



Without Prejudice

Dear Customer,

Re: Request for Consideration of Compensation.

Thank you for your recent enquiry. To enable Council to begin the process of investigating your claim, please complete, and return the attached 'Request for Consideration of Compensation Claim Form'. Please be aware completing the paperwork does not necessarily mean you will be entitled to receive compensation; it must be established that loss/injury/damage was caused by negligence on the part of the Council.

The information you provide will be used to investigate the circumstances surrounding the incident and to assess action that may be required, your information, along with information from Council's internal investigation into the incident will be forwarded to Council's independent Liability Consultant, National Claims Solutions who will determine if Council is liable.

Baw Baw Shire Council, like any local government body, is entitled to rely upon a variety of legislative protections when considering requests for compensation.

If you would like to discuss this matter, please do not hesitate to call our Customer Service Team on (03) 5624 2411 and ask to be connected to the Risk Management Team.

Yours faithfully,

Jacquie McGill
Risk Management Officer.
Baw Baw Shire Council



Fact Sheet

Request for Consideration of Compensation

Background

This FAQ sheet is intended for person's wishing to submit a request for consideration of compensation, providing a brief overview of the request process, expected timeframes and obligations.

It is important to note that personal information collected by Council is used for municipal purposes as specified in the Local Government Act 1989. The personal information will be held securely and used solely by Council for these purposes and/or directly related purposes.

Council may disclose this information to other service providers if required or permitted by legislation, to assist in actioning your request.

By submitting a request for consideration of compensation the applicant understands that the personal information provided is for the above purpose and that he or she may apply to Council for access to and/or amendment of the information. Requests for access and/or correction should be made to our Privacy Officer.

Please note: Acceptance of this form does not represent an admission of liability on the part of council and/or its insurers.

What process is followed in dealing with my request for compensation?

Once your request for compensation is received, council will investigate the circumstances surrounding the incident to establish whether or not it has any legal liability. Usually this is done by a council officer who will inspect the scene and gather and collate information and documents from other council departments.

Sometimes enquiries need to be made of other service authorities (i.e. water, gas or electricity companies) or contractors, to ascertain whether they had any involvement. (Requests involving service authorities or contractors will be referred to them.)

Public liability claims of this type are managed on Council's behalf by independent liability consultants, National Claims Solutions. A claims consultant from National Claims Solutions will contact you within 10 working days of your request for compensation being received by their office.



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How long does this process take?

The process of investigation can take up to four to six weeks or more. Sometimes there are delays in obtaining information due to factors beyond council's control, i.e. information required from third parties/external contractors or witnesses. We endeavour to respond to claims as quickly as possible, but claims brought in negligence are often quite complicated and we ask for your patience and cooperation during this time.

Is this an insurance claim?

No. There is no insurance policy available that responds to you as a Third Party in these circumstances. In order to succeed in your request for compensation, you will be required to establish that council has caused the alleged loss/injury through some form of negligence.

Why has council asked for photographs?

In any public liability claim, the burden of providing proof of negligence rests with the person seeking compensation. Accordingly, you are required to provide evidence to support your allegation, and one of the most effective ways to avoid confusion about the circumstances surrounding the alleged incident is through photographs. Without this information council is unable to be sure it is investigating the correct issues.

Should I contact council during the investigation process?

No. Once the matter is referred to National Claims Solutions, they will contact you regarding the on-going conduct of your request. They will provide you with relevant contact details, and all correspondence should be referred to them in the first instance.

Why can't council pay on compassionate grounds?

Whilst council obviously regrets any accident, we are unable to use ratepayer's money to pay compensation unless a clear legal liability has been established.

If council denies my claim, what can I do?

You can seek to have the denial referred for review by National Claims Solutions' Director, contact the Victorian Ombudsman, or alternatively you may be able to claim on your personal insurance.



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Can I engage a lawyer to represent me?

