

# **Stormwater Management Bylaw**

**Revised May 2014**

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## 1 Introduction

The intention of this Bylaw is to manage stormwater within the Whangarei District so as to protect people, property and the environment by minimising the impact of flooding, erosion and environmental pollution.

Nothing in this bylaw shall derogate from any controls on stormwater imposed by the Northland Regional Council and Whangarei District Council (Council) under the Resource Management Act 1991, the Building Act 2004, or any other Act, Regulation or Bylaw. This Bylaw is made by Whangarei District Council pursuant to the powers contained in sections 145 and 146 of the Local Government Act 2002.

This Bylaw applies over the Whangarei District and shall come into force on 1 July 2014.

## 2 Interpretation

Unless inconsistent with the text, any term that is not defined in this section takes its common meaning from the Concise Oxford English Dictionary (*eleventh edition*).

For the purpose of this Bylaw, unless inconsistent with the context, the following definitions shall apply:

<b>The Act</b>	means the Local Government Act 2002
<b>Approval or approved</b>	means approval or approved in writing by Whangarei District Council either by resolution of Council or by a Council officer
<b>Building over Sewers Policy</b>	The Council policy which documents the procedure for dealing with applications to build over all public sewers (which includes the public stormwater system) within the District.
<b>Catchment</b>	means the area of land within which rainfall flows to a water body
<b>Catchment Management Plan (CMP)</b>	is a plan providing an overview of the main stormwater network and water quality issues within a catchment to provide a framework for future stormwater management
<b>Chemical</b>	is a substance that is produced by or used in a chemical process
<b>Consent</b>	means written acceptance or approval by an authoritative body such as Council of what is planned or done
<b>Contaminant</b>	includes any substance (including gases, odorous compounds, liquids, solids and micro-organisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy or heat: <ul style="list-style-type: none"> <li>i) When discharged into water, changes or is likely to change the physical, chemical or biological condition of water; or</li> <li>ii) When discharged on to or into land or into air, changes or is likely to change the physical, chemical or biological condition of the land or air on to or into which it is discharged;</li> <li>iii) or as described or contained in the Resource Management Act 1991</li> </ul>
<b>Council and the Council</b>	means Whangarei District Council
<b>Council officer</b>	Any officer for the time being appointed by Council to carry out or exercise the duties, offices, or powers of a Council officer referred to in or granted by this Bylaw, his deputy or assistant and in acting as provided by this Bylaw shall act as agent for Council; and  Any officer appointed by Council as an enforcement officer under section 177 or section 179 of the Act as an enforcement officer with powers of entry as prescribed by sections 171 – 174 of the Act
<b>Development</b>	means any subdivision, building work or stormwater works, which alter the stormwater runoff characteristics of land
<b>Disconnect/disconnection</b>	means to sever or terminate a stormwater pipe
<b>District</b>	means the district administered by Council
<b>Easement</b>	is a right held by one property owner to make use of the land of another

