

Department of Transport and Main Roads
Noting Brief
DBN15943

To: Director-General

SUBJECT: Response to Mount Lindesay Highway property owner compensation claim	DATE: 17 September 2020
Director-General's comments:	

Summary

- [Redacted] is seeking \$680,000 in compensation for perceived losses, financial hardships, and [Redacted] as a result of the Mount Lindesay Highway – South Maclean safety improvements project (the project).
- This brief is to provide advice on the actions taken by the Department of Transport and Main Roads (TMR), and the response that will be provided to [Redacted] under Mr Paul Noonan, Regional Director (South Coast) signature (**Attachment 1**).

Recommendations

- That you note TMR's response to the compensation claim of [Redacted] (**Attachment 1**).

Financial Implications

- There are no financial implications of the recommendations.

Background

- [Redacted]
- Throughout the project, TMR and its contractors have had to exercise caution when interacting with [Redacted]

[Redacted]

Action Officer:
Paul Noonan
Regional Director (South Coast)

Endorsed by:
Les Dunn
General Manager (Program Delivery and Operations)

Endorsed by:
Amanda Yeates
Deputy Director-General (Infrastructure Management and Delivery)

Tel: 5563 6522
Date: 14 September 2020

Tel: 3066 5498
Date: 17 September 2020

Tel: 3066 7118
Date:

- Throughout delivery, [PI] has disputed a number of issues, including the relocation of her property fence out of road reserve onto the correct cadastral boundary, denying the Principal Contractor's request to undertake a post-construction dilapidation report, and claiming that the project works caused stormwater to be directed to her property.
- A technical memorandum was provided to [PI] specifically addressing both the pre-existing and post-construction drainage scenarios for her property. Design modelling showed that the project generally improved flood conditions for large parts of the property, particularly in the vicinity of the house. The modelling indicated that one section of the access driveway (away from the house) may experience afflux up to approximately 125 mm in a very large flood event (one per cent Annual Exceedance Probability), although an assessment of the trafficability of the access driveway during flood conditions noted no change to trafficability as a result of the project.
- [PI] provided TMR with a "Notice of Incident and Claim – Property Damage" dated 31 March 2020 (the Notice).
- [PI] for compensation totalling \$680,000 against TMR as a result of loss and damage suffered by [PI] due to TMR undertaking the project. The Notice did not provide details as to how the claimed amount of \$680,000 was derived.
- [PI]
- By letter dated 23 April 2020, TMR wrote to [PI] requesting further evidence in relation to each claim to allow the department to properly investigate [PI] claims.
- [PI] responded to TMR's request by sending 38 emails attaching photographs and descriptions of damage suffered by her as a result of the project.
- TMR has considered all of the information provided by [PI] against each claim and has reached a view in respect of each claim that either the claim does not have merit, the claim has already been resolved or [PI] has provided insufficient evidence for TMR to determine whether or not the claim may have merit.
- TMR has prepared a letter to [PI] setting out the department's response to each of her claims (**Attachment 1**).

[PI]

Exempt Sch.3(7) Legal Professional Privilege

Issues and Suggested Approach

- TMR's South Coast Region intends to respond to [PI] denying her claim for compensation (**Attachment 1**).
- TMR's South Coast Region does not intend to engage with [PI] further on this matter unless she provides additional evidence to support her claim.

Financial Implications

- There are no financial implications.

Consideration of the *Human Rights Act 2019* (HR Act)

- The HR Act was considered when undertaking actions outlined in this brief and there are no impacts to human rights.

Consultation with Stakeholders

- No consultation was undertaken.

Employment

- There are no employment impacts associated with this matter.

Media

- There are no media impacts associated with this matter.

Election Commitments

- This matter does not relate to an election commitment.

Government Priorities

- This matter does not relate to a government priority.

Released under RTI - DTMR

Released under RTI - DTMR

Advice for Minister for Transport and Main Roads

Subject: [Sch.4 Part 4 s.6 PI] **about claim for damage from roots from trees on Deagon Deviation – update**

Document ID: DLO5430

- Officers from the Department of Transport and Main Roads (TMR) have been in contact with [Sch.4 Part 4 s.6 PI] on 21 occasions since 20 October 2020.
- The claim from the Queensland Government Insurance Fund (QGIF) was verbally rejected on 1 June 2021. Therefore, the [PI] will not be receiving insurance money from QGIF.
- However, TMR has been in contact with the [PI] eight times since this date (10, 14, 15, 17, 21 June and 6, 20 and 22 July 2021) and is working directly with them on a suitable alternative to reach a satisfactory outcome for both them and TMR.
- TMR has now obtained all necessary internal approvals for the department to approve the [PI] claim. [PI] has been advised that the claim has been approved by TMR and payment will be made by the end of July 2021.

Action Officer/ Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Patrick Dennehy	Les Dunn	Amanda Yeates	Neil Scales
Regional Director (Metropolitan)	General Manager (Program Delivery and Operations)	Deputy Director-General (Infrastructure Management and Delivery)	Director-General
Tel: 3066 1457	Tel: 3066 5498	Tel: 3066 7118	Tel: 3066 7316
Date: 30 July 2021	Date: 19 July 2021	Date: 30 July 2021 – Progressed under RD approval	Date: 30 July 2021

Advice for Minister for Transport and Main Roads

Subject: COOMERA EO on behalf of Sch.4 Part 4 s.6 PI **about windscreen damage claim**

Document ID: EE14399

- The Department of Transport and Main Roads (TMR) consulted TMR's Risk Insurance Scheduling and Estimating team (TMR Insurance) regarding PI claim of unfair treatment by TMR in relation to the rejection of his property damage claim. TMR Insurance reviewed PI property damage claim and the original non-acceptance of the claim. It confirmed the reasons for rejecting PI claim were valid and consistent with departmental policy. TMR Insurance also found that, as PI email of 10 February 2022 does not provide any new evidence to contradict TMR's decision, the rejection of the claim still stands.
- TMR's non-acceptance of PI property damage claim is not based on doubting the authenticity of PI account, it is based on compliance with Queensland Government policy which stipulates that the department is not liable where property damage was due to debris which occurred in the normal course of driving. The investigation into PI property damage claim found no evidence of any negligence on the part of the TMR driver that contributed to the incident. It was confirmed that the TMR fleet vehicle travelling in front of PI was not carrying any goods or debris at the time that could have contributed to the damage and the tray canopy was securely closed, as evidenced by the images provided PI (**Attachment 1**).
- The policy relating to claims for property damage is available on the Queensland Government website at <https://www.qld.gov.au/transport/conditions/report/claim>. A copy of the TMR Property Damage Claims Guide is also attached for additional information (**Attachment 2**).

Action Officer/Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Paul Noonan	Ann-Maree Knox	Amanda Yeates	Neil Scales
Regional Director (South Coast)	General Manager (Program Delivery and Operations)	Deputy Director-General (Infrastructure Management and Delivery)	Director-General
Tel: 5563 6522	Tel: 3066 2301	Tel: 3066 7118	Tel: 3066 7316
Date: 15 February 2022	Date: 16 February 2022	Date: Progress under GM	Date: 16 February 2022

Released under RTI - DTMR

Property Damage Claims Guide

Information Sheet

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 the Department of Transport and Main Roads is responsible for causing damage to your property (like your car) or for some other type of loss.

Important Information

Independent legal advice & 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 the department will depend on a broad range of factors and considerations. The Queensland Law Society can assist you to choose a legal representative.

Time limits

Strict statutory time limits 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 the department in your place.

Claims the department probably won't accept

The department will not ordinarily accept any claims for:

- damage to tyres with an aspect ratio (profile) of 40% or less, or damage to the associated rims
- 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.

Personal Injury

This guide and the associated claim form should not be used to submit a claim for compensation for personal injuries. These types of claims are covered by the *Personal Injury Proceedings Act 2002*. Generally speaking, you cannot make a claim for compensation unless it is in accordance with that Act. If you have suffered a personal injury as a result of something you think the department did or did not do, you should seek independent legal advice as soon as possible.

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.

Your claim may be submitted using the Claim Form. The Claim Form should not be used for a claim arising from a personal injury.

The Claim Form may also be used as a guide to tell you what type of information we require in order to assess your claim for compensation from us.

Our Responsibilities

Transport and Main Roads is required to maintain the road network under its control to certain standards. 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 help identify areas that need maintenance or repair.

The Department'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 the department's level of responsibility or liability, the financial resources available to the department can be taken into consideration. In other words, Transport and Main Road'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.

Similar obligations apply to other road authorities in respect of the roads for which they are responsible (for example, local governments).

Our Roads

Transport and Main Roads is responsible for over 33,000 kms of Queensland's road network. We call these roads, "State controlled" roads. We are also

responsible for installing and maintaining traffic signals, regulatory signs (e.g. stop signs) and line marking on all "State controlled" roads.

Our network includes all major arterial roads such as the Pacific Motorway and the Bruce Highway as well as many main roads across the state. All other roads are the responsibility of local government or private organisations (e.g. mining companies).

You can check whether the road, which is the subject of your claim for compensation is a "State controlled" road by referring to the maps set out by region on www.tmr.qld.gov.au.

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 main road, such as a pothole, a damaged stop sign or traffic signal, please call us on 131940 and www.131940.qld.gov.au to report incident.

Road works

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

The Law

It may be useful for you to understand the circumstances in which the department may be legally liable to pay you compensation and how the civil claims process operates generally.

The following information is provided as a guide only. As stated above, it is your responsibility to obtain your own independent legal advice on the department's potential liability.

The Common Law (also known as Case Law)

The department has a common law duty of care to road users to maintain the road network under its control. In general terms, the law of negligence provides for the existence of a duty of care; the standard of care expected; and whether loss or damage was suffered as a result of a breach of the duty.

