

INCIDENT REPORTING PROCEDURE

“Without Prejudice”

Thank you for reporting an incident to the Council. Please be assured that the circumstances surrounding the incident will be fully investigated and the Council will take appropriate action. Should you wish to make a claim against Council for loss or damage allegedly arising from the incident, please complete the attached form. The completed form, accompanying photographs and receipts/quotes should be forwarded to:

Mitchell Shire Council
Risk and OHS
113 High Street
Broadford 3758

Or via email to Risk.ohs@mitchellshire.vic.gov.au

All claims will be considered on a “Without Prejudice” basis. While the Council sympathises with anyone suffering injury or sustaining loss, the acceptance of a completed claim form by the Council in no way infers negligence on the part of the Council or binds the Council to provide compensation. For claims to be considered pages 2, 3 and 4 need to be completed and returned with signatures of the relevant parties.

Notice to Potential Claimants

Before the Council is obliged to pay compensation for any injury, loss or damage suffered, it must be established that this injury, loss or damage was caused through negligence on the part of the Council, or employees or agents of the Council. **The proof required to establish negligence can be quite onerous and you may be better served seeking compensation through your own household, motor vehicle or medical insurance.** Should your insurance company then consider the Council to be negligent, it may seek reimbursement of its costs and any excess you have paid.

Particular consideration needs to be given to claims associated with roads and footpaths. **Under the Road Management Act, the Council (as a road authority) is not liable for property damages resulting from the condition of a road or footpath, where the value of the damage is equal to or less than what is termed the “threshold amount” (\$1,430 in 2018/19, subject to annual indexation).** Further, where negligence on behalf of the Council can be established and the amount which may be recovered exceeds the “threshold amount”, any payment made is to be reduced by the “threshold amount”. In many cases, the “threshold amount” may well be greater than any excess applicable, should you lodge a claim with your own insurance company.

If you have any questions, please contact the Risk and OHS team via (03) 5734 6200.

Proof of Loss within 90 days: *The appropriate Claim forms together with written proof of loss/damage must be provided to the address set out above within ninety (90) days after the date of such loss/damage. Failure to furnish such proof within the time required shall not invalidate or reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible.*

<input type="checkbox"/> Property Damage	<input type="checkbox"/> Personal Injury	<input type="checkbox"/> Motor Vehicle Damage	<input type="checkbox"/> Other
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Your Details							
Name	<input type="checkbox"/>	Mr	<input type="checkbox"/>	Mrs	<input type="checkbox"/>	Ms	
Address							
Suburb						Postcode:	
Email							
Telephone:						Mobile	
Preferred contact method	<input type="checkbox"/>	Email	<input type="checkbox"/>	Mobile	<input type="checkbox"/>	Via 3 rd Party	<input type="checkbox"/> Other:

Incident Details						
Date of Incident:					Time of incident:	
Road Condition	<input type="checkbox"/>	Dry	<input type="checkbox"/>	Wet	<input type="checkbox"/>	Other:
Weather Condition	<input type="checkbox"/>	Raining	<input type="checkbox"/>	Sunny	<input type="checkbox"/>	Other:
Place of Incident (#, street name, suburb)						
Nearest Landmark:						

Please provide details of the exact location with supporting photographs, maps or sketches to clearly depict the area where the incident occurred.

Brief Description of Incident *Please attach a separate page if necessary.*

Witnesses	
Details of any person who witnessed the incident	
NOTE: <i>Please include name and contact details of all witnesses. Witness statements from family and friends are not accepted.</i>	

Compensation Sought							
Description and details of personal injury							
Amount and details of how this is calculated	\$		Includes GST	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
			Medical cost attached	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Description and details of property or other damage or loss							
Amount and details of how this is calculated	\$		Includes GST	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
			Quotes attached	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Have you claimed against your insurer?	<input type="checkbox"/>	Yes	Insurer		Claim/Policy #		
	<input type="checkbox"/>	No	Contact		Phone		
	<input type="checkbox"/>	No but intend to					
<p>NOTE: One of the most effective ways to avoid confusion about the circumstances surrounding your request for compensation is using photographs of the damage or loss. In the case of injury this may include photos of the injury or medical evidence which will substantiate the claim. Without this information Council is unable to be sure it is investigating the correct issues. Please attach repair quotes or invoices/receipts to support any claim for costs. The request of this information must not be seen as an acceptance of liability and all claims are assessed based on their own merit and any payments made will come from Council funds.</p>							