	for a limited purpose, such as a right to discharge water.
<b>Environmental Engineering Standards</b>	The Council document for the time being which sets out the processes and standards that are expected to be followed and met whenever any development project is undertaken in accordance with Council's District Plan.
<b>Flood plain</b>	means low lying areas which are predicted to flood in a storm exceeding the design capacity of the primary system
<b>Hazardous substance</b>	has the same meaning as in the Hazardous Substances and New Organisms Act 1996
<b>Nuisance</b>	has the same meaning as Section 29 of the Health Act 1956, and includes a person, thing, or circumstance causing distress or annoyance or unreasonable interference. In the context of this Bylaw the term nuisance includes but is not limited to: <ul style="list-style-type: none"> <li>i. Danger to life;</li> <li>ii. Danger to public health;</li> <li>iii. Flooding of any building floor or sub-floor, or public roadway;</li> <li>iv. Damage to property;</li> <li>v. An effect on the efficient operation of a stormwater system;</li> <li>vi. Damage to any facet of a stormwater system;</li> <li>vii. Erosion or subsidence of land;</li> <li>viii. Long or short term adverse effects on the environment;</li> <li>ix. Adverse loss of riparian vegetation;</li> <li>x. Wastewater overflow to land or water; or</li> <li>xi. Anything that causes a breach of any stormwater discharge consent condition binding Council.</li> </ul>
<b>Occupier</b>	The inhabitant of any property and, in any case where any building, house, tenement or premises is or are unoccupied includes the owner.
<b>Offence</b>	includes any act or omission in relation to this Bylaw or any part thereof for which any person can be prosecuted.
<b>Overland flow path</b>	means any secondary flow path illustrated in a catchment management plan or on Council record plans or the overland route taken by any concentration of, or significant sheet flow of, stormwater on its way to a flood plain.
<b>Owner</b>	As applied to any land, building, or premises, means any person for the time being entitled to receive the rent for such property, or who would be so entitled if it were let to a tenant at a rack rate, and where any such person is absent from New Zealand, includes the attorney or agent.
<b>Person</b>	A natural person and also includes a corporation sole or a body of persons, whether corporate or otherwise.
<b>Premises</b>	means: <ul style="list-style-type: none"> <li>i. a property or allotment which is held under a separate certificate of title or for which a separate certificate of title may be issued and in respect to which a building consent has been or may be issued;</li> <li>ii. A building that has been identified as an individual unit by a cross-lease, unit title or company lease and for which a certificate of title is available;</li> <li>iii. Land held in public ownership (<i>e.g. reserve</i>) for a particular purpose; or</li> <li>iv. Individual units in buildings, which are separately leased or separately occupied.</li> </ul>

<b>Private stormwater system</b>	means any stormwater system that serves one or more lots where the lots are in common ownership or used for a common activity where such systems are constructed by or vested in private ownership and not managed or maintained by Council
<b>Public stormwater system</b>	includes any stormwater system that serves more than one lot and is not part of a private stormwater system
<b>Detention device</b>	means a structure that captures some inflow for subsequent release at a slower rate e.g. a stormwater detention pond
<b>Licensed Drainlayer</b>	means a drainlayer who is registered under the Plumbers, Gasfitters and Drainlayers Act 2006, in either the Licensed Drainlayer or Certifying Drainlayer class, and who has a current practicing license.
<b>Service area</b>	means an area defined by Council that is designated for and/or contains Council infrastructure services
<b>Service opening</b>	means a manhole or similar means for gaining access for inspection, cleaning or maintenance of a public stormwater system
<b>Sewage</b>	is the discharge from any sanitary fixtures or sanitary appliance
<b>Shall</b>	means must, is, or are obligated to
<b>Stormwater</b>	means surface water run-off resulting from precipitation
<b>Stormwater pipe</b>	means any pipe intended for carrying stormwater
<b>Stormwater system</b>	means a set of facilities and devices, either natural or man-made, which are used to convey run-off, reduce the risk of flooding and/or to improve water quality and includes any stormwater drain as defined in the Plumbers, Gasfitters and Drainlayers Act 2006.
<b>Trade wastes and trade waste</b>	means any liquid with or without matter in suspension or solution therein, which is or may be discharged from trade premises to Council's sewerage system in the course of any trade or industrial process or operation in the course of any activity or operation of a like nature; and may include condensing or cooling waters or domestic sewage
<b>Watercourse</b>	means every open river, stream, creek, culvert and channel through which stormwater commonly flows, whether continuously or not
<b>Working day</b>	means any day of the week other than: <ul style="list-style-type: none"> <li>i. a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Labour Day; and</li> <li>ii. a day in the period commencing with the 25<sup>th</sup> day of December in a year and ending with the 2<sup>nd</sup> day of January in the following year.</li> </ul>

### **3 Construction or alteration of stormwater systems**

#### **3.1 Acceptance of stormwater**

Every premises shall be entitled to have its stormwater accepted by Council subject to:

- a The premises lying within a service area if such an area has been designated by Council under the Act;
- b The premises lying within a service area which is serviced by a public stormwater system;
- c There being sufficient capacity within the public stormwater system, provided that if the capacity is not sufficient then the public stormwater system must be upgraded at the cost of the applicant or an alternative solution sought;
- d Payment of the appropriate rates and charges in respect of those premises;
- e Gaining prior written approval of Council in accordance with clause 3.2 of this Bylaw; and

- f Fulfilment of the requirements of this Bylaw, any relevant consent, the Resource Management Act 1991, Building Act 2004 and any other Acts, Regulations or Bylaws.

### **3.2 Use of a stormwater system**

No person other than a Council officer may discharge, make a new connection to, alter, or otherwise interfere with any facet of any public or private stormwater system or overland flow path without the prior written approval of Council. Every application for such approval shall be made in writing on the prescribed form together with payment of the prescribed charges and include all the details required by Council. An application shall be made whether or not a public stormwater pipe has already been laid up to the point of discharge as such is defined in Clause 9 of this Bylaw.

If written approval is given, this will be subject to any terms and conditions set by Council.

### **3.3 Disconnection from a public stormwater system**

A land owner/occupier shall give a minimum of seven working days notice in writing to Council using the prescribed form of his or her intention to disconnect from a public stormwater system. Such a disconnection would include re-laying of any private stormwater reticulation or the demolition or removal of a building connected to a public stormwater system. The demolition or removal of any building(s) shall not commence until Council has inspected the stormwater disconnection, and/or Council has given written permission for such works to proceed.

### **3.4 Design constraints**

All proposed stormwater systems and any proposed alterations to any existing stormwater systems must be designed, constructed and operated in accordance with:

- a Council's Environmental Engineering Standards;
- b The relevant Catchment Management Plan;
- c The Whangarei District Plan;
- d The Northland Regional Coastal Plan;
- e The Northland Regional Water and Soil Plan;
- f. The Building Act 2004 and the New Zealand Building Code;
- g Any discharge consents, building consents or other consents relevant to the works; and
- h Any written conditions imposed by Council when approving the works.

### **3.5 Maintenance of a private stormwater system**

All private stormwater systems are to be managed and maintained as per their intended design or the manufacturer's instructions.

### **3.6 Works on stormwater systems**

No person other than a Council Officer may carry out work on the public stormwater system, unless such other person complies with the requirements of Council's Specification for Registered and Licensed Contractors for Waste and Drainage Work.

Work on private stormwater systems shall be undertaken by a Licensed Drainlayer.

### **3.7 As-built plans**

As-built plans showing details of all new connections or alterations shall be provided to Council within the time frame specified in Council's written approval for the use of the stormwater system.

## **4 Site development and management**

Council may require the installation and maintenance of private stormwater detention and/or treatment devices during the development of a property to retard and/or treat the flow of stormwater in accordance with Environmental Engineering Standards and the Northland Regional Water and Soil Plan.

## 5 Protection of public stormwater systems

### 5.1 Prohibited activities

No person shall:

- a Allow any material, hazardous substance, chemical, sewage, trade waste or other substance to enter either directly or indirectly (*e.g. via a private stormwater system*) a public stormwater system that causes or is likely to cause nuisance;
- b Allow any material, chemical, hazardous substance or other substance likely to cause nuisance on entering a public stormwater system to be located so that it is likely to enter a public stormwater system (either directly or indirectly) in any storm event;
- c Do anything or allow any stock to do anything that damages or is likely to cause damage to any facet of any public stormwater system; or
- d Discharge into a public stormwater system in any way or manner which may contravene resource consent conditions, or the requirements of the Resource Management Act and associated Policy Statements and Plans. All applications for discharges into a public stormwater system, including those of a temporary nature, must be made in writing on the prescribed form and shall be subject to written approval by Council.