If you think we have failed to meet our duty of care to you as a road user, then the law provides that the burden of proof rests with you. In other words, you will have to prove your claim.

In general terms, you will have to show that we have not taken reasonable steps to maintain the road network to prevent foreseeable risks of harm. "Reasonable steps" means considerations like whether we knew (or ought to have known) about the hazard, what resources were available to us and if there were any competing responsibilities on us at the relevant time (like other road safety projects).

You will also have to show that our actions (or inactions):

- caused the incident;
- caused you to suffer loss; and
- that such loss was foreseeable to us.

The Civil Liability Act 2003

The common law can be overridden by legislation. In this regard, the Queensland Parliament passed the *Civil Liability Act 2003*. This Act provides a framework for the law of negligence and some possible limitations on the department's liability.

As our maintenance contractors cannot be everywhere all the time, this Act provides (at section 35) that road authorities such as the department may not be liable for damage or loss arising from a road hazard, unless we had prior knowledge of the particular hazard. In other words, unless it can be shown that we were aware (or

ought to have been aware) of a particular road hazard, we may not be liable to pay compensation in relation to a particular incident on the road. Section 37 of that Act also sets out some important factors that are relevant to the department's liability.

You will also have to substantiate the extent of your loss by providing independent evidence (like receipts, etc).

It is important to keep in mind that if the department can demonstrate that it took all reasonable steps to maintain the road, it may avoid liability and may not be required to pay you compensation.

If your claim is denied by us, there are **no avenues for appeal within the department**. If you think you have a strong legal case supporting your claim, your next step is to pursue it through the civil courts. If you think you have been dealt with unfairly with respect to the administrative process followed by the department and/or the standards of service provided to you, you can contact the **State Ombudsman** or the **Queensland Association of Independent Legal Service** who may investigate your complaint.

What happens if I make a claim?

The best way to submit a claim is to complete a **Claim Form** or provide us with all relevant **information in writing together with supporting documents or information**. Once we receive 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 us, 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 department or its contractors regarding the incident subject of your claim.

Advice for Minister for Transport and Main Roads

Subject: INPUT to MACKAY EO on behalf of
about the Mackay Ring Road

PI

Sch.4 Part 4 s.6 PI

Document ID: EE10527

- The Department of Transport and Main Roads (TMR) resumed part of the property owned by [Sch.4 Part 4 s.6 PI] on 12 August 2016 for the Mackay Ring Road Project. The area resumed was 3.851 hectares of an aggregated parent parcel of approximately [Sch.4 Part 4 s.6 PI]
- [Sch.4 Part 4 s.6 PI]
- [Exempt Sch.3(8)(1) Breach of confidence]
- [Exempt Sch.3(8)(1) Breach of confidence]
- Compensation is assessed in accordance with the *Acquisition of Land Act 1967* and case precedent. TMR always endeavours to negotiate fair and reasonable compensation with all landowners. In assessing compensation in this case, TMR has considered the impacts of the resumption and project works on the balance property and [PI]
- [Exempt Sch.3(8)(1) Breach of confidence]
- As the claim is now before the Land Court for its determination, it is not appropriate for TMR to comment or for third party intervention.
- The details of the [PI] claim and TMR's advance payments of compensation are confidential and not for disclosure.

Action Officer/Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Brad Chandler	Tony Philp	Julie Mitchell	Neil Scales
Executive Director (Strategic Property Management)	General Manager (Portfolio Investment and Programming)	Deputy Director-General (Policy, Planning and Investment)	Director-General
Tel: 3066 3752	Tel: 3066 3766	Tel: 3066 2245	Tel: 3066 7316
Date: 16 July 2020	Date: 20 July 2020	Date: 21 July 2020	Date: 22 July 2020

Action Taken Form

Subject: CAPALABA EO on behalf of Sch.4 Part 4 s.6 PI
about property damage claim and noise mitigation along Birkdale Road

Document ID: EE11118

- The Department of Transport and Main Roads (TMR) has investigated the enquiry from Sch.4 Part 4 s.6 PI about a property damage claim for a fence and noise mitigation along Birkdale Road.
- On 10 November 2020, Mr Simon Denny, Project Officer from TMR's Metropolitan Region contacted PI and advised her that TMR does not contribute to the construction and maintenance of boundary fences on state-controlled roads. PI was advised that information regarding noise mitigation on Birkdale Road would be sent to her email address.
- PI accepted TMR's position and was happy to receive an email providing the noise barrier information in due course.
- The requested information was emailed to PI on 12 November 2020 (**Attachment 1**).

Contact officer details:

Name:	Simon Denny
Position:	Project Officer
Telephone:	3066 6758
Date:	11 November 2020

Approved by:

Name:	Dan Johnson
Position:	A Deputy Regional Director (Metropolitan)
Telephone:	3066 1427
Date:	16 November 2020

Approval by:

Name:	Fiona Lee
Position:	Principal Advisor (Office of the General Manager)
Telephone:	3066 9604
Date:	17 November 2020

Released under RTI - DTMR

No Further Action (NFA)

Subject: COOMERA EO on behalf of Sch.4 Part 4 s.6 PI **about
windscreen damage – Queensland Police Service referral**

Document ID: DLO5894

- On 9 March 2022, the Advice for Minister prepared under DLO5894 was rejected by the Office of the Deputy Director-General (Infrastructure Management and Delivery), to be NFA'd and to be replaced with an Advice for Office of the Director-General under a DBN profile.
- An Advice for Office of the Director-General is progressing under DBN17705.
- No further action is required for DLO5894.

Action Officer/ Approved by:	Endorsed by OGM	Endorsed by DDG (if required)	Endorsed by DG (If required)
Paul Noonan	Fiona Lee		
Regional Director (South Coast)	Principal Advisor (Office of the General Manager)		
Tel: 5563 6522	Tel: 3066 9604	Tel:	Tel:
Date: 14 March 2022	Date: 17 March 2022	Date:	Date:

Advice for Minister for Transport and Main Roads

Subject: BARRON RIVER EO – on behalf of Sch.4 Part 4 s.6 PI
PI **about damage caused by the Cairns Western Arterial Road – Harley Street intersection upgrade**

Document ID: EE11338

- The Department of Transport and Main Roads (TMR) is upgrading the Cairns Western Arterial Road (CWAR) – Harley Street intersection.
- The works involve the use of construction equipment, which may temporarily cause noise and vibration. The project is expected to be complete in early 2021, weather permitting.
- The contractor has undertaken extensive testing of its construction equipment and practices to ensure the level of vibration is in line with the relevant Australian and international standards so as not to cause damage to property.
- The process to make a claim for property damage can be found on the Queensland Government website at www.qld.gov.au then click on (1) 'Transport and motoring', (2) 'Road conditions and updates' (3) 'Reporting road conditions' then (4) 'Make a claim for property damage'.
- Dilapidation surveys were undertaken at properties adjacent to the project. Dilapidation surveys were not undertaken for properties in Staghorn Close due to their distance from the project.

Action Officer/Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Sanjay Ram	Patrick Dennehy	Amanda Yeates	Neil Scales
Regional Director (North Queensland)	A/General Manager (Program Delivery and Operations)	Deputy Director-General (Infrastructure Management and Delivery)	Director-General
Tel: 4421 8743	Tel: 3066 1457	Tel: 3066 7118	Tel: 3066 7316
Date: 10 December 2020	Date: 14 December 2020	Date: 15 December 2020 – Progressed under A/GM approval	Date: 15 December 2020

EE11338

Advice for Minister for Transport and Main Roads

Subject: BARRON RIVER EO about reimbursement for damage to vehicles from pothole at intersection of Captain Cook Highway and Cairns Western Arterial Road

Document ID: EE12283

- The Department of Transport and Main Roads (TMR) Far North district received significant rainfall from 18 to 22 April 2021.
- Repairs to a pothole on the Captain Cook Highway, on the southern approach to the existing Avondale Creek bridge, were first carried out between 9 am and 11 am on Tuesday 20 April 2021, after being observed by road crews. The pothole was monitored throughout the day.
- Early morning on Wednesday 21 April 2021, a second pothole was observed adjacent to the patch. A road crew was dispatched immediately to carry out repairs and a section of the northbound lane was temporarily closed at 7.20 am. After the pothole was repaired, a track mat was installed over it to provide additional protection, given the ongoing wet weather. The repairs were completed and the lane was re-opened at 9.30 am.
- TMR aims to repair potholes within 24 hours for emergency situations and, if circumstances prevent repairs being carried out immediately, signage is installed to alert motorists of the hazard.
- TMR has a process where members of the public can submit a claim for compensation for damage to property (motor vehicles) they believe is caused by TMR.
- Complainants are required to complete and submit a Notice of Incident and Claim – Property Damage form.
- For TMR's Far North district, forms can be requested by emailing cairns.office@tmr.qld.gov.au.

