Under-Excess Claims Training

Customer Service

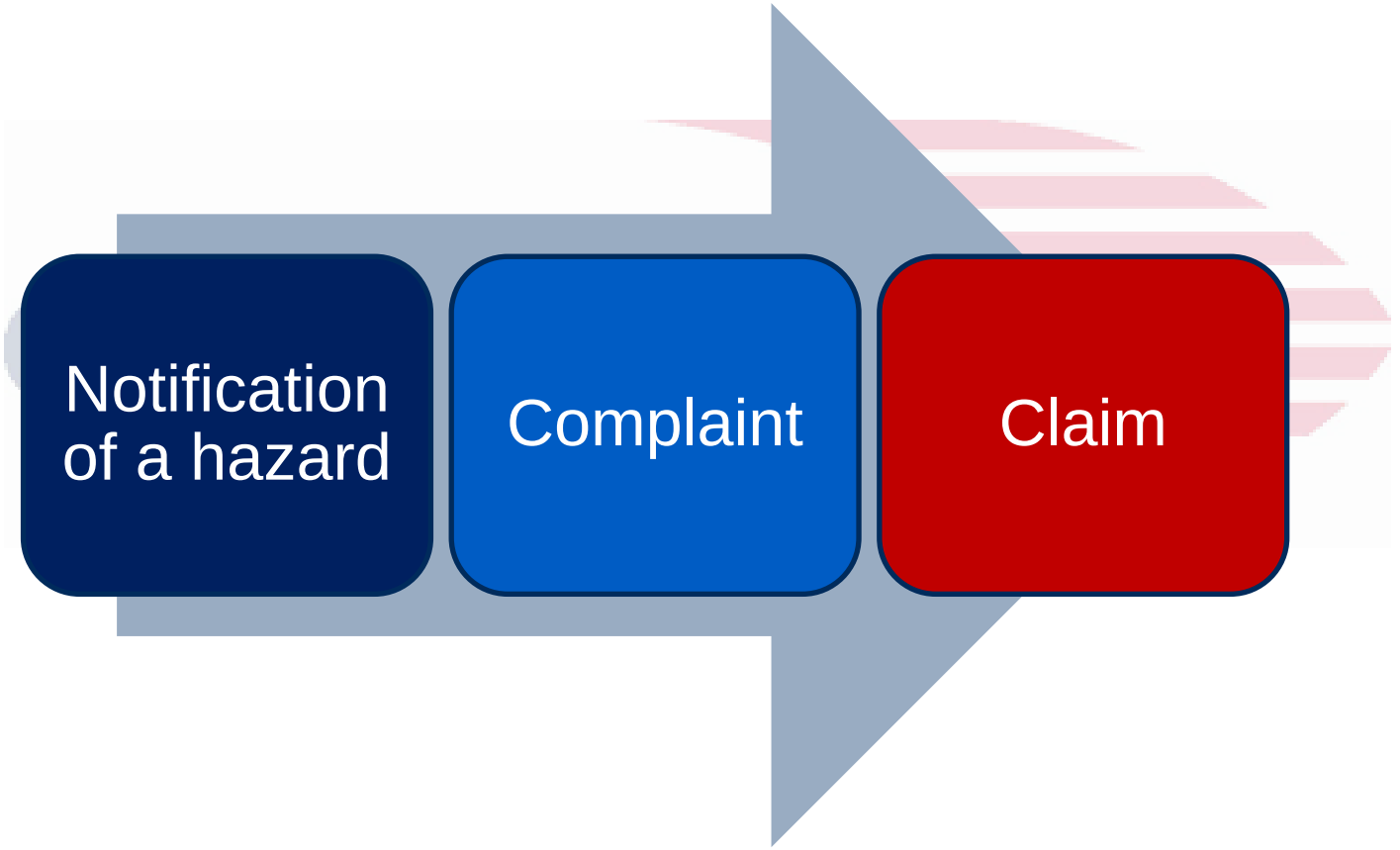
Welcome to Country

We acknowledge the Traditional Custodians of the country throughout Australia and their connections to land, sea and community. We pay our respects to Elders past, present and emerging and extend that respect to all Aboriginal and Torres Strait Islander peoples attending today.

Today:

1. When is it a claim?
2. Claims
3. The claims investigation process

When is it a claim?



When is it a claim?

Notification of a hazard

- Simple notification of a hazard which could cause injury or damage

Complaint

- Complaint regarding the cause of an incident or damage

Claim

- A complaint together with a request or expectation of payment / compensation

Scenario 1

A member of the public contacts Council

“A tree branch has fallen and damaged my front fence, what are you going to do about it?

Is this a claim?

Scenario 2

A member of the public contacts Council

“Your tree is shedding leaves in my gutters, I want you to clean it”

Is this a claim?

Examples…

Notification of Hazard	Complaint	Claim
• A tree limb looks like it will fall and could cause damage	• A branch from a Council tree has fallen onto my fence, what is Council going to do	• A council tree branch fell and damaged my fence and I want Council to pay for a new fence
• There is a large trip point on the footpath that is unsafe	• I tripped on an uplift on the footpath, causing me to fall and injure my knee	• I tripped on the footpath and now need a knee surgery, who is going to pay for that?

What to do and not to do

When a complaint is made:

- × Do not assume they are seeking compensation
- × Do not tell them they are entitled to make a claim
- × Do not encourage them to lodge a claim
- × Do not admit any liability for the incident

- ✓ Show sympathy – saying sorry is ok
- ✓ Take the time to listen to the complaint
- ✓ Thank them for bringing this to Council's attention
- ✓ Advise the customer that the matter will be referred to the relevant Council department for assessment and appropriate action
- ✓ If you are so minded, advise the claimant of the outcome of the assessment

It is essential that Council acts on the complaint notification to prevent future injury or damage

Scenario 3

A member of the public contacts Council

“My plumber came out and told me tree roots are entering my pipe from your tree, I want you to pay for it. This is why I pay my rates”

Is this a claim?

Claims

A CLAIM … is where there is a **request or expectation of payment by way of compensation** for the alleged damage.

"That tree damaged my fence! Who is going to pay for its repair?"

RESPONSE

"If you are seeking compensation, I can forward you to Council's Risk Management department so they can provide you with all relevant information and forms."

Claims

UNDER EXCESS CLAIMS

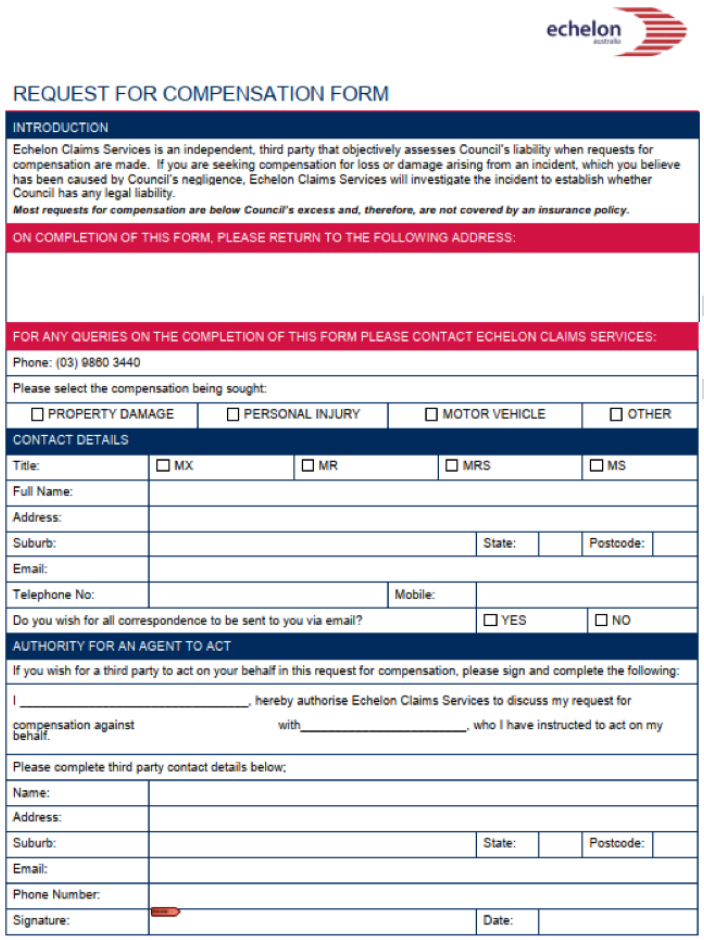
- Liability Claims below your excess *
- **Echelon** assists Council as it's claims manager, not its insurer.
- Any payments made on these claims are paid by Council
- Echelon will:
  - ✓ review the claim
  - ✓ liaise with Council staff
  - ✓ assess Council's liability exposure
  - ✓ apply applicable legislation
  - ✓ deal with spurious claimants and
  - ✓ deny/reduce the claim where possible.
- Echelon is an independent claims manager – we will assess each claim on its legal merits
- If we believe Council has liability exposure, we will recommend that an appropriate settlement be negotiated
- We require Council's assistance during the claims investigation process

Claims

What are Insurance Claims?

- Liability Claims for **property damage** or **personal injury** greater than Council's insurance excess (**$20,000 or $50,000** *may vary)
- These claims are managed by Council's liability insurer, MAV.
- Echelon work in line with the MAV team and if a claim needs to be escalated or goes above Council's excess during the investigation process of the claim, Echelon will notify Council in the first instance and confirm they are happy for us to notify MAV of the claim.
- This process is a seamless transition where Echelon provide all claim details to MAV directly.
- Echelon will then notify the claimant at the time they claim will be managed by Council's insurer.

Request for Compensation Forms



REQUEST FOR COMPENSATION FORM

INTRODUCTION

Echelon Claims Services is an independent, third party that objectively assesses Council's liability when requests for compensation are made. If you are seeking compensation for loss or damage arising from an incident, which you believe has been caused by Council's negligence, Echelon Claims Services will investigate the incident to establish whether Council has any legal liability.

Most requests for compensation are below Council's excess and, therefore, are not covered by an insurance policy.

ON COMPLETION OF THIS FORM, PLEASE RETURN TO THE FOLLOWING ADDRESS:

FOR ANY QUERIES ON THE COMPLETION OF THIS FORM PLEASE CONTACT ECHELON CLAIMS SERVICES:

Phone: (03) 9860 3440

Please select the compensation being sought:

☐ PROPERTY DAMAGE ☐ PERSONAL INJURY ☐ MOTOR VEHICLE ☐ OTHER

CONTACT DETAILS

Title:	☐ MX	☐ MR	☐ MRS	☐ MS
Full Name:				
Address:				
Suburb:		State:		Postcode:
Email:				
Telephone No:		Mobile:		
Do you wish for all correspondence to be sent to you via email?		☐ YES	☐ NO	

AUTHORITY FOR AN AGENT TO ACT

If you wish for a third party to act on your behalf in this request for compensation, please sign and complete the following:

I _____, hereby authorise Echelon Claims Services to discuss my request for compensation against with_____, who I have instructed to act on my behalf.

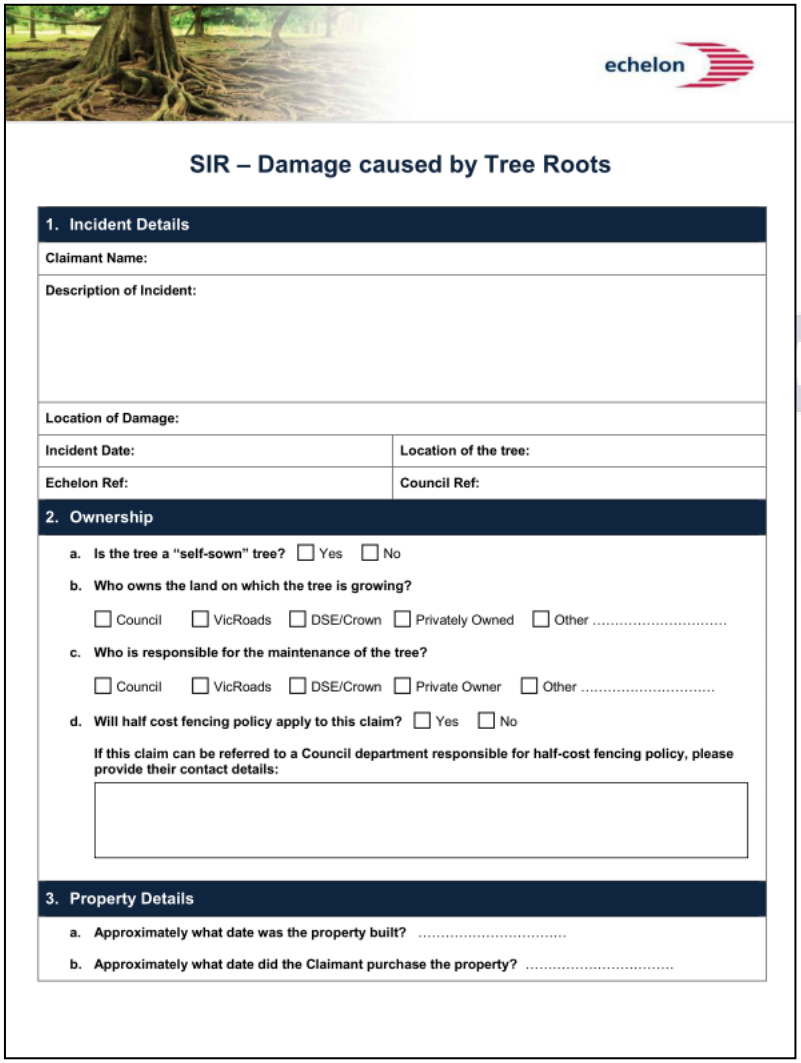
Please complete third party contact details below;

Name:				
Address:				
Suburb:		State:		Postcode:
Email:				
Phone Number:				
Signature:		Date:		

- Advise the claimant to provide as much information as possible, including evidence to support their allegation. Eg; photos, reports, invoices
- The form is to be returned to Council directly which will then be forwarded to Echelon
- If the claimant mentions they have claimed with their insurer, advise them they can have their insurer act on their behalf and Echelon can liaise with them directly.
- Attempt to set the expectation that the claims process can take up to 8 weeks, however times may vary.

The claims investigation process

PREPARING A SPECIFIC INCIDENT REPORT (SIR)



SIR – Damage caused by Tree Roots

1. Incident Details

Claimant Name:

Description of Incident:

Location of Damage:

Incident Date:	Location of the tree:
Echelon Ref:	Council Ref:

2. Ownership

a. Is the tree a "self-sown" tree? ☐ Yes ☐ No

b. Who owns the land on which the tree is growing?

☐ Council ☐ VicRoads ☐ DSE/Crown ☐ Privately Owned ☐ Other .....

c. Who is responsible for the maintenance of the tree?

☐ Council ☐ VicRoads ☐ DSE/Crown ☐ Private Owner ☐ Other .....

d. Will half cost fencing policy apply to this claim? ☐ Yes ☐ No

If this claim can be referred to a Council department responsible for half-cost fencing policy, please provide their contact details:

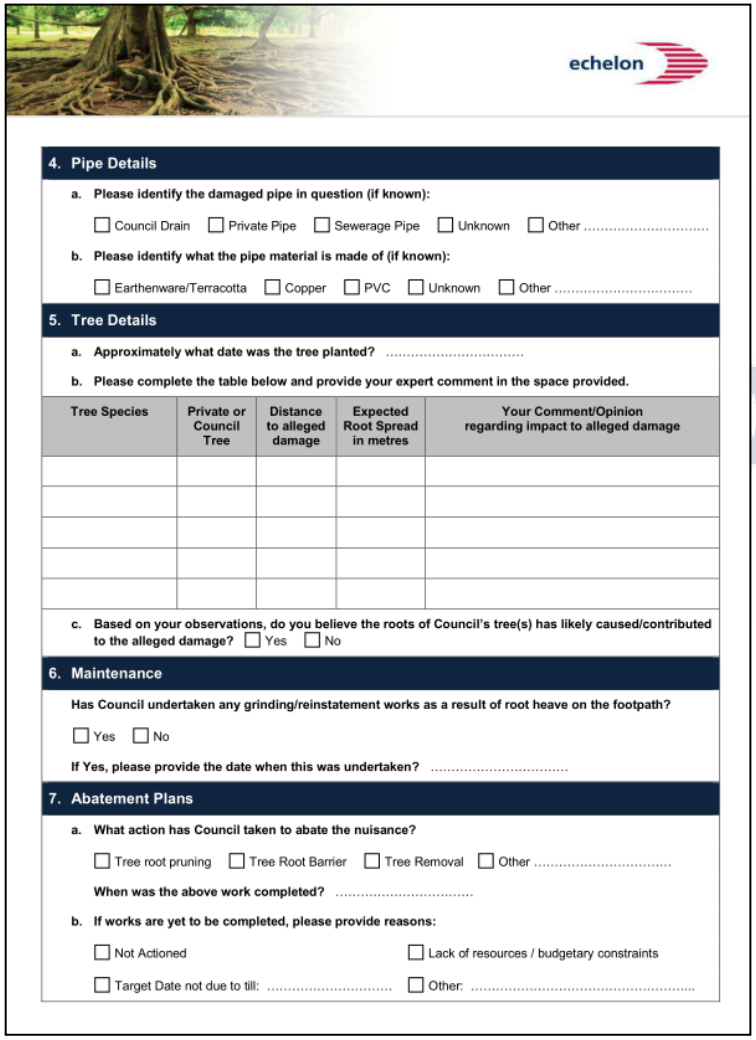
3. Property Details

a. Approximately what date was the property built? .....

b. Approximately what date did the Claimant purchase the property? .....

