

## REQUEST FOR COMPENSATION FORM

This form should be completed and forwarded to:

**Port Stephens Council, Corporate Risk Management,**

**116 Adelaide Street, Raymond Terrace, NSW, 2324**

or via email to: [riskmanagement@portstephens.nsw.gov.au](mailto:riskmanagement@portstephens.nsw.gov.au)

### You must read these terms before completing the Request for Compensation Form

1. This form should only be used if you intend making a claim for compensation against Council. However, making a claim does not automatically entitle you to compensation for loss or injury – it will depend on whether the incident has been caused by the fault or negligence of Council or if Council has failed in its statutory duty.
2. The provision and receipt of this form is not an admission of liability.
3. This form should **not** be used if:
  - you only wish to report an incident; you are requesting repairs to Council property (i.e. roads, footpaths) or you are making a complaint. In those circumstances, you should contact the Customer Relations Team on 4980 0255 for further information.
  - your incident involved a pit lid or similar infrastructure owned by a utility (e.g. Telstra, Optus, NBN, Water, gas, power authority etc.). Refer to the utility's website for further information.
4. All documents you wish to be considered should be submitted with this form. It is in your interests to submit as much information as possible. These documents could include photos, repair quotes, invoices, receipts, medical reports or engineers' reports – depending on what you are claiming.
5. Council will investigate the circumstances surrounding the incident to establish whether or not Council has any legal liability and all claims will be considered on their individual circumstances. Council is not liable for loss or damage unless it has acted negligently or in breach of some other aspect of the law. It is the claimant's responsibility to provide evidence that Council has acted negligently.
6. Any incomplete or unsigned form will be returned to you.
7. It is your responsibility to put an estimated value on any property loss and we require original receipts or invoices and/or two repair/replacement estimates, along with confirmation of the age of the damaged item/s.
8. It is your duty to take reasonable steps to reduce the value/extent of any loss and to ensure as far as possible that your property is not damaged further.
9. In the absence of photographic and comprehensive evidence or if you dispose of any damaged property before Council have had the opportunity to carry out its investigations, your claim may be prejudiced.
10. Any alleged loss that is found to have been fraudulent, falsely stated or exaggerated will be passed onto the relevant authorities for investigation and may be subject to prosecution.
11. Your claim is against Council, not an insurance company as Council does not have insurance to cover claimants in these circumstances, and therefore ratepayers' funds would have to be used for any claims that are accepted and settled.
12. Under most circumstances, your loss or damage will be covered by your own insurance e.g. car, buildings, contents. A claim on your insurance policy is likely to be resolved more quickly than a claim against Council because you will not need to establish negligence. Your insurance may also provide better benefits and settlement terms such as "new for old" whereas Council's liability is legally limited to the value of loss immediately prior to the incident.
13. Your claim will be acknowledged within 5 working days.
14. If your claim is accepted but you have any outstanding debt with Port Stephens Council (e.g. rates), this sum will be offset against the payment of any claim.

Please select the compensation being sought:

**Property Damage**      **Personal Injury**      **Motor Vehicle**      **Other**

### 1. Contact Details

Title:  Full Name:

Telephone No:  Mobile No:

Email:

Home Address:   
Suburb:  Postcode:

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

### 2. Date and Time of Incident

Date of Incident:  Time of Incident:

### 3. Incident Details

Pothole:  Footpath:  Motor Vehicle:  Tree/Limb:  Tree Roots:  Other:

*Please provide details of the incident and why you believe Council is liable:*

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#### 4. Weather Conditions at time of Incident

Conditions (Dry, Windy, Raining, Sunny etc.)

#### 5. Exact Location of Incident

Address:

*Please provide details of the exact location with supporting photographs and marking depicting the area in question. Please also provide nearest cross street:*

*If location is unclear, please print this form and sketch/draw to assist us in our investigations:*

#### 6. Compensation Sought

*Please provide details of the compensation you are seeking:*

Amount:

\$

Have you attached ***proof of loss*** i.e. quotes, invoices etc.?

*There is no insurance policy that responds to you as a Third Party in these circumstances. All requests for compensation are assessed on their own merit and any payments made will come from ratepayers' money. You need to attach any supporting documentation/evidence to substantiate your loss.*

#### 7. Insurance Details

Have you claimed against your own insurance?

Yes

No

Insurance Provider:

Claim/Policy No:

Contact Name:

Contact No:

## 8. Witness

Did anyone witness the incident?

Yes

No

If Yes, please provide their details below:

Name:

Contact No:

Mobile:

Email:

***Please be advised, witness statements from family and friends are not accepted.***

## 9. Evidence

In order to succeed in your request for compensation, you will be required to establish that Council caused the alleged loss and/or damage through some form of negligence. In any public liability claim, the burden of providing proof of negligence rests with you as the person seeking compensation, Council cannot assist you with this.

Please explain any evidence you are supplying:

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Is the evidence referenced attached to this document?

Yes

No

## 10. Photographs

One of the most effective ways to avoid confusion about the circumstances surrounding your claim is through the use of photographs. Without this information, Council is unable to be sure it is investigating the correct issues. You are required to provide a **minimum of 3 photographs** in support of your claim. Your photographs need to show the following:

- The area of property that has sustained damage; A clear marking on the photo showing an area where a trip and fall occurred Clear photographs of roots and trees if you are making a tree root claim; Photos of injuries if relevant and a variety of shots and angles to clear show the situation

## DISCLAIMER

Completion and acceptance of this form **does not represent an admission of liability** on the part of Council. Your request will be subject to investigation and findings assessed on their own merits.

## YOUR PRIVACY

Port Stephens Council is committed to protecting your privacy. We take reasonable steps to comply with relevant legislation and Council policy. **Purpose:** Council will use this information to process your claim. **Intended Recipients:** Authorised Council Officers, contractors or agents. **Supply:** Voluntary. **Consequence of Non-Provision:** Council may not be able to process your claim/request. **Storage and Security:** This document will be placed on the relevant file and/or saved in Council's records management system in accordance with Council policy and relevant legislation. **Access:** Please contact Council on (02) 4980 0255 to enquire how you can access information.

## YOUR DECLARATION

Please now sign this form to certify that:

- a) I, to the best of my knowledge and belief, have supplied true information in this form.
- b) I understand that any alleged loss that is found to have been fraudulent, falsely stated or exaggerated will be passed on to the relevant authorities and may be subject to further action against me.
- c) I have read, understood and accept the terms of this form and making a claim against Port Stephens Council.
- d) I have not made a duplicate claim against my own insurance.
- e) I declare that the information I have given on this form is correct and complete.

**Please Print Your Name:**

**Signature:**

**Date:**

## CHECKLIST

|                          |
|--------------------------|
| <input type="checkbox"/> |
| <input type="checkbox"/> |
| <input type="checkbox"/> |
| <input type="checkbox"/> |

**Read the guidance and terms on page 1 of the Request for Compensation Form**

**Read the FAQs regarding compensation**

**Attached any relevant receipts, invoices, quotes, photographs or additional information**

**Read the declaration and signed the form**