Action Officer/Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Sanjay Ram	Les Dunn	Amanda Yeates	Neil Scales
Regional Director (North Queensland)	General Manager (Program Delivery and Operations)	Deputy Director-General (Infrastructure Management and Delivery)	Director-General
Tel: 4421 8743	Tel: 3066 5498	Tel: 3066 7118	Tel: 3066 7316
Date: 27 April 2021	Date: 30 April 2021	Date: bypassed	Date: 30 April 2021

Advice for Minister for Transport and Main Roads

Subject: MANSFIELD EO on behalf of

Sch.4 Part 4 s.6 PI

PI

about compensation based on bad traffic signage

Document ID: EE12493

- The Department of Transport and Main Roads (TMR) can advise Newnham Road and Wecker Road, Mount Gravatt East, are owned and operated by Brisbane City Council (BCC).
- TMR advises this matter should be redirected to BCC for its consideration and response.
- A map showing the location of state roads in relation to local roads can be found on TMR's website at www.tmr.qld.gov.au by clicking on (1) 'Travel and transport' (2) 'Maps and guides' (3) 'State-controlled roads and regions' and (4) 'Metropolitan District map'.
- The *QLD Traffic* website at <https://qldtraffic.qld.gov.au> is a resource to help find roads that fall under state control, check road closures, traffic conditions, incidents, crashes, events and view traffic camera feeds. TMR has recently added a new feature to its *QLD Traffic* website, 'Road Lookup'.
- The 'Road Lookup' feature allows users to enter a road name (using a Google Maps search), which provides the relevant road owner and contact details.
- 'Road Lookup' is accessible at <https://qldtraffic.qld.gov.au/lookup.html>. The *QLD Traffic* website can also be accessed via TMR's website's 'Contact us' page at www.tmr.qld.gov.au/About-us/Contact-us.

Action Officer/Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Jack Ryan	Les Dunn	Amanda Yeates	Neil Scales
Deputy Regional Director (Metropolitan)	General Manager (Program Delivery and Operations)	Deputy Director-General (Infrastructure Management and Delivery)	Director-General
Tel: 0457 517 803 Date: 3 June 2021	Tel: 3066 5498 Date: 4 June 2021 – progressed under DRD endorsement	Tel: 3066 7118 Date: 4 June 2021 - Progressed under DRD endorsement	Tel: 3066 7316 Date: 4 June 2021

EE12493

Advice for Minister for Transport and Main Roads

Subject: MORAYFIELD EO on behalf of Sch.4 Part 4 s.6 PI
about a traffic infringement on Old Gympie Road at Narangba

Document ID: EE12416

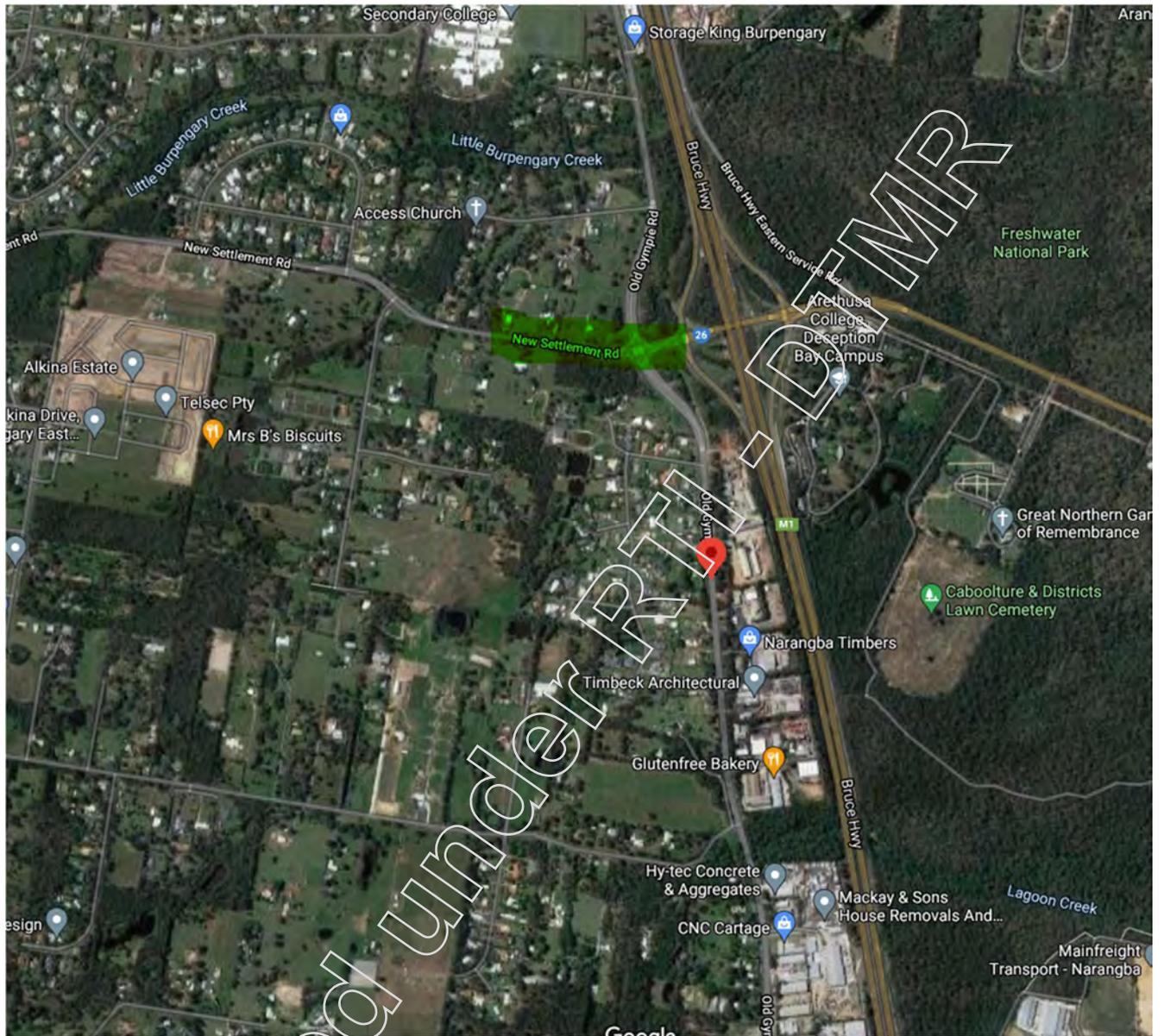
- Your office has requested advice to respond to the Morayfield Electorate Office about a claim against Sch.4 Part 4 s.6 PI after he crashed into a light pole on Old Gympie Road at Narangba. Based on the incoming enquiry, the Department of Transport and Main Roads (TMR) understands the incident took place on 4 May 2020.
- Old Gympie Road at Narangba falls under the jurisdiction of Moreton Bay Regional Council (MBRC). A location map is at **Attachment 1**.
- TMR has no record of an outstanding claim against Sch.4 Part 4 s.6 PI
- On 11 May 2021, TMR attempted to phone PI for further information, such as a TMR reference number, to identify a claim. However, TMR was not able to make contact with PI at the time.
- Should PI believe the claim originated from TMR, he is encouraged to contact TMR's Finance team in Maroochydore by telephoning 5451 7055 and advising the reference number located on the claim notice.

Background information

- Old Gympie Road is partly owned by TMR and partly owned by MBRC. The section of Old Gympie Road to the north of the New Settlement Road/Deception Bay Road intersection falls under TMR's jurisdiction. The section to the south of this intersection falls under MBRC's jurisdiction.

Action Officer/Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Scott Whitaker	Les Dunn	Amanda Yeates	Neil Scales
Regional Director (North Coast)	General Manager (Program Delivery and Operations)	Deputy Director-General (Infrastructure Management and Delivery)	Director-General
Tel: 5451 7071	Tel: 3066 5498	Tel: 3066 7118	Tel: 3066 7316
Date: 14 May 2021	Date: 17 May 2021	Date: progressed under GM(PDO) endorsement	Date: 18 May 2021

EE12416 Attachment 1 – Location Map



Advice for Minister for Transport and Main Roads

Subject: GYMPIE EO about property damage from pothole on Tin Can Bay Road

Document ID: EE11353

- On 13 October 2020, Gympie Regional Council (GRC) forwarded a property damage claim from [Sch.4 Part 4 s.6 PI] to the Department of Transport and Main Roads (TMR), involving a pothole on Tin Can Bay Road on 8 October 2020 (**Attachment 1**).
- On 14 October 2020, TMR contacted [Sch.4 Part 4 s.6 PI] requesting that he provide more details regarding the incident and complete a claim form to be returned to TMR, as soon as practicable (**Attachment 2**).
- On 17 October 2020, [PI] provided a completed claim form (**Attachment 3**) detailing the incident.
- Upon review of the claim form, TMR determined that the incident occurred on a section of Tin Can Bay Road that is maintained by GRC under TMR's Road Maintenance Performance Contract (RMPC).
- Under the RMPC, GRC is to indemnify TMR against liability for any claims arising out of, or because of the performance of the contract.
- On 19 October 2020, TMR referred this matter back to GRC for investigation and response. [PI] has been advised that GRC is responsible for investigating the claim (**Attachment 4**).
- It is understood that GRC denied [PI] claim.
- TMR considers this matter closed.

Action Officer/Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Ross Hodgman	Les Dunn	Amanda Yeates	Neil Scales
A/Regional Director (Southern Queensland)	General Manager (Program Delivery and Operations)	Deputy Director-General (Infrastructure Management and Delivery)	Director-General
Tel: 4639 0890	Tel: 3066 5498	Tel: 3066 7118	Tel: 3066 7316
Date: 22 December 2020	Date: 24 December 2020	Date:	Date:

From: [TMR Wide Bay Burnett](#)
To: [Tennille M Nagas](#)
Cc: [Sheree Martin](#)
Subject: Gympie Regional Council - Customer [redacted] PI Motor Vehicle Damage Claim Referral - Vehicle Damage Claim - 08/10/2020 - [redacted] PI Tin Can Bay Road - Tin Can Bay - Damaged tyre rim & faulty light on dash
Date: Wednesday, 14 October 2020 9:24:41 AM
Attachments: [image001.png](#)
[MANWARING Notice of Incident 09102020.pdf](#)
[IMG-0705.MOV](#)

Kind regards

Monica Kaufusi
Program Administration Officer | Southern Queensland Region
Program Delivery and Operations | Infrastructure Management and Delivery | Department of Transport and Main Roads

Floor 1 | Bundaberg Main Roads Building | 23 Quay Street Bundaberg Qld 4670
Locked Bag 486 | Bundaberg Qld 4670
(07) 4154 0200 | F: (07) 4152 3878
bundaberg.office@tmr.qld.gov.au
www.tmr.qld.gov.au

From: Julie Austin <julie.austin@gympie.qld.gov.au>
Sent: Tuesday, 13 October 2020 4:43 PM
To: TMR Wide Bay_Burnett <bundaberg.office@tmr.qld.gov.au>
Subject: Motor Vehicle Damage Claim Referral Our Ref: RI2020-0096 [redacted] PI

Good Afternoon,

Gympie Regional Council has received a request for compensation for a motor vehicle allegedly damaged on Tin Can Bay / Gympie Road, Tin Can Bay.