Reason/s you believe Council is liable for the claimed injury and/or damage
<p>NOTE: 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. Note that Council cannot assist you in this. Photographs demonstrating the magnitude of the area of concern, with a variety of shots and angles to clearly show the situation will assist in understanding you claim on this basis.</p>

Road Management Claims				
Does your request for compensation for property damage arise from the condition of the roadway/footpath?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
<p>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/footpath, to pay the first \$1,400 of any claim (the "threshold amount") regardless of liability (includes motor vehicles, clothing, glasses etc). Please note that the threshold amount is varied by the Victorian Government every financial year. The threshold amount stated above is valid for property damage occurring in the 2018/19 financial year. See: http://www.austlii.edu.au/au/legis/vic/consol_act/rma2004138 for further information.</p>				
Does your request for compensation exceed the threshold amount?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

Authority for Agent to Act

Do you wish for a third party to act on your behalf? Yes No
If yes, please complete the authority below

I _____, hereby authorise _____, whom I have instructed to act on my behalf, to discuss my request for compensation with a representative of Mitchell Shire Council.

Signed _____ Dated: _____

Contact details of person authorised to act on your behalf

Name			
Address			
Suburb		Postcode	
Email		Phone	

Statutory Declaration

I, _____ [full name]
of _____ [address]

- do solemnly and sincerely declare that:
1. All the information contained in this Request for compensation is accurate to the best of my knowledge and belief
 2. I have to the best of my knowledge and belief disclosed all relevant information to Mitchell Shire Council and have not withheld any relevant information
 3. Any attached quotation or medical evidence has been prepared for the sole purpose of damage or injury resulting from the incident as described in this Request for Compensation.

I acknowledge that this declaration is true and correct, and I make it with the understanding and belief that a person who makes a false declaration is liable to the penalties of perjury.

Declared at _____
on this _____ day _____ of 20_____

Signature of person making this declaration
[to be signed in front of an authorised witness]

Before me, _____ [full name]

Signature of Authorised Witness

The authorised witness must print or stamp his or her name, address and title under section 107A of the Evidence (Miscellaneous Provisions) Act 1958 (as of 1 January 2010), For a list of who can witness statutory Declarations go to justice.vic.gov.au

Completion and acceptance of this form **does not represent an admission of liability** on the part of Council and/or their insurers. Your Request for Compensation will be subject to investigation and the findings assessed on their own merits. Council will endeavour to respond as quickly as possible. However, as all requests for compensation 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 eight weeks. However, this timeframe can be longer due to delays in obtaining information and other factors beyond Council's control.

Council complies with all its obligations under the provision of the Privacy and Data Protection Act 2014 and is committed to transparency and integrity in all its activities and programs. All information you supply is treated as **private and confidential**.

Mitchell Shire Council is collecting personal information for the purpose of assessing your claim against Council. We may be disclosing any information to our insurance company and/or its representatives, investigators, legal advisors and to any organisation we consider might have responsibility in respect of this incident. Please retain a copy of relevant invoices, receipts and photographs for your own records.

Further Information

Please ensure you attach the following:

- | | |
|----|---|
| 1. | <p>If you suffered personal injury:</p> <ul style="list-style-type: none"> • Copies of receipts/Invoices for any medical expenses related to the incident • A copy of medical certificates/ report from your treating doctor that confirms the nature of injury sustained and future prognosis. • Details of any claimed loss of earnings together with wage records showing details of your earnings and sick pay which you received • Clear, colour photographs of incident location (with the location/cause of the alleged incident clearly marked with an "X") • Any other evidence which will support your claim |
| 2. | <p>If you are claiming for general property / vehicle damage:</p> <ul style="list-style-type: none"> • Quotes, invoices/receipts relating to the repair or replacement of the damaged property*. • Photographs of the damaged property and area where incident occurred or map/diagram marking site of incident • Clear photographs of roots and trees if you are making a tree root claim. • Any other evidence which will support your claim <p><i>*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 \$1,400.00 of any claim regardless of liability.</i></p> |

Return your completed form to:

BY MAIL:	Mitchell Shire Council Attention: Risk and OHS Officer 113 High Street Broadford 3758
EMAIL:	Risk.OHS@mitchellshire.vic.gov.au