- The information you provide is used to assess Council's potential liability.
- Attend the site and take photos & measurements (especially before repairs)
- Undertake remedial or abatement measures in line with Council's Road Management or Tree Management Plan. If the Council officer believes it's necessary to carry out minor works within the RMP or their TMP, they can do so.
- Take photos before and after works are complete with the relevant dates.
- Avoid using terms such as "make safe" and replace with "temporary works".
- Try to be as clear as possible to avoid possible clarification questions. We rely on your expertise when requesting information as the subject matter expert. If in doubt, please contact us and we can provide guidance.
- The more information the better.

The claims investigation process



echelon

4. Pipe Details

a. Please identify the damaged pipe in question (if known):

☐ Council Drain ☐ Private Pipe ☐ Sewerage Pipe ☐ Unknown ☐ Other .....

b. Please identify what the pipe material is made of (if known):

☐ Earthenware/Terracotta ☐ Copper ☐ PVC ☐ Unknown ☐ Other .....

5. Tree Details

a. Approximately what date was the tree planted? .....

b. Please complete the table below and provide your expert comment in the space provided.

Tree Species	Private or Council Tree	Distance to alleged damage	Expected Root Spread in metres	Your Comment/Opinion regarding impact to alleged damage

c. Based on your observations, do you believe the roots of Council's tree(s) has likely caused/contributed to the alleged damage? ☐ Yes ☐ No

6. Maintenance

Has Council undertaken any grinding/reinstatement works as a result of root heave on the footpath?

☐ Yes ☐ No

If Yes, please provide the date when this was undertaken? .....

7. Abatement Plans

a. What action has Council taken to abate the nuisance?

☐ Tree root pruning ☐ Tree Root Barrier ☐ Tree Removal ☐ Other .....

When was the above work completed? .....

b. If works are yet to be completed, please provide reasons:

☐ Not Actioned ☐ Lack of resources / budgetary constraints

☐ Target Date not due to till: ..... ☐ Other: .....

- Complete <u>all</u> sections of the SIR
- Provide additional comments you deem relevant in the assessment of the claim
  - ❖ E.g. potential other contributing factors
- Provide factual information and if any opinions are provided, please record this in "Additional Information"
- Review Council's records to provide accurate history of location, noting any previous measurements taken
- If unsure, call Echelon to confirm.
- Complete the SIR as soon as possible.
- Don't make it personal!

The claims investigation process

DEALING WITH THE PUBLIC

What do I say if the claimant asks me for my opinion while I am undertaking a site inspection for the SIR?

- ✓ Inform the claimant that you are unable to offer any opinion but are willing to record their comments or observations in the report.
- ✓ Advise that Council's public liability managers Echelon will be in contact with them in due course. (We want to set the expectation that it is being investigated and to prevent them from contacting Council)
- ✓ If they would like you to review a particular area of concern to them, it may be worth considering, (within reason) taking relevant images.
- ✓ If they persist, provide them with Echelon's contact details (if appropriate).

RMP inspections & repairs

DOs

- Consistent method of inspection
- Measure defect (at its highest point)
- Document your inspection
  - when & where
  - list defects above intervention
  - write “no defects requiring repair identified” if none found
- Take photos & measure defect – mandatory at REACTIVE inspection
- Inspect roads, paths, kerbs, road infrastructure for hazards for ‘typical’ road users
- Inspect envelope of road/path
- If cause of defect identified – notify responsible person (e.g. Council’s trees dept., private property owner)

DON’Ts

- Eyeball or guestimate defect
- Inspect footpaths from car
- List under intervention defects as over intervention
- “Make safe” defects under intervention (e.g. mark with paint)

Things to Note

- Wheel stops: Whilst they may not be part of Council's RMP, it is always best to check them if they are in the general area of inspection. Are any nails protruding?
- Is there property damage to surrounding footpath damage that may need to be flagged with the relevant department? Eg, is there cracking to a footpath which is in line with cracking in a fence? If so, this may need to be flagged with Council's arborist to inspect

Summary…

DO NOT

- × Admit Liability
- × Lay Blame
- × Offer claimant any opinion
- × Advise them to lodge a claim
- × Suggest entitlement to compensation
- × Leave any section of the SIR blank
- × Do nothing / sit on your hands
- × Talk about the claimant in internal emails that do not have anything to do with the claim.

DO

- ✓ Show empathy & listen to the complaint
- ✓ Refer complaint for action
- ✓ Document everything
- ✓ Ask the claimant to put claim & allegations in writing
- ✓ Inspect the site & arrange abatement works (if required)
- ✓ Complete SIR in full & ASAP
- ✓ Identify other contributing factors
- ✓ Take photos & record inspection details, especially prior to works
- ✓ Communicate between departments
- ✓ Refer compensation claims to Council's Risk team or Echelon immediately

Questions?