As this is a DTMR-controlled road, please find attached the claims information submitted by the claimant, [redacted] PI for your attention.

Kind regards
Julie

Julie Austin
Officer/Insurance and Project Support

GRC_cmyk_linear

Gympie Regional Council
Address (PO Box 155)
Gympie Qld 4570
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julie.austin@gympie.qld.gov.au
www.gympie.qld.gov.au

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This message has been scanned for malware by Forcepoint. www.forcepoint.com

Released under RTI - DTMR

Tayla A Weekes

From: Tennille M Nagas
Sent: Monday, 19 October 2020 1:24 PM
To: council@gympie.qld.gov.au
Subject: [REDACTED] PI - Vehicle Damage Claim - [REDACTED] PI - 08/10/2020 - Tin Can Bay Rd - Tyre & rim damage
Attachments: Vehicle Damage Claim - [REDACTED] PI pdf; IMG-0707.JPG; IMG-0706.JPG; IMG-0704.JPG; IMG-0703.JPG; IMG-0705.MOV

Attention: Vehicle Damage Claims Officer

Dear Sir

Claim for Vehicle Damage that Occurred on the Tin Can Bay Rd on 8 October 2020

This office has received an email for vehicle damage from [REDACTED] PI in respect of damage to his property.

As it appears the incident occurred on a section of the Tin Can Bay Rd maintained by Gympie Regional Council under the current Road Maintenance Performance Contract, I formally refer this claim to Gympie Regional Council for investigation.

I take this opportunity to remind you of your obligations under the contract your organisation has with the Department of Transport and Main Roads, to indemnify the department against liability for any claims arising out of, or as a consequence of the performance of the contract.

I have provided the claimant with your contact details and advised him, Gympie Regional Council will investigate the claim and respond to him direct. Please send a copy of your final reply to this office for file.

Thank you for your assistance in this matter.

Kind regards

Tennille Nagas

Program Support Coordinator | **Southern Queensland Region**

Program Delivery and Operations | Infrastructure Management and Delivery | Department of Transport and Main Roads

Ground Floor | 23 Quay Street | Bundaberg Qld 4670

Locked Bag 486 | Bundaberg Qld 4670

(07) 4154 0289 | F: (07) 4152 3878

tennille.m.nagas@tmr.qld.gov.au

www.tmr.qld.gov.au



Advice for Minister for Transport and Main Roads

Subject: PUMICESTONE EO on behalf of [Sch.4 Part 4 s.6 PI]
about vehicle damage on Peel Road, Ningi

Document ID: EE12495

- Your office has requested advice to respond to the Pumicestone Electorate Office on behalf of [Sch.4 Part 4 s.6 PI] about vehicle damage which occurred on Peel Road, Ningi.
- The Department of Transport and Main Roads (TMR) is currently undertaking rehabilitation and resurfacing works on Caboolture–Bribie Island Road between Peel Road and Bestmann Road West roundabout (**Attachment 1**).
- Works commenced on 7 April 2021 and are expected to be completed by late May 2021, weather and construction conditions permitting.
- [PI] telephoned TMR's North Coast Region at 4.14 pm on 14 May 2021 to report damage to her vehicle. [PI] had parked her car at [Sch.4 Part 4 s.6 PI] on Peel Road. When she returned that afternoon, she noticed that her vehicle had bitumen stuck to the body and wheels, making it undriveable.
- Following this phone call, vehicle damage claim forms were emailed to [PI] from TMR's North Coast Region.
- TMR's contractor for the works was advised of the vehicle damage, and its Project Manager telephoned [PI] on 14 May 2021 and attended her residence later that evening to clean the bitumen from her vehicle so it could be safely driven.
- TMR's contractor then organised to have [Sch.4 Part 4 s.6 PI] [PI] and booked it in for cleaning and repairs in mid-June 2021. Unfortunately, due to the current demands for car detailing and dent removal services as a result of recent hailstorms on the Sunshine Coast, [Sch.4 Part 4 s.6 PI] [Sch.4 Part 4 s.6 PI] [PI] advised the contractor she would attempt to find another provider to see if her vehicle could be cleaned any sooner. TMR's contractor will cover the cost of detailing [PI] vehicle once quotes for this work are provided to them through TMR's vehicle damage claim process.

Action Officer/Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Leah McKenzie	Les Dunn	Amanda Yeates	Neil Scales
Deputy Regional Director (North Coast)	General Manager (Program Delivery and Operations)	Deputy Director-General (Infrastructure Management and Delivery)	Director-General
Tel: 5451 7070	Tel: 3066 5498	Tel: 3066 7118	Tel: 3066 7316
Date: 21 May 2021	Date: 24 May 2021	Date:	Date:

EE12495

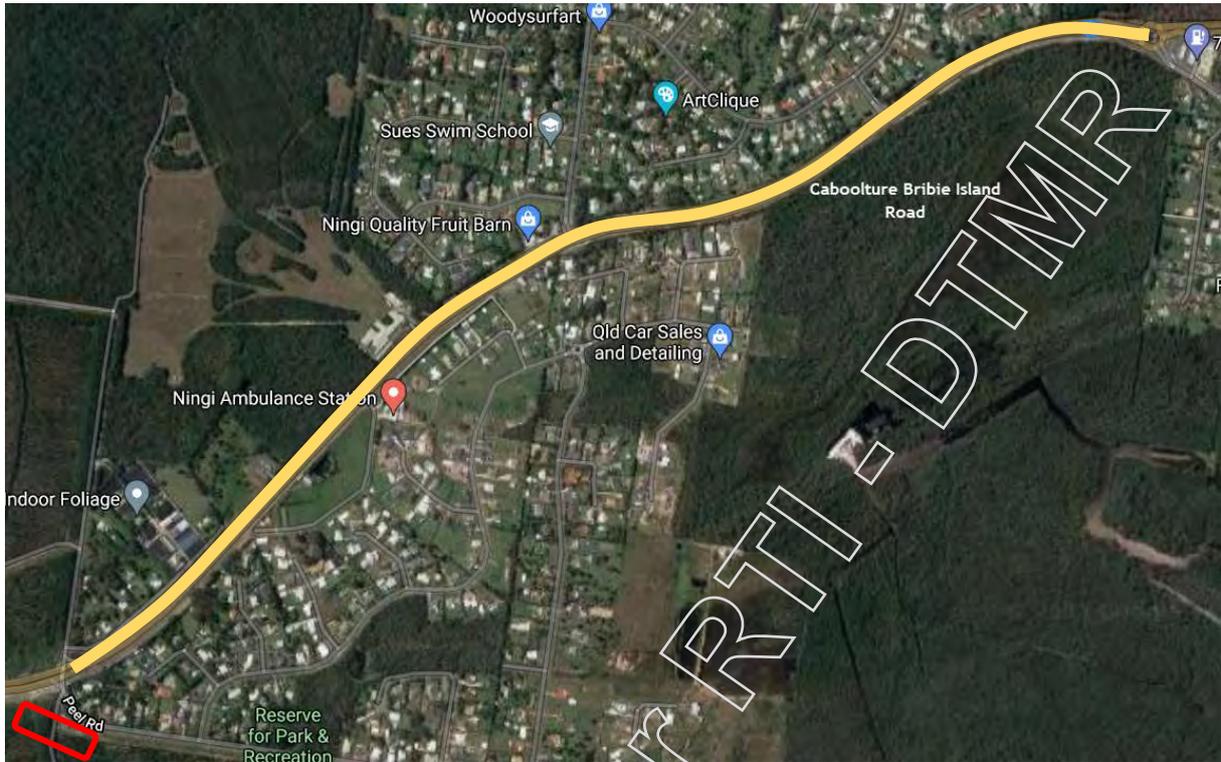
Additional information – internal use only

- The area where the vehicle damage occurred was not in the work zone on Caboolture–Bribie Island Road but on the stockpile adjacent to the forestry access (**Attachment 1**).
- Members of the public should be discouraged from using this area to park vehicles as machinery, materials and equipment from TMR and Moreton Bay Regional Council projects are sometimes informally stored in this location.
- TMR is investigating the source of bitumen spill and will take appropriate action under the contract to manage non-conformances.