Yes. It is your right to engage a lawyer at any time. However, the decision to do so is entirely a matter for you and council accepts no liability for legal costs you incur. The issue of legal costs and the risks associated with litigation are something you should discuss with your legal advisor.

How do you ensure that the personal information I am giving you is protected?

Council complies with all its obligations under the provisions of the Privacy Act and is committed to transparency and integrity in all its activities and programs.

Contact us

We're here to help! For more information please contact:

By Phone: 03 5624 2411; or

By Email: bawbaw@bawbawshire.vic.gov.au; or

By Mail: PO Box 304 Warragul, Victoria, 3820; or

In person: Baw Baw shire Council Office Location:

- 33 Young Street, Drouin; or
- 1 Civic Place, Warragul.



Request for Compensation

This form should be completed and returned to:

Please tick boxes where appropriate

Please select the compensation being sought:

Property Damage Personal Injury Motor Vehicle Other

1. Contact Details

Title: Mr Mrs Ms Other

Full Name:

Telephone No: Mobile No:

E-mail:

Address:

State: Postcode:

2. Date and Time of Incident

Date of Incident: Time of Incident:

3. Weather Conditions

Conditions (E.g. Dry, Windy, Raining, Sunny):

4. Location of Incident

Address:

State: Postcode:

Request for Compensation

4. Location of Incident *cont...*

Please provide details of the exact location with supporting photographs and marking depicting the area in question:

If the location is unclear please provide a sketch to assist us in our investigations.

5. Introduction

If you are seeking compensation for loss or damage arising from an incident, which you believe has been caused by negligence on behalf of Council, National Claims Solutions will investigate the circumstances surrounding the incident to establish whether or not Council has any legal liability.

Please note, this is not a claim covered by an insurance policy.

6. The Road Management Act 2004

Does your claim for property damage arise from the condition of the Roadway/Footpath? Yes No

If yes, please be advised, the provisions of the Road Management Act 2004 require an individual or company seeking compensation for property damage arising from the condition of the roadway, to pay the first **\$1,640.00** of any claim regardless of liability (includes motor vehicles, clothing, glasses etc).

Does your request for compensation exceed this amount? Yes No

For further information: http://www.austlii.edu.au/au/legis/vic/consol_act/rma2004138

7. Incident Details

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

Request for Compensation

8. Compensation Sought

Please provide details of the compensation sought:

Amount: \$

Is the total GST Inclusive? Yes No

There is no insurance policy available that responds to you as a Third Party in these circumstances. All claims are assessed on their own merit and any payments made will come from ratepayer's money.

9. Insurance Details

Have you claimed against your insurer? Yes No

Insurance Provider:

Claim / Policy Number:

Contact Name:

Contact Number:

10. Witness

Did anyone witness the incident? ***(If yes, please provide their details):*** Yes No

Contact Name: Contact Number:

Full Name:

Telephone No: Mobile No:

E-mail:

Address:

State: Postcode:

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11. 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, neither Council nor National Claims Solutions can assist you in this.

Please explain any evidence you are supplying:

Is the evidence referenced attached to this document? Yes No

12. 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.

Please 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,
- A variety of shots and angles to clearly show the situation.

Disclaimer

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

As all claims are assessed on their own merits, it can take some time to collate all the relevant information before we are in a position to make an accurate decision on liability. The process takes approximately 4-6 weeks; however, this timeframe can be longer due to delays in obtaining information and other factors beyond Council's control.

National Claims Solutions will endeavour to respond to claims as quickly as possible, but claims brought in negligence are often reliant on various sets of information and, therefore, assessment may take some time to complete.

Council complies with all its obligations under the provision of the Privacy Act and is committed to transparency and integrity in all its activities and programs. All information you supply is treated as private and confidential.

Please Print Name:

Signature:

Dated:

On completion of this form, please return to the following address:

Council Use Only

Council:

Council Reference:

Received by:

Dated:

Council's notes for National Claims Solutions:
