



# CLAIM AGAINST COUNCIL



If you have been injured or your property damaged, and you believe it was caused as a result of Council's negligence, you can submit a claim against Council for consideration.

Please ensure that you have reported the problem that caused the injury or damage to Council immediately before you make a claim. This will initiate Council's investigation and ensure repairs are undertaken if necessary.

Council will only accept liability in cases where it can be proven that Council knew there was a problem and was negligent in dealing with it.

## CLAIMING OPTIONS

When deciding whether to make a claim, please consider the following options:

## **Claim against your own Insurance policy**

It is recommended, in the first instance, to make a claim on your own insurance policy. If your insurer believes that Council is at fault they will consider seeking recovery against Council.

There may be an excess fee to be paid by the claimant and you should discuss this with your insurer.

Your insurer is more likely to pay your claim on a replacement new for old value whereas settlement by Council will be on an indemnity basis (current depreciated value).

## **Claim directly from Council**

If seeking compensation directly from Council, you will need the following information

- Details of where, when and how the problem occurred.
- Photographs or video of the damage
- Two quotes for the replacements or repair of the damaged item or alternatively receipts for expenses paid to date.
- Reports from relevant expert such as doctors, arborists, building professionals
- Witness reports and contact details
- Reference number from Council where you have reported the problem

Claims against Council may include **property damage, damage to motor vehicles, or personal injury.**

## WHAT IS NOT CLAIMABLE WITH COUNCIL

Council will consider your claim against the requirements of the New South Wales Civil Liability Act 2002 (CLA). The Act describes the principles in deciding whether a public or other authority has a duty or has breached a duty.

### Section 45 (1)

For Council to be held liable the incident that caused the alleged injury or property damage, must have been foreseeable and it must be shown that Council owed a duty of care and that the duty was breached, resulting in the alleged injury or property damage.

### Section 42 (a) of Civil Liability Act 2002

- The functions performed by Councils are limited by financial and other resources
- The general allocation of financial or other resources is not open to challenge

Council acknowledges that incidents occur and Council can be at fault. All claims against Council will be investigated and considered however, there are certain claims that Council will not accept, including:

- Damage to tyres and rims which result from normal wear and tear

or modifications.

- Damage due to debris (if it occurs in the normal course of driving)
- Damage resulting from criminal actions
- Damage resulting from extreme weather events
- Matters already the subject of an insurance claim
- Damage resulting from the actions of a third party.

Council recommends that you seek professional legal advice if you are unsure about whether you are able to claim for your loss or damage.

## CLAIMS RELATED TO RECENT FLOODING EVENTS

If damage has been caused to your property during recent events; including stormwater and sewer backup or overflow, or flood/storm; it is due to the unprecedented rainfall which has caused widespread flooding, rather than any negligence on the part of Council in maintaining its systems.

Therefore, whilst Council has every sympathy with those affected, Council is not responsible to pay compensation; claims should be referred to the relevant home and business insurers. Unfortunately, Council is unable to assist with claims for those parties that may be uninsured.

## SUBMIT A CLAIM

A claim against Dubbo Regional Council can be submitted through DRC&ME, access the portal here [DRC&ME Portal](#)

Acceptance of this claim form does not mean that Dubbo Regional

Council admits liability for your loss.

We will provide an automated email acknowledging that we have received your claim.

Council will endeavour to respond to claims as quickly as possible. However, the processing of claims is dependent on the supply of relevant information. Assessment of claims may take some time to complete. Please allow up to 21 business days for Council to contact you regarding this matter.

If your claim is accepted by Council, please note that we **do not** pay suppliers or repairers directly. Finalised invoices need to be submitted and approved by Council for reimbursement.

Last Edited: 10 Oct 2022