EE12495 – Attachment 1

Caboolture Bribie Island Road work zone 

Area where damage occurred 



Action Taken Form

Subject: MACKAY EO on behalf of [Sch.4 Part 4 s.6 PI] about Mackay Northern Access Upgrade – alleged damage to vehicle

Document ID: EE12666

- [Sch.4 Part 4 s.6 PI] contacted the Department of Transport and Main Roads' (TMR) Mackay/Whitsunday District office at approximately 12.30 pm on 2 June 2021 and was transferred to Ms Leesa Fitzgerald, Program Support Officer.
- [PI] advised she had travelled through the Mackay Northern Access Upgrade project roadworks on the Bruce Highway and Mackay–Bucasia Road intersection at around [PI] and suggested a section of the road had been cut out and filled incorrectly, leaving an edge.
- [PI] advised her car had been damaged as she travelled this section of road.
- [Sch.4 Part 4 s.6 PI]
- [Sch.4 Part 4 s.6 PI] which made it necessary for Ms Fitzgerald to terminate the call.
- Representatives from the TMR Mackay/Whitsunday District office further liaised with [PI] on 2 June 2021 and her enquiry was referred to CPB Contractors, who manage the construction of the project and associated damage claims.
- [Sch.4 Part 4 s.6 PI] Community Engagement Officer, CPB Contractors, confirmed with TMR that she liaised with [PI] on 3 June 2021 to discuss her claim.
- An email was sent to [PI] from CPB Contractors on 3 June 2021 with damage claim forms. The email reiterated CPB Contractors' process for vehicle damage claims, which can take up to four weeks to complete.
- On 8 June 2021, [PI] submitted all completed damage claim forms in person to the TMR Mackay/Whitsunday District Office. These forms were forwarded to CBP Contractors on the same day for processing.

Contact officer details:

Name:	Emma Rix
Position:	Communications Advisor, Mackay/Whitsunday District
Telephone:	4951 8614
Date:	9 June 2021

Approved by:

Name:	Dave Grosse
Position:	Regional Director (Central Queensland)
Telephone:	4931 1501
Date:	9 June 2021

Approved by:

Name:	Fiona Lee
Position:	Principal Advisor (Office of the General Manager)
Telephone:	3066 9604
Date:	10 June 2021

Released under RTI - DTMR

Action Taken Form

Subject: Noosa Electorate Office – Refund for damaged personalised plates – Sch.4 Part 4 s.6 PI

Document ID: EE12774

- Ms Sheryl McCarthy, Senior Advisor (Service Management) telephoned PI Sch.4 Part 4 s.6 PI on 22 and 23 June 2021 about his request for refund for damaged personalised plates however no response was received, and a message was left.
- Ms Kristen Jensen, Manager, Gympie Customer Service Centre sent an email to PI on 23 June 2021 (**Attachment 1**) advising the claim was not eligible. PI

Contact officer details:

Name:	Sheryl McCarthy
Position:	Senior Advisor (Service Management)
Telephone:	5482 0334
Date:	23 June 2021

Approved by:

Name:	Steve Beck
Position:	Regional Director (Southern)
Telephone:	4639 0718
Date:	23 June 2021

DD-G Approval details (If applicable):

Name:	Mike Stapleton
Position:	Deputy Director-General (Customer Services, Safety and Regulation)
Telephone:	3066 7222
Date:	June 2021

Released under RTI - DTMR

Action Taken Form

Subject: SANDGATE EO on behalf of Sch.4 Part 4 s.6 PI
Sch.4 Part 4 s.6 PI **of** Sch.4 Part 4 s.6 PI **about**
compensation claim

Document ID:	EE12548
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- On 20 October 2020, the customer contacted Metropolitan Claims, Department of Transport and Main Roads (TMR) and submitted a Claim Form for damage to their property.
- On 1 December 2020, the customer was able to place a dollar value of \$61,587.05 on the claim.
- Due to the amount of the claim it was decided that TMR would refer the matter to its insurer, the Queensland Government Insurance Fund (QGIF).
- On 5 January 2021, TMR notified QGIF of the pending insurance claim and QGIF confirmed that it would provide TMR with an indemnity in relation to this matter.
- QGIF advised it would appoint YDR Assessors a (loss adjuster) to conduct an investigation and liaise with the customer to obtain copies of supporting information and reports.
- On 18 January 2021, QGIF advised TMR that on the initial review of the information, YDR Assessors has advised there is a likely liability exposure and they have appointed Booth Engineers and Associates.
- On 22 January 2021, Booth Engineers attended the customer's address.
- TMR has been assisting QGIF with questions regarding maintenance of the trees behind the customer's property, the tree root barrier system and the complaints TMR has received from the customer previously.
- TMR is waiting for QGIF to reach a decision regarding when the claim would be paid.
- TMR is regularly seeking updates from QGIF and regularly providing updates to the customer with the latest being on 21 May 2021.

Contact officer details:

Name:	Tony King
Position:	Program Support Co-ordinator, Metropolitan Region
Telephone:	3066 4356
Date:	25 May 2021

Approved by:

Name:	Cheyenne Harper
Position:	Regional Business Manager, Metropolitan
Telephone:	3066 9125
Date:	27 May 2021

Approved by:

Name:	Fiona Lee
Position:	Principal Advisor (Office of the General Manager)
Telephone:	3066 9604
Date:	10 June 2021

Released under RTI - DTMR

Advice for Minister for Transport and Main Roads

Subject: LOGAN EO on behalf of [Sch.4 Part 4 s.6 PI] **about a vehicle damage claim**

Document ID: EE12821

- The Department of Transport and Main Roads' (TMR) North Coast Region received [Sch.4 Part 4 s.6 PI] Notice of Incident and Claim – Property Damage (claim) application on 6 May 2021 (**Attachment 1**).
- TMR's North Coast Region sent a claim acknowledgement email to [PI] on 22 June 2021.
- TMR endeavours to respond to claims for compensation as soon as possible, and this usually takes between four to six weeks, depending on the volume of overall enquiries being handled.
- Unfortunately, this application was delayed due to high volumes of maintenance requests received by TMR's North Coast Region. TMR has endeavoured to rectify any frustration caused by the delay by fast-tracking the claim application from [PI]
- An assessment of [PI] application commenced on 22 June 2021 and the claim was referred to TMR's contractor, Downer EDI Works Pty Ltd (Downer), on 24 June 2021 for immediate assessment and direct reply.
- TMR's North Coast Region emailed [PI] on 24 June 2021 advising that the matter had been referred to Downer for assessment and direct reply.
- Downer has acknowledged receipt of the claim and advised that [Sch.4 Part 4 s.6 PI] Community Relations Officer North Coast, Downer, spoke with [Sch.4 Part 4 s.6 PI] [Sch.4 Part 4 s.6 PI] about the application on 25 June 2021. [Sch.4 Part 4 s.6 PI] advised that during this phone conversation, it was discussed that an investigation was underway with a commitment (from Downer) to provide an outcome to [Sch.4 Part 4 s.6 PI] by the end of July 2021.
- As part of the referral process, TMR requests Downer provide a copy of the outcome to TMR's North Coast Region for its records.

Action Officer/Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Dimitri Scordalides	Les Dunn	Amanda Yeates	Neil Scales
A/Deputy Regional Director (North Coast)	General Manager (Program Delivery and Operations)	Deputy Director-General (Infrastructure Management and Delivery)	Director-General
Tel: 5475 2879	Tel: 3066 5498	Tel: 3066 7118	Tel: 3066 7316
Date: 30 June 2021	Date: 1 July 2021	Date:	Date:

EE12821

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Action Taken Form

Subject: STRETTON EO on behalf of [REDACTED] about damage caused by Department of Transport and Main Roads' land maintenance

Document ID: EE14299

- The Department of Transport and Main Roads (TMR) investigated the enquiry from Stretton Electorate Office on behalf of [REDACTED] Refuse Sch.4 Part 4 s.6 about vegetation maintenance on TMR land beside [REDACTED] (Attachment 1).
- On 9 February 2022, an officer from TMR's Metropolitan Region telephoned [REDACTED] PI and spoke to her partner, [REDACTED] PI and advised grass cutting and herbicide spray was completed the previous day on 8 February 2022.
- TMR also advised that records indicate the previous treatment at this location occurred on 4 November 2021, where both grass cutting and herbicide spraying was completed.
- TMR understands the concerns raised about the quality of work performed and will advise its contractors to avoid spraying chemicals into private property.
- The TMR officer provided contact details to [REDACTED] PI should he or [REDACTED] PI have any further concerns.

[REDACTED] Refuse Sch.4 Part 4 s.6 was satisfied with this outcome.

Contact officer details:

Name:	Darlene Owen
Position:	Communications Officer
Telephone:	3347 5233
Date:	9 February 2022

Approved by:

Name:	Jack Ryan
Position:	Deputy Regional Director (Metropolitan Region)
Telephone:	[REDACTED] Not Relevant
Date:	18 February 2022

Approved by:

Name:	Fiona Lee
Position:	Principal Advisor (Office of the General Manager)
Telephone:	3066 9604
Date:	21 February 2022

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Action Taken Form

Subject: ASPLEY EO on behalf of Refuse Sch.4 Part 4 s.6 PI **about damage caused to property from flooding on Department of Transport and Main Roads' land**

Document ID: EE14636

- On 14 April 2022, a Project Officer from the Department of Transport and Main Roads' (TMR) Metropolitan Region, telephoned PI to clarify his address and discuss the issue of water flowing into his property from TMR land at PI PI Aspley.
- PI confirmed his address is Refuse Sch.4 Part 4 s.6 PI (**Attachment 1**).
- The TMR officer advised PI that TMR would be undertaking the following course of action:
 - Once the ground has dried, TMR will undertake mowing and clear the worst of the long grass and weeds.
 - TMR will then undertake a level survey to see what remedial action can be done, if any, to improve the flow of water down to the creek to prevent future ponding issues.
- PI was also advised that this would not address future flooding as his property had been mapped by Brisbane City Council as being in a flood zone.
- PI was appreciative of the call and advised he is seeking independent hydraulic advice regarding the flooding.

