

Property Damage Claims Guide

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Damage and Loss – Claims for Compensation

This guide is designed to help you understand the process for submitting a claim for compensation if you think Mackay Regional Council is responsible for causing damage to your property (like your car) or for some other type of loss.

Independent Legal Advice and Disclaimer

The information provided in this guide is intended to be general in nature and should not replace independent legal advice tailored to meet your individual circumstances. Whether or not you are entitled to receive compensation from Council will depend on a broad range of factors and considerations.

Time Limits

Council currently has a policy in place for dealing with such claims for compensation caused by Council officers. Council must receive your claim including supporting documentation within 10 business days of the date of incident.

Strict statutory time limits with respect to Personal Injuries Claims apply to making a claim for compensation. Your legal representative can provide you with more information about what time limits apply to personal injury, property damage and other types of claims for compensation.

Insurance

Consider your insurance entitlements. Your insurance policy may cover the incident and you may choose to pay the applicable excess. In this instance your insurance company might then claim compensation from Council in your place.

Claims that Council probably won't accept

Whilst all Liability Claims will be considered by Council, the following claims are generally not successful:

- Damage to tyres and rims which result from wear and tear.
- 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;
- Damage resulting in property damage i.e. panel damage, windscreen damage from Council plant.

Lodging a claim for compensation

If you have suffered damage or loss from an incident on the road and you think it is our fault, you can submit a claim for compensation. All claims need to be in writing and must include full details of the incident, Alleged negligence, two quotations for consideration as soon as practical to the incident (10 business days).

Our Responsibilities

Mackay Regional Council is a road authority in respect of the roads that we are responsible for.

Accordingly, Council is required to maintain the road networks which it is responsible for. If we fail to maintain the road network or otherwise meet our legal obligations or responsibilities as a government agency, we may be liable to compensate you for any damage or loss sustained by you personally or to your property.

It is not possible to keep the roads in perfect condition all the time, nor can we be aware of hazards the moment they arise. Regular inspections conducted by our maintenance contractors and Civil Operations help identify areas that need maintenance or repair.

Council's inspection regime is determined by several factors like the road location (e.g. metropolitan or rural), the amount of traffic and the weather conditions. Also, when determining Council's level of responsibility or liability, the financial resources available to Council can be taken into consideration. In other words, Council's liability can be limited or avoided in circumstances where there was not enough funding to address a particular hazard. Please see the heading below called "Useful Information" for more information about this.

Help us to help you

One of the best ways for us to find out about road hazards is through reports from our road users. If you see a hazard on a road, such as a pothole, damage stop sign or traffic signal, please call us on 1300 622 529 to report incident.

Road Works

If you think the damage or loss you sustained is due to road works please highlight this in your correspondence to Council. If Council engaged an independent contractor to undertake the road works, it is likely your claim will be referred directly to them. In this event, Council may provide you with the relevant contractor's details.

What happens if I make a claim?

The best way to submit a claim is to submit a letter of demand providing us with all relevant supporting documentation in writing, in person or by email together with supporting documents or information. Once Council has received your claim, we may ask for more information from you. Once we have everything we need, we will assess the claim and respond in writing to you as soon as possible.

If your claim is accepted by Council, you may need to sign a Release or Discharge, which is, in general terms, a legal document that means you cannot make any further claims against the Council or its contractors regarding the incident subject of your claim.