### 5.2 Restricted activities

Without the prior written approval of Council, no person shall:

- a Cause the crushing load imposed on any facet of a public stormwater system to exceed that which it is designed for;
- b Erect any new vehicle or stock crossing over a watercourse, cross or pass over any watercourse within a public stormwater system without prior permission of Council;
- c Abstract any water from or allow their stock access to any facet of any public stormwater system;
- d Remove any existing covering material or place any additional material over or near any facet of a public stormwater system;
- e Cover any service opening such as manholes, catchpits or any other surface infrastructure; or
- f Modify the bank structure of an open watercourse within a public stormwater system or strip stabilising vegetation from the banks in such a way as to render them subsequently unstable.

### 5.3 Building over public stormwater systems

In accordance with Council's Building over Public Sewers Policy, no person shall erect any building or carry out any work in such a location and at such levels that the diversion, alteration, protection, or replacement of any facet of any public stormwater system is required, or without the prior written approval of Council.

### 5.4 Other restrictions

Following receipt of an application for works to be undertaken on a stormwater system, and after consideration of the proposed work methods, depth of excavations, soil properties and other site specific information, Council may apply other restrictions for the protection of a public stormwater system.

### 5.5 Buried services

Any person proposing to carry out excavation work shall view the Council's as-built information as a guide to establishing whether or not Council services are located in the vicinity. Locating the actual position and depth of existing buried services is the responsibility of the person undertaking the work or their representative. When excavating and working around buried services, due care shall be taken to ensure the services are not damaged, and that bedding and backfill is reinstated in accordance with the appropriate Council specification.

## 6 Obstructions to stormwater systems

### 6.1 Prohibited activities

No person shall:

- a Obstruct any facet of any public or private stormwater system in a manner that is likely to cause nuisance;
- b Erect any structure or stopbank, grow any vegetation, deposit any rubbish or other debris, or carry out any activity in a place or manner that is likely to cause nuisance to a public stormwater system during a storm event or without the prior permission of Council; or
- c Obstruct any overland flow paths or flood plains with any material or structures such as buildings, fences, retaining walls and rock gardens without the prior permission of Council.

### 6.2 Blockages

A land owner/occupier who suspects a blockage of a public stormwater system shall contact Council immediately. Council will arrange to have the stormwater system inspected and cleared of all blockages, provided that the blockage has not been forced downstream into a public stormwater system in an act of clearing it from the private system, and that the land owner/occupier has not breached any Clauses of this Bylaw.

### 6.3 Tree roots

In the event of the roots of any tree on any private property causing or being likely to cause damage, interference to the flow, or blockage to any facet of a public stormwater system, Council shall follow the procedure set out in section 468 of the Local Government Act 1974.

## 7 Responsibility

### 7.1 Maintenance

All privately owned stormwater systems shall be designed, constructed, managed and maintained by the owner or at the owner's expense and in accordance with their design or the manufacturer's instructions.

### 7.2 Open watercourses

All privately owned open watercourses, stopbanks and other defences to water are to be maintained by or at the expense of the owner to ensure free flow of water. Rubbish or debris shall not be left on a property in a manner that is likely to cause a nuisance during a storm.

### 7.3 Discharging into neighbouring properties

No person shall allow their stormwater to discharge on to a neighbouring property via surface flow, other than what would naturally occur from pervious areas and from designated overland flow paths.

### 7.4 Reporting to Council

The following shall be reported to Council immediately following their occurrence:

- a Any substance entering a public or private stormwater system causing or likely to cause nuisance;
- b Any damage or blockage to any facet of a private stormwater system causing or likely to cause nuisance; or
- c Any damage or blockage to any facet of a public stormwater system causing or likely to cause nuisance.

### 7.5 Loss, damage or inconvenience

Council shall endeavour to meet the level of service requirements of clause 3.1, but shall not be liable for any loss, damage or inconvenience which any person may sustain as a result of deficiencies in a public stormwater system.

## 7.6 Natural hazard emergencies

Natural hazards (such as floods or earthquakes) or accidents beyond the control of Council, which result in large scale disruptions to the ability of public stormwater systems to receive stormwater, will be deemed an emergency.

## 7.7 Stormwater runoff onto public roads

Accessways falling towards a road shall have a stormwater collection and discharge system at the road reserve boundary so as to prevent stormwater runoff and debris migration on to the public road as specified in the Environmental Engineering Standards.

# 8 Council monitoring

## 8.1 Access to stormwater systems

A land owner/occupier shall allow Council access to and about all facets of all public and private stormwater systems for the purposes of monitoring, testing and maintenance work between 7:30am and 6pm on any day. Council shall give a minimum of 24 hours notice to any land owner/occupier of an intended entry.

## 8.2 Access during emergencies and misuse

In emergency conditions, or for the purpose of ascertaining whether a stormwater system is being misused, a land owner/occupier shall allow Council free access to and about all facets of all public and private stormwater systems at any hour.

## 8.3 Non-compliance enforcement

Scheduled monitoring of private stormwater systems shall not incur any costs to the land owner/occupier, provided no issues are discovered. If during the monitoring or at any other time a land owner/occupiers private stormwater system is found to be non-compliant, the land owner/occupier may be subject to enforcement action by Council in accordance with Clause 10.0 of this Bylaw.

# 9 Point of discharge

## 9.1 Boundary of responsibility

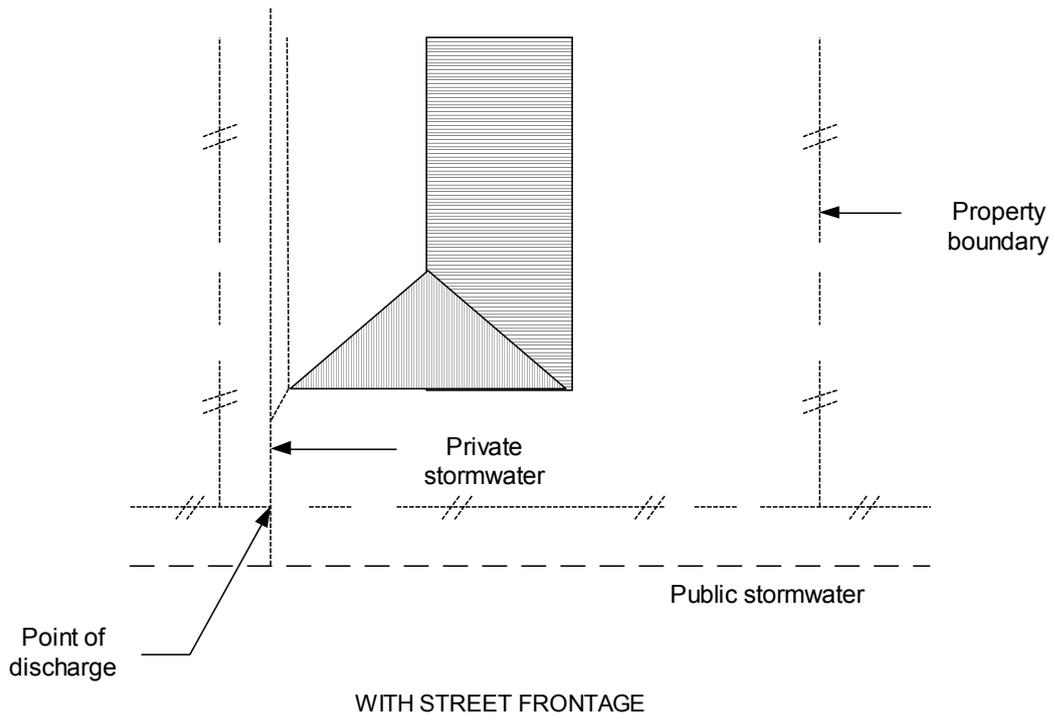
The point of discharge from a premises shall be the point on the public stormwater system, which marks the boundary of responsibility between the land owner/occupier and Council, which may differ from property boundaries.

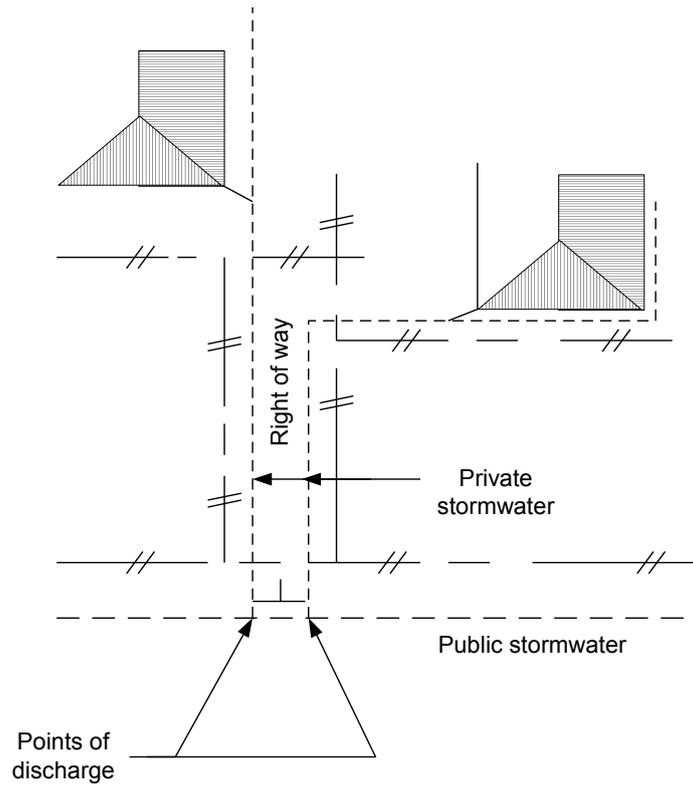
Unless otherwise approved there shall be one point of discharge only for each premises, and any private stormwater system shall not extend by pipe or any other means to serve another premises unless it is a common stormwater system.

## 9.2 Single ownership

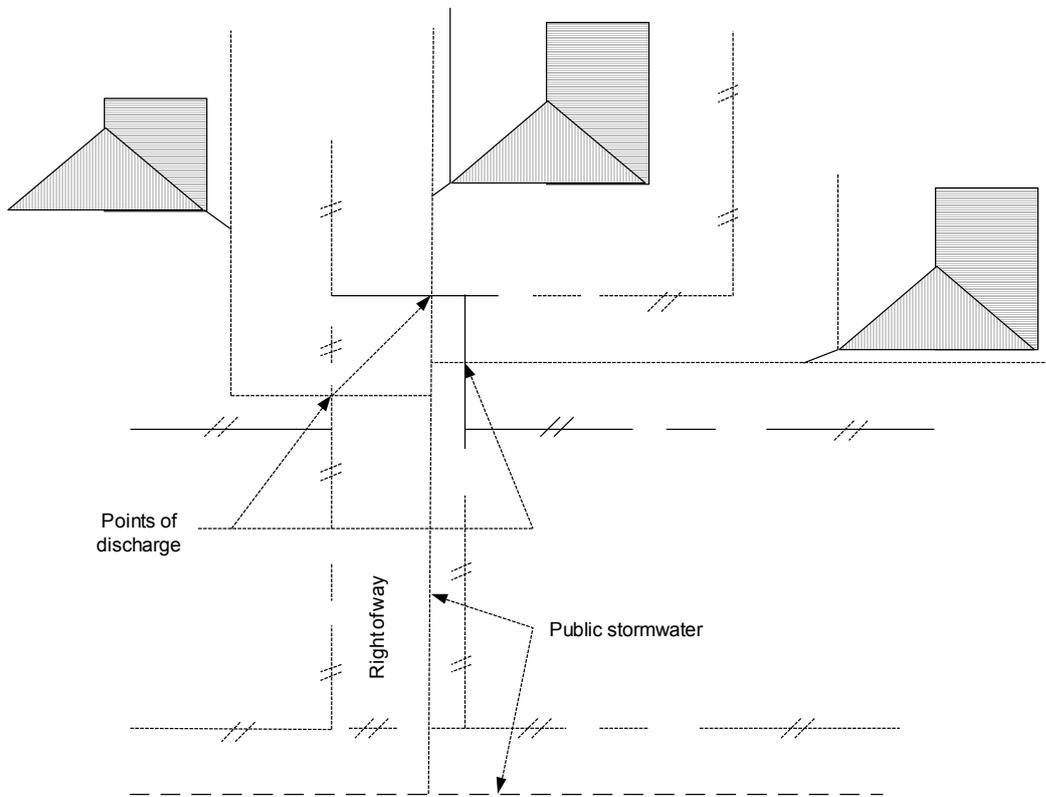
For single dwelling units the point of discharge shall be located at the boundary as shown in 'With Street Frontage' of Figure 9.2.1, or as close as possible where fences, walls or other permanent structures make it difficult to locate it at the required position. Prior approval of other positions must be sought from Council and any such approval shall be recorded on the drainage plan.

Where a private stormwater system discharges into a public stormwater system on that same private property, the point of discharge shall be the upstream end of the pipe fitting which forms the junction with the public stormwater system.

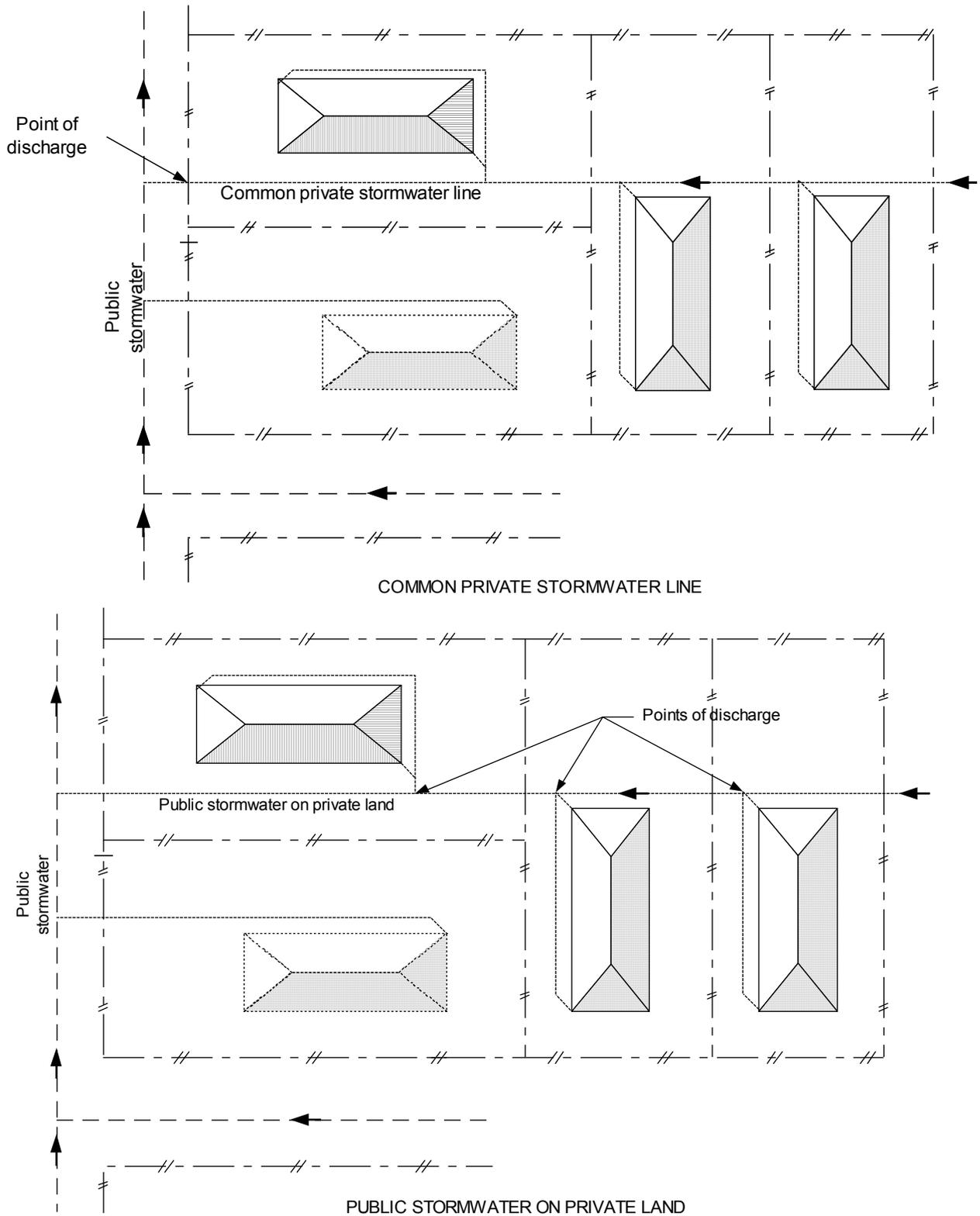




REAR LOTS ON RIGHT OF WAY (up to 2 customers)



REAR LOTS ON RIGHT OF WAY (3 or more customers)



**Figure 9.2.1** Point of Discharge Location

### 9.3 Multiple ownership

The point of discharge for the different forms of multiple ownership of premises and/or land shall be as follows and as shown in Figure 9.2.1:

- a For company share/block scheme (*body corporate*) as for single ownership
- b For leasehold/tenancy in common scheme (*cross lease*), strata title, and unit title (*body corporate*). Where practicable each owner shall have an individual line with the point of discharge determined by

agreement with Council. If not practicable there shall be a common private line which shall be incorporated as an additional provision in the lease agreement. In specific cases other arrangements will be acceptable subject to individual approval.

Each owner's point of discharge must be approved by Council and recorded on the drainage plan. Other arrangements shall be considered only where there are advantages to Council.

#### **9.4 Common private stormwater lines**

Common private stormwater lines shall serve a maximum of 8 single dwelling units, and may also have one point of discharge only (in common) as shown in 'Common Private Stormwater Line' in Figure 9.2.1.

Common stormwater lines shall be covered by a certificate from Council recording the rights of each party, which is registered against the certificate of title.

### **10 Offences and penalties**

Every person who fails to comply with the requirements of this Bylaw commits an offence under Section 239 of the Act, and is liable to enforcement action by Council. The type of enforcement action carried out by Council will depend on the severity of the situation and may include:

- a Non-compliant notification to the land owner/occupier including a time period to rectify the issue. If compliance is not reached within the specified time period of the notification, then Council will rectify or organise for the issue to be rectified, and recover all costs from the land owner/occupier;
- b Council rectifying or organising the rectification of the issue if the situation is creating nuisance or if that is the preference of the land owner/occupier, with all costs recovered from the land owner/occupier;
- c Prosecution; or
- d An infringement notice as specified in section 245 of the Act being issued.

### **11 Other requirements**

The provisions of this Bylaw do not remove the need for any resource or other consent required and do not replace the obligations or requirements set out under the Resource Management Act 1991, Building Act 2004, and Local Government Act 2002 or any other Acts, Regulations or Bylaws.

### **12. Powers of entry**

All Council officers, or other persons authorised under section 174 or section 177 or clause 32 of Schedule 7 of the Act shall possess and produce on request warrants of authority and evidence of identity. Any Council officer may at any reasonable time enter any premises to determine compliance with this Bylaw. The extent and level of delegation to Council officers shall be in accordance with Council's Register of Statutory Delegations and Warrants. Authorisation for entry to premises is given under the Act and entry shall be in compliance with the health and safety policies of that particular site.