Action Officer/ Approved by:	Endorsed by OGM	Endorsed by DDG (if required)	Endorsed by DG
Andrew Wheeler	Fiona Lee		Neil Scales
Regional Director (Metropolitan)	Principal Advisor (Office of the General Manager)		Director-General
Tel: 3066 5816	Tel: 3066 9604	Tel:	Tel: 3066 7316
Date: 22 April 2022	Date: 26 April 2022	Date:	Date: 26 April 2022

Released under RTI - DTMR

Action Taken Form

Subject: BUNDAMBA EO on behalf of Refuse Sch.4 Part 4 s.6 PI
about vehicle damage from roadworks off Brisbane Valley Highway into Randalls Road, Fernvale

Document ID: EE13137

- On 29 July 2021, Ms Georgie McCullagh, Communications Officer, North Coast Region, Department of Transport and Main Roads (TMR), telephoned PI PI about her enquiry via the Bundamba Electorate Office, requesting assistance for damage allegedly caused to her vehicle when travelling from the Brisbane Valley Highway onto Randalls Road at Fernvale.
- During the discussion, PI informed Ms McCullagh that she did not have an email address or access to a computer to complete an online vehicle damage claim.
- Ms McCullagh asked if PI could provide postal details for TMR to post a hard copy of the claim application. PI provided her postal address. Ms McCullagh advised PI that she would call her back to confirm the claim information had been posted.
- TMR North Coast Region's maintenance team prepared PI correspondence immediately and arranged postage on 29 July 2021. Copies of the correspondence sent to PI are attached (**Attachment 1** and **Attachment 2**).
- Ms McCullagh telephoned PI again on 29 July 2021 to confirm the claim application had been posted.
- PI was very appreciative of TMR's assistance.
- No further correspondence action is required at this time.

Contact officer details:

Name:	Georgie McCullagh
Position:	Communications Officer
Telephone:	5451 9291
Date:	30 July 2021

Approved by:

Name:	Jasmine Neilson
Position:	Senior Communications Advisor
Telephone:	5451 7046
Date:	3 August 2021

Approved by:

Name:	Fiona Lee
Position:	Principal Advisor (Office of the General Manager)
Telephone:	3066 9604
Date:	5 August 2021

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Notice of Incident and Claim - Property Damage

Complete this form if you wish to claim for property damage or loss you believe to be the result of the negligent actions or omissions of the Department of Transport and Main Roads and/or its contractors. If you believe you have sustained personal injuries as a result of this incident, you should not complete this form. You should seek independent legal advice as time limits may apply.

This form is set out in five parts:

Part A - provides important privacy information.

Part B - provides space for you to set out information about the circumstances of the incident.

Part C - provides space for you to set out details of any claim for damages you may wish to make against the department.

Part D - provides important information about disclosure of information to other organisations.

Part E - is a Statutory Declaration.

If you only wish to report an incident but do not intend to make a claim for damages against the department, you should contact us on 131 940.

Part A - Privacy statement

The information disclosed by you in the Notice of Incident and Claim - Property Damage, may be used to investigate the incident, consider and respond to a claim (including in the course of legal proceedings), to take any necessary remedial action in respect of the road and/or road infrastructure and for the purpose of analysing accidents and planning and implementing road management and safety measures. We may disclose any information you provide to our insurers and advisers, including investigators and legal advisers, and to any other organisation we consider might have responsibility in respect of this incident. You have a right of access to information we collect about you. For further information, contact the Information Privacy team on contact:ti@tmr.qld.gov.au.

Part B - Notice of incident

Note - this report should be received within 30 days from the date of the incident.

Details of person or company reporting incident, and if applicable, proposing to make a claim.

Company name (if applicable)

ABN (if applicable)

Full name

Residential/Business address

Postcode

Postal address (if different from above)

Postcode

Telephone number

Facsimile number

Email

Vehicle registration

Vehicle make

Continued next page ...

Details of the incident

Date / /	Time (am/pm)	Road conditions (e.g. dry, wet, dark, etc.)	Weather conditions at time of incident (e.g. raining, sunny, dark, dry, wet, etc.)
-------------	--------------	------------------------------------------------	---------------------------------------------------------------------------------------

Road name	Locality (city/suburb/town)
-----------	-----------------------------

Map reference (if applicable, detail map and grid reference)	Traffic direction (north, south, east, west)
--------------------------------------------------------------	----------------------------------------------

Nearest intersection	Distance to intersection (metres or kilometres)
----------------------	-------------------------------------------------

Direction of nearest intersection (north, south, east, west)	List any road infrastructure or other infrastructure involved (traffic light, signs, fences, poles, etc.)
-----------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------

Was the road infrastructure or other infrastructure damaged as a result of this incident?

Yes No

If 'yes', please provide the name of the company or organisation responsible for the infrastructure (if known). (e.g. gas company, water company, electricity company, etc.)

Description of incident

Large text area for describing the incident, containing horizontal lines for writing.

Released under RTI - DIMR

Continued next page ...

Notice of Incident and Claim - Property Damage continued ... page 3 of 6

In your opinion, was your vehicle or other property damaged due to the condition of the road or road infrastructure or other infrastructure?

Yes No

If 'yes' please provide a description of the damage to the property (including motor vehicles)

Please sketch the incident scene using X to mark your vehicle and Y1, Y2 etc. to mark other vehicles. To the best of your ability, please include street names, line markings, traffic signals, relevant infrastructure within the road reserve and direction vehicle(s) are travelling.

<p style="text-align: center; font-size: 2em; opacity: 0.3; transform: rotate(-45deg);">Released under RTI - DTMR</p>

Continued next page ...

Notice of Incident and Claim - Property Damage continued ... page 4 of 6

Was the incident reported to the police?

Yes No

If 'yes', please provide the following details. Attach copies of any police reports you have.

Name

Station

Date reported

Were there any witnesses to the incident?

Yes No

If 'yes', please provide the following details

Witness 1: full name

Address

Witness 2: full name

Address

Are you proposing to make a claim for damages against the department?

Yes No

If 'yes', please complete Part C - Notice of claim

Part C - Notice of claim

Please note - should the department accept your claim, photos of damage and either two quotes for repair, or a copy of the paid tax invoice will be required.

Describe the property damaged including, if a motor vehicle, the make and model of the motor vehicle

The amount of the claim (\$) \$

Detail how this amount is calculated

Please state why you believe the department is responsible

Other Information - Insurance

Will you be making, or have you made, an insurance claim?

Yes No

If 'yes', please provide the name and address of the insurer and the insurance policy or claim number.

Continued next page ...

Part D - Disclosure of information

Important notice

The department may not be the organisation responsible for the road or the infrastructure or the incident. We may need to send details of your claim (including any personal or commercially sensitive information we obtain in relation to the claim) to another organisation so that it can:

- investigate the incident
- consider any claim for compensation, including any legal proceedings against them
- enable remedial action to be taken (if necessary) in relation to the road and/or infrastructure
- gather information for the analysis of the causes of accidents and the planning and implementation of road management and safety measures.

By signing the statutory declaration below you consent to disclosure of this Notice of Incident and Claim - Property Damage form and any other information that is obtained by the department in respect of the claim to any person or organisation we consider may be responsible for this incident.

Part E – Statutory Declaration

**Oaths Act 1867
Statutory Declaration**

**QUEENSLAND
TO WIT**

I, ,

of ,

in the State of Queensland do solemnly and sincerely declare that:

1. All the information contained in this Notice of Incident and Claim - Property Damage form 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 the department and have not withheld any relevant information.
3. Any attached quotation for repairs has been prepared for the sole purpose of repairing any damage directly resulting from the incident as described in this Notice of Incident and Claim form.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act*.

Declarer

Witnessed by a Justice of the Peace or Commissioner for Declarations -

Taken and declared before me at

this day of .

Where to send your Notice of Incident and Claim – Property Damage form

Department of Transport and Main Roads

Region	Office	Current district email address	Postal Address
South Coast	Gold Coast	southcoast@tmr.qld.gov.au	PO Box 442 NERANG QLD 4211
Metropolitan	Brisbane	metropolitan.claims@tmr.qld.gov.au	PO Box 70 SPRING HILL QLD 4004
North Coast and Wide Bay	Maroochydore	northcoast@tmr.qld.gov.au	PO Box 1600 MAROOCHYDORE QLD 4558
	Bundaberg	bundaberg.office@tmr.qld.gov.au	Locked Bag 486 BUNDABERG QLD 4670
Downs South West	Roma	SouthWest.office@tmr.qld.gov.au	PO Box 126 ROMA QLD 4455
	Toowoomba/Warwick	downsswr.office@tmr.qld.gov.au	Locked Bag 1 WARWICK QLD 4370
Central Queensland	Rockhampton	FitzroyDistrict@tmr.qld.gov.au	PO Box 5096 RED HILL ROCKHAMPTON QLD 4701
	Mackay	Mackay.office@tmr.qld.gov.au	PO Box 52 MACKAY QLD 4740
	Barcaldine	Barcaldine.office@tmr.qld.gov.au	PO Box 3 BARCOLDINE QLD 4725
North Queensland	Townsville	engagement.northern@tmr.qld.gov.au	PO Box 1089 TOWNSVILLE QLD 4810
	Cairns	Cairns.office@tmr.qld.gov.au	PO Box 6185 CAIRNS QLD 4870
	Cloncurry	cloncurry.office@tmr.qld.gov.au	PO Box 338 CLONCURRY QLD 4824

Released under RTI

Advice for Minister for Transport and Main Roads

Subject: LOGAN EO on behalf of [Redacted] about the outcome of a vehicle damage claim

Refuse Sch.4 Part 4 s.6 PI

Document ID: EE13559

- Your office has requested further advice to respond to Mr Linus Power MP, Member for Logan, about the outcome of a vehicle damage claim for [Redacted]. Earlier information on this matter was provided via EE12821 (**Attachment 1**).
- [Redacted] PI Notice of Incident and Claim – Property Damage (claim) application was received by the Department of Transport and Main Roads' (TMR) North Coast Region on 6 May 2021 (**Attachment 2**).
- [Redacted] PI reported that her vehicle hit a pothole on 21 March 2021 when travelling in [Redacted] of the D'Aguiar Highway [Redacted]. [Redacted] PI (**Attachment 3**).
- TMR North Coast Region referred the claim to the contractor who is responsible for pavement maintenance under the Road Asset Management Contract between TMR and Downer EDI Works Pty Ltd (Downer). As advised to [Redacted] PI on 22 June 2021 (**Attachment 4**), under the terms of the contract, the contractor is required to indemnify TMR for this type of claim. TMR referred [Redacted] PI claim to Downer for its attention on 24 June 2021.
- Downer advised it received reports of potholes on the D'Aguiar Highway at the on-ramp to the Bruce Highway late on 22 March 2021. Downer advised it responded to the reports with repairs being carried out that same day and the next day.
- On 20 August 2021, Downer provided a response to [Redacted] PI advising it does not consider it is liable for the damage caused to [Redacted] PI vehicle (**Attachment 5**).
- Following the receipt of [Redacted] PI email dated 7 September 2021 (**Attachment 6**), TMR referred the claim back to Downer to reconsider on 17 November 2021.
- On 25 November 2021, Downer confirmed to Mr Scott Whitaker, Regional Director (North Coast), TMR, that a letter was sent to [Redacted] PI in the week commencing 22 November 2021 to negotiate the terms of compensation payment for the vehicle damage claim.

Action Officer/Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Scott Whitaker	Les Dunn	Amanda Yeates	Neil Scales
Regional Director (North Coast)	General Manager (Program Delivery and Operations)	Deputy Director-General (Infrastructure Management and Delivery)	Director-General
Tel: 5451 7071	Tel: 3066 5498	Tel: 3066 7118	Tel: 3066 7316
Date: 30 November 2021	Date: 2 December 2021	Date:	Date: 2 December 2021

- This matter is now referred to Downer for action and closure.
- Road safety is TMR's highest priority, and TMR's crews and contractors regularly patrol the state-controlled road network to identify safety hazards. Unfortunately, some hazards, such as potholes, may occur outside of these patrols.
- It is acknowledged that periods of heavy and extended rain mean potholes can form quickly and this impacts the road network, as well as the associated maintenance activity. Potholes are filled at priority locations as soon as it is safe and practical, and further repairs are programmed where needed.
- Road conditions can change quickly due to a variety of factors, such as weather. TMR encourages all road users to exercise good judgement and drive safely to the prevailing conditions. Motorists are also encouraged to report potholes or hazards on state-controlled roads by calling 13 19 40.
- Additional information about making a claim for property damage is available from the Queensland Government website at www.qld.gov.au/transport/conditions/report/claim.

Background – Confidential

- While the electorate office may already have copies of the correspondence attachments contained in this advice document from [PI] as attached to the incoming enquiry), TMR has included the attachments in this document **for internal use only**. TMR recommends that they are not sent externally to the electorate office as part of the response.

Released under RTI - DTMR

Advice for Minister for Transport and Main Roads

Subject: MACKAY EO on behalf of [PI] Refuse Sch.4 Part 4 s.6 PI about damage to home from Mackay Northern Access Upgrade works

Document ID: EE14648

- [PI] property is located at [PI] (**Attachment 1**), and was identified during the pre-construction phase of the Mackay Northern Access Upgrade (MNAU) to be indirectly impacted by the project.
- The MNAU project team has been engaging with [PI] about various matters for the duration of the main construction phase, which began in April 2020.
- The Department of Transport and Main Roads (TMR) was made aware of [PI] concerns about the alleged impact of vibration associated with construction on her property in November 2020 and referred this enquiry to the principal construction contractor, CPB Constructions (CPB), the same month.
- CPB received a request for property damage and claim forms from [PI] and was provided with this documentation and claims process instructions in March 2021.
- [PI] submitted her claim to CPB in August 2021. This claim was assessed and initially rejected by CPB in October 2021 as her property was identified as being located outside of the area requiring pre-construction dilapidation reports.
- However, it was later agreed between TMR and CPB that the contractor (CPB) would undertake vibration monitoring adjacent to [PI] property when works resumed in this vicinity.
- This vibration monitoring was undertaken in early March 2022 and data was collated and provided to TMR for review in mid-March 2022.
- TMR is currently assessing this data and will provide [PI] with further advice once an outcome has been determined.
- On 21 March 2022 [PI] was contacted by Mrs Caitlin Bester, Project Engagement Advisor, Mackay/Whitsunday District, TMR, and was advised that the vibration monitoring had been undertaken and TMR would provide her with the outcome of the data assessment as soon as it was completed.
- [PI] accepted this update.

Action Officer/Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Dave Grosse	Ann-Maree Knox	Amanda Yeates	Neil Scales
Regional Director (Central Queensland)	General Manager (Program Delivery and Operations)	Deputy Director-General (Infrastructure Management and Delivery)	Director-General
Tel: 4931 1501	Tel: 3066 2301	Tel: 3066 7118	Tel: 3066 7316
Date: 22 March 2022	Date: 24 March 2022	Date:	Date: 25 March 2022

Released under RTI - DTMR

Advice for Minister for Transport and Main Roads

Subject: NICKLIN EO on behalf of [Redacted] about claim for compensation – Bruce Highway Upgrade – Maroochydore Road and Mons Road Interchanges

Document ID: EE14752

- The Department of Transport and Main Roads (TMR) acknowledges that significant construction work is being undertaken in the road reserve adjacent to [Redacted] [Redacted] Refuse Sch.4 Part 4 s.6 PI [Redacted] **Attachment 1**) as part of the Bruce Highway Upgrade – Maroochydore Road and Mons Road Interchanges project (BHMIP).
- The BHMIP construction contractor, John Holland Seymour Whyte Joint Venture (JHSWJV) has endeavoured to keep [Redacted] PI informed of the project's construction activities, provided advance notice of any changed traffic conditions and ensured access to his business has been maintained at all times.
- In October 2021, in consultation with [Redacted] PI the project team arranged for large 'open for business' signage to be produced and installed near his business.
- [Redacted] Refuse Sch.4 Part 4 s.6 PI [Redacted] TMR has not resumed any land from this property as part of the BHMIP.
- TMR's compensation criteria is based on the *Transport Infrastructure Act 1994*. In order to carry out roadworks, the department or its contractors “may temporarily occupy and use land including roads and do anything on the land that is necessary or convenient to be done” (S35). A landowner is entitled to compensation for “physical damage by the entry, occupation and use” of their land (S37). As [Redacted] PI business or land has not been occupied nor damaged by TMR or JHSWJV, he is not able to claim compensation from TMR.
- While there is no legal basis to make compensation payments on the basis of alleged economic loss caused by roadworks, TMR is working closely with JHSWJV to minimise the project's impacts as much as possible and ensure access for [Redacted] PI business is maintained until the project is completed. There is still significant work to be undertaken adjacent to [Redacted] PI business for the construction of the western service road that will enable local motorists to travel between the Mons Road and Maroochydore Road interchanges without using the Bruce Highway.

Action Officer/Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Leah McKenzie	Ann-Maree Knox	Amanda Yeates	Neil Scales
Deputy Regional Director (North Coast)	General Manager (Program Delivery and Operations)	Deputy Director-General (Infrastructure Management and Delivery)	Director-General
Tel: 5451 7070	Tel: 3066 2301	Tel: 3066 7118	Tel: 3066 7316
Date: 22 March 2022	Date: 23 March 2022	Date:	Date: 24 March 2022

Released under RTI - DTMR

Action Taken Form

Subject: Barron River Electorate Office – Release of Information for vessel involved in an incident

Refuse Sch.4 Part 4 s.6 PI

Refuse Sch.4 Part 4 s.6 PI

Document ID: EE14870

- On 4 April 2022, Ms Lisa Condon, Correspondence Officer (Customer Service Operations), telephoned Refuse Sch.4 Part 4 s.6 PI about his request for details of the owner of a vessel involved in an incident causing property damage to his vessel.
- PI advised Ms Condon that he has already lodged the Marine Incident Report with Maritime Safety Queensland.
- Refuse Sch.4 Part 4 s.6 PI
- Ms Condon advised PI that he may apply for a Release of Information statement showing current or historical information about the ship involved in the incident by attending a Department of Transport and Main Roads Customer Service Centre with the following:
 - a completed Vehicle/Recreational Ship Registration Records Request (F3522) – **(Attachment 1)**
 - Evidence of Identity (current Queensland driver licence)
 - payment for the application fee of \$16.75 per search;
 and one of the following:
 - a request on letterhead detailing the incident and property damage from a solicitor/lawyer, or
 - a statutory declaration witnessed by a Justice of Peace describing the incident and the property damage. The statutory declaration must include the vessel details (registration number and make/ description of ship);
 and either a:
 - repair quote for property damage, or:

Action Officer/ Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Lisa Condon	Michael Crago	Geoff Magoffin	Neil Scales
Correspondence Officer (Customer Service Operations)	A/General Manager (Customer Services Branch)	A/General Manager (Customer Services, Safety and Regulation)	Director-General
Tel: 3066 5166	Tel: 3066 5110	Tel: 3066 5100	Tel: 3066 7316
Date: 4 April 2022	Date: 5 April 2022	Date: 5 April 2022 – Progressed under A/GM endorsement	Date: April 2022

- a copy of any available witness statements, including the full name and address of the witness.
- Ms Condon further advised [PI] his request will be processed on receipt of the above requirements and the report will be handed to [PI] over the counter.
- Ms Condon emailed the Vehicle/Recreational Ship Registration Records Request (F3522) (**Attachment 1**) application form and application requirements to [PI] to assist him with lodging the application.
- [PI] was grateful for the telephone call, advice and assistance provided.
- No further action required.

Released under RTI - DTMR



Release of Information Request for Vehicle/ Queensland Regulated Ship Registration Records

Transport Operations (Road Use Management) Act 1994
Motor Accident Insurance Act 1994, Transport Operations (Marine Safety) Act 1994

What to lodge with this application - You must provide evidence of identity (EOI) at the time of making this application. Refer to the separate *Evidence of Identity Information Sheet* (form F4362) or www.qld.gov.au for EOI requirements. For individuals lodging from outside Queensland (Qld) or in remote Qld, you must provide a certified copy of your EOI. Supporting documentation as detailed in (A) to (K) on pages 2 and 3 must be included where applicable. A fee is payable. You will also need to complete a *New Customer Application* (form F3503) if you don't have a Customer Reference Number (CRN).

1. Details of applicant

CRN

(Note: The CRN is your Qld Driver Licence, Photo Identification or Adult Proof of Age Card number, or your reference number issued by the Department of Transport and Main Roads (TMR)).

Name/s

Address

Postcode

Email address

Mobile/Telephone number

2. How will you be submitting this search request?

To a TMR customer service centre Go to Question 3

By email to CITEC Confirm Go to Question 4

By mail to TMR (interstate/
remote customers only) Go to Question 5

3. Is someone lodging this application on your behalf?

No Go to Question 5

Yes I authorise this person to lodge this application on my behalf. (Your representative will need to bring personal identification as well as proof of your identity).

Name of representative

Signature of representative

Date

Identification of representative

Go to Question 5

4. Are you registered with CITEC Confirm as a client?

No Only legal practitioners, insurance entities, insolvency entities or authorised statutory entities may register. To register please phone CITEC Confirm on 1800 773 773.

Yes Please provide the following details:

CITEC Confirm Account Code

Mobile/Telephone number

Email address

5. Reason for request

For what reason is this information requested?

6. What type of search do you wish to conduct?

Note: The requirements to conduct a search of the vehicle/vessel register are detailed on the pages following. All supporting documentation needs to be supplied for the application to continue.

(Tick one box only)

Vehicle/Ship incident Go to (A)

Family court Go to (B)

Bankruptcy Go to (C)

Fraud Go to (D)

Court order Go to (E)

If none of the above applies, which of the following are you?

Registered operator Go to (F)

Registered operator representative Go to (G)

Deceased registered operator representative (including Public Trustee) Go to (H)

Authorised statutory entity (local government authority) Go to (I)

Authorised statutory entity (government department) Go to (J)

Authorised statutory entity (other) Go to (K)

continued page 2...

◇ dog attack that has resulted in either bodily harm, grievous bodily harm or death to a person or animal. The letter must state that the request is made under s207A of the *Animal Management (Cats and Dogs) Act 2008*, detail the injury that occurred as a result of the attack and confirm that all other reasonable methods of identifying the person responsible for the dog have been exhausted

- an official request on letterhead specifying the Qld or Commonwealth legislation allowing access to the information with a statement that you are the person delegated to request the information
- a copy of official approval by the chief executive of TMR allowing access to the information.

J. Authorised statutory entity (government department)

You must provide one of the following:

- an official request on letterhead quoting the Qld or Commonwealth legislation allowing access to the information with a statement that you are the person delegated to request the information
- a copy of official approval granted by the chief executive of TMR allowing access to the information
- if the Queensland Police Service, an official request on letterhead.

K. Authorised statutory entity (other than a local government or government department)

You must provide one of the following:

- an official request on letterhead of the entity established under an Act of Qld, another State or the Commonwealth, explaining that information is needed for matters about regulated parking or for enforcing a law about vehicles in an area under its control
- an official request on letterhead specifying the Qld or Commonwealth legislation allowing access to the information with a statement that you are the person delegated to request the information
- a copy of official approval by the chief executive of TMR allowing access to the information.

7. Search required

Search by name Go to Question 8
 Search by vehicle/ship details Go to Question 9

8. Name search

Note: If a search is needed on each vehicle/ship in a name, a fee applies to each vehicle/ship searched. Name searches can be performed if you are able to provide the following additional information:

(a) For a search of a registration in a person's name -

Given name

Family name

Date of birth and/or

Last known address

Postcode

or

(b) For a search of a registration in an organisation's name -

Organisation's name

Last known address

Postcode

9. Vehicle/ship search

Vehicle/ship registration number

Make of vehicle/ship

Name of the ship Body shape/ship design

Vehicle identification number/Hull identification number/Chassis Number/Engine number

10. Do you require this search to show the registration details at a specific date?

No Vehicle/ship registration details as at the date this application is lodged will be provided.

Yes Date

Note: Release of registration records prior to 9 June 1998 attracts a higher fee.

11. Conditions of use

- By requesting and accepting the information I agree:
- to use the information only for the express purpose stated on this form, unless required or authorised by state or Commonwealth law
 - to treat the information as confidential
 - to ensure that any personal information contained in the extract (being the name and/or address of any current or previous registered operator or any other information which may identify such persons), is protected against misuse, including unauthorised access, use, modification or disclosure
 - to ensure that the only recipient, or authorised personnel of the recipient (such as an employee, but not a subcontractor), have access to the information
 - to make authorised personnel of the recipient aware of these conditions
 - not to disclose the information to any party (which includes subcontractors), without prior written approval from TMR or unless required or authorised by state or Commonwealth law
 - not to transfer the information outside of Australia (physically or electronically) without the prior written consent of TMR
 - to ensure that the information is kept only for as long as necessary, having regard to the purpose it was provided or as otherwise required by state or Commonwealth law
 - to ensure that the information is destroyed or any personal information is de-identified in a secure manner once the information has been used for the purpose provided and retention is no longer required by state or Commonwealth law
 - to immediately notify TMR upon becoming aware of any breach of these conditions.

continued next column...

continued page 4...

12. Declaration

I understand that TMR has an obligation to protect the information contained in its register of vehicle and ship registration records. I understand that in order to do so, my request may be referred to TMR's Right to Information and Privacy Unit for processing under other arrangements.

I agree to only use information obtained from TMR's register of vehicle and ship registration records for reasons stated in this application and in accordance with the conditions of use detailed in section 11 above.

I agree that no responsibility or liability attaches the chief executive of TMR or his or her servant or agent for any loss or damage, however caused arising out of or incidental to the supplying by the chief executive of any information that is wrong in any detail or particular.

I consent to TMR verifying my evidence of identity documents or information with the issuing authority or their agencies.

Penalties apply where information from the register is misused or disclosed.

It is an offence to give false or misleading information under the Transport Operations (Road Use Management) Act. Maximum penalty may exceed \$7000.

Name in full (please print)

Applicant's signature

Date

Privacy statement: TMR collects the information on this form to record and manage requests for a document of TMR. Your personal information will not be disclosed to a third party without consent unless required or authorised to do so by law.

Office/Agent Use Only

Signature verification by the Issuing Officer

I certify that the relevant supporting documents and evidence of identity documentation were sighted by me.

Signature of Issuing Officer

Issuing Office

Evidence of Name/Identity

Queensland Driver Licence/Adult Proof of Age or Photo Identification Card number

Other identification

Advice for Minister for Transport and Main Roads

Subject: MARYBOROUGH EO on behalf of Refuse Sch.4 Part 4 s.6 PI
PI **about tyre damage on the Bruce Highway**

Document ID: EE15234

- The Department of Transport and Main Roads (TMR) is aware of pavement damage along the stretch of the Bruce Highway in the Wide Bay Burnett District, following significant weather events in January, February and May 2022.
- Emergency works have been completed across the district, including the removal of road hazards and repairing of pavement, with permanent repairs being programmed, as warranted.
- TMR takes all property damage claims seriously and investigates each claim on a case-by-case basis. There is a rigorous process that is followed to ensure all claims are assessed equally on merit.
- Property damage claims are submitted by completing the required form (**Attachment 1**) and returning it to TMR's Bundaberg office by email at bundaberg.office@tmr.qld.gov.au or by post at Locked Bag 486, Bundaberg QLD 4670.
- A claims guide (**Attachment 2**) is available to assist with completing the form. This guide is designed to help claimants understand the process for submitting a claim and provides an overview of the claims TMR will not ordinarily accept.
- To avoid delay in processing a claim, being as descriptive and specific as possible in relation to the location of the incident and how it occurred is most helpful. Photographic evidence of the damage sustained, and all repair quotes/invoices will also need to be provided.
- Copies of *Notice of Incident and Claim – Property Damage* (F5110) and the *Property Damage Claims Guide* can be found on the TMR website at www.support.transport.qld.gov.au/qt/formsdat.nsf/Forms/QF5110

Action Officer/Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
Alister Cullen	Ann-Maree Knox	Amanda Yeates	Julie Mitchell
A/Regional Director (Southern Queensland)	General Manager (Program Delivery and Operations)	Deputy Director-General (Infrastructure Management and Delivery)	A/Director-General
Tel: 4931 1503	Tel: 3066 2301	Tel: 3066 7118	Tel: 3066 2245
Date: 1 June 2022	Date: 1 June 2022	Date: 2 June 2022 - Progressed under GM endorsement	Date: 2 June 2022

EE15234



Notice of Incident and Claim - Property Damage

Complete this form if you wