurs when the natural contours of the land are sloping.

Surface water flows to the lowest point. An upstream property owner cannot be held liable merely because surface water flows naturally from his / her land on to the lower land of a neighbour.

It is the responsibility of a downstream property owner to manage and protect the lawfully constructed buildings on their property. This can be achieved by installing private inter allotment drainage which is then connected to the kerb and channel at the front of the property or to another legal point of discharge such as a drainage easement.

Interference with Path of Overland Stormwater

In circumstances where fences, walls, swimming pools, landscaping, garden beds, buildings, structures and the like have been erected and are interfering with the path of stormwater, Council does not have any legal ability to get involved. The matter is a civil one between the parties themselves where clear remedies under the ordinary civil law of nuisance are available. Council has no powers to become involved in such circumstances.

Council would always encourage neighbours to communicate with each other about the problem and attempt to reach a mutually satisfactory solution. If this is not possible without a third party, the services of a mediator may also be sought through the Department of Justice.



An inter allotment drainage pit can be used in your yard to direct excess ground water to the lawful point of discharge.

If the situation cannot be resolved through mediation, and one or both parties feel that a property has suffered or been exposed to potential damage then they are advised to obtain legal representation and pursue the matter themselves through the courts.

¹ Parts of this Fact Sheet quote and summarise the contents of a Newsletter produced by the AIBS QLD/NT chapter
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Stormwater installations such as guttering and downpipes

There is no power under any Act for local government to require a landowner to carry out new building work or alter building work in relation to an existing building.

Therefore, where the problem is failure to provide proper installations such as gutters and downpipes on existing buildings and structures, council simply has no regulatory or enforcement power to require the landowner to provide such installations and the owners are to pursue civil remedies through the magistrate's court.

Where stormwater installations such as gutters and downpipes have been installed and where Council drainage (either kerb and channelling or an inter-allotment drainage system) has been constructed and where site conditions are such that it is possible to connect stormwater to the drainage system then Chapter 3 Part 3 Division 2 Sections 76 and 77 of the Local Government Act 2009 can be invoked to require the owner to connect the roof stormwater to that drainage system.

However, where no council drainage system is constructed or site conditions are not amenable e.g. the site slopes uphill to the street sufficient to prevent adequate drainage, then the situation reverts and the owners are left to pursue their civil remedies.

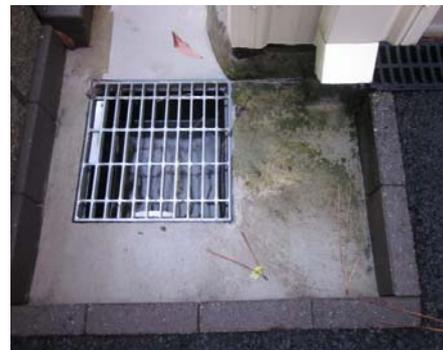
Buildings currently under construction

Complaints about buildings under construction that are subject to a current building approval should, in the first instance be referred to the building certifier. The details for the building certifier are available by calling Council's Customer Service Centre on 4044 3044.

The individual builder remains responsible for all stormwater installations until the building agreement is finalised, or has lapsed. In the event of a complaint, the building certifier has enforcement powers and must take appropriate action under relevant legislation.

For further information

Phone 4044 3044



Inter allotment drainage pits are an effective method of directing excess overland stormwater to the lawful point of discharge as well as roof stormwater.



Roof stormwater pipes not connected to approved stormwater outlets can cause damage to your property and neighbouring properties.



Rusted and damaged guttering can cause a nuisance or damage to neighbouring allotments. All guttering and downpipes are to remain in good repair and condition