

Hawkesbury City Council

Guidelines for making a claim

Claims related to Council roads including potholes

Whilst Council endeavours to ensure the roadways are serviceable, at times during adverse weather and heavy rainfall this is not always possible. The Civil Liability Act 2002 Sections 42 and 45 recognises Council is not automatically liable for damage incurred in using Council roads. Even if Council is aware of a pothole the ability to repair this as quickly as it is reported is limited by Council resources. It is extremely unlikely for Council to reimburse for vehicle damage sustained because of a pothole or other factors such as foliage encroaching the road.

The following information will assist to understand the reasons why claims are very rarely paid:

- Council has immunity under the Civil Liability Act for claims where Council had no actual knowledge of the pothole or had limited resources to repair the pothole as quickly as it is reported.
- Potholes are generally caused by a combination of wet weather and heavy traffic.
- Permanent pothole repairs require the road base to be completely dry meaning that often only temporary pothole repairs are possible.
- As a road user the main obligation is to drive to the conditions and be vigilant.
- If you are insured privately for motor vehicle insurance, you may wish to report the claim to them. If covered they will settle your loss and then pursue recovery against the Council on your behalf.

Claims related to fallen trees including branches

Trees by their very nature are known to drop and grow foliage and for limbs to grow out from time to time, this is commonly accepted.

Council do not have resources to prevent incidents like this such as falling onto a vehicle or property. These types of incidents are considered to be a natural occurrence and impossible to predict and prevent. Even if a tree belongs to Council and is located on Council land, this does not create an automatic liability on Council's part. In order that Council can be held liable, it must be proven that they acted negligently.

IMPORTANT INFORMATION

In requesting the information, Hawkesbury City Council is obtaining evidence to enable it to investigate the claim and is not making any admission as to liability.

- You are required to submit documents and information in support of your claim that has not previously been provided.
- Claim documents can be uploaded with your claim or sent by:

Mail: Insurance Officer PO Box 146, Windsor NSW 2756

Email: council@hawkesbury.nsw.gov.au

- Shortly after submitting your claim documents you will receive a letter from Council acknowledging the claim and/or requesting any further information required by Council to investigate and/or assess your claim.

Investigation by Council

- Upon receipt of the completed claim form Council will undertake an investigation.
- The standard investigation time is a period of four to six weeks. This will however depend upon the circumstances and complexities of your claim.
- You may also be required to provide a signed statutory declaration outlining the allegations made against Council.
- In processing your claim, Council will assess the reasonableness of the claim and may appoint a Loss Assessor or Claims Manager. If this is required we will contact you to make the necessary arrangements.

Referral of your claim

- Your claim may need to be referred to a contractor, another local council, Roads and Maritime Services (RMS) and other external bodies for further handling.
- If your claim is referred outside Council, we will advise you in writing as soon as possible and provide you with the relevant contact details.

Determination by Council

- When the investigation is completed Council will notify you of its decision in writing.
- Each claim is investigated and determined based on its individual facts and circumstances.
- Councils' decision may be based on the relevant provisions of the *Civil Liability Act 2002* (NSW), specifically sections 5G and 5H (Negligence - Assumption of Risk) and sections 42 and 45 (Liability of Public and Other Authorities) of that Act.
- Other factors or legal issues may also be relevant to your claim and we will advise you of these in writing when the investigation is completed.
- If Council is prepared to accept your claim, we will send you an Agreement of Release which needs to be signed in the presence of a witness and returned to Council, following which your payment will be arranged. Any payment will be made to the owner of the damaged property.
- If you dispute a decision made by Council, you can request a re-investigation by providing written reasons outlining why you dispute the decision.



Interpreter Service available, call 131 450

خدمة الترجمة الشفوية متاحة، اتصل على رقم 131 450

可提供傳譯服務，請致電 131 450

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Public Liability Claim Form

Read the guidelines for making a claim before you complete this form.

- The provision of this claim form is not an admission of liability on our part
- Claims need to be specific in where an incident occurred with the exact location and date. Pothole and road defect claims must be specific to an exact location.
- All questions must be fully answered in clear print or typed
- Please continue on a separate sheet of paper if necessary
- The driver of the vehicle at the time of incident must complete and sign this form
- If the driver is not the owner of the vehicle, the owner must sign the declaration on page 4

1. Type of Claim

- ☐ Motor Vehicle (complete sections 2, 3, 4, 5, 7, 8, 9 & 10)
- ☐ Property Damage (complete sections 2, 3, 6, 7, 8, 9 & 10)
- ☐ Personal Injury (complete sections 2, 3, 6, 7, 8, 9 & 10)
- ☐ Other

If 'Other' please explain

2. Information about the incident

Date: Time: ☐ am / ☐ pm Postcode:

Street:

Suburb/Town: Nearest cross Street:

Landmark: Road surface:

Lighting Weather at the time of incident

Estimated speed of your vehicle at the time of the incident Was the incident reported to Police ☐ Yes ☐ No

Did the police attend the scene of the incident? ☐ Yes ☐ No Event no:

Description of incident: (State fully and clearly what happened)

What do you think caused the incident:

Why do you think Council is liable for this incident

***Please attach map/diagram and/or photographs of the incident location. The exact location of the incident is required.**



3. Contact Details

Name: Gender: ☐ M ☐ F

Postal Address: Postcode:

Contact Number: Email:

Do you agree for all correspondence to be sent to you via email? ☐ Yes ☐ No

If 'No' please provide preferred method of contact:

Did you consume any alcohol or drugs prior to the incident? ☐ Yes ☐ No

If yes, how much over what period?

***Please attach a copy of your drivers licence**

4. The vehicle

Registration No:

Make and model of vehicle Year model:

Name of vehicle owner(s):

Does the vehicle have any modifications ☐ Yes ☐ No

If yes, please specify:

Claims for damaged wheel/tyres only

Is this vehicle fitted with non-standard wheels / tyres? ☐ Yes ☐ No

If yes, please advise the profile (size) of the wheels / tyres fitted to the vehicle:

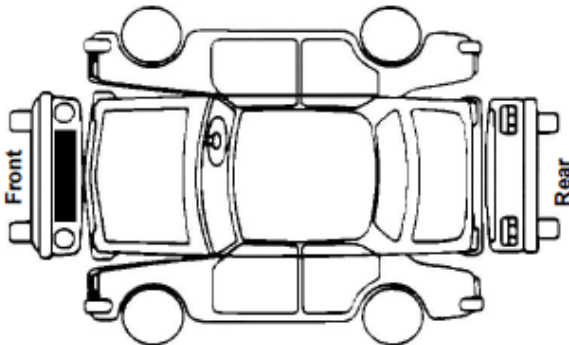
How many kilometres had the tyres travelled prior to the incident:

Advise the purchase date of the damaged tyres:

*** Please attach a copy of the vehicle registration certificate**

5. Damage claimed as a result of the incident

Please indicate on the diagram the damage to your Vehicle What parts of the vehicle were damaged?



Was any part of the vehicle damaged prior to this incident? ☐ Yes ☐ No



If yes, provide details:

*** Please attach photographs of the damage to the vehicle**

6. Property Damage, Personal Injury and Other

Did you suffer any other property damage, personal injury or loss as a result of the incident? ☐ Yes ☐ No

If yes, please specify the type of damage, injury or loss:

*** Please attach photographs of damaged property**

7. Insurance

Was the damaged property insured at the time of the incident? ☐ Yes ☐ No

Has the claim been made with the insurer? ☐ Yes ☐ No

If yes, please advise the name of the insurer and claim number:

Note: If you have claimed under your insurance, you cannot also claim from Council. If the insurer considers Council to be liable for this incident, the insurer can attempt to recover the cost of the claim from Council on behalf of the insured.

8. Witness

Did anyone witness the incident? ☐ Yes ☐ No

Contact Name:

Phone: Email:

Address:

Please attach a witness statement.

NOTE: Council will not contact the nominated witness should there be no statement attached. A decision will be made in the absence of such evidence.

9. Claim Amount

Please specify the total amount you are claiming for:

1. Vehicle	<input type="text"/>
2. Other loss/damage	<input type="text"/>

Please attach copies of documents supporting amounts claimed including:

1. Two quotes or one tax invoice for repairs to the vehicle;
2. Quotes/invoices proving other costs incurred
3. Marked location map of where the incident occurred

10. Declaration/s

The Claimant to sign:

I have read the 'Guidelines for making a claim' and understand that by providing information, Council is not admitting liability but merely gathering information to further consider the claim.

I declare that all the information provided in this form is true and correct and that no information relevant to this has, to my knowledge, been withheld or misrepresented.

Claimant Signature:

Date:

If the owner of the vehicle was not the driver at the time of this incident, the owner to sign:

I / We declare that I / we gave our consent to the driver named in this form to drive my / our vehicle. The above information is, to the best of my knowledge and belief, true and correct and no information is being withheld or misrepresented.

Owner(s) signature:

Date:

Date:

Privacy Notice

Council is bound by the provisions of the Privacy and Personal Information Protection Act 1998, in the collection, storage and utilisation of personal information provided in this form. Accordingly, the personal information will only be utilised for the purposes for which it has been obtained and may be available for public access and/or disclosure under various NSW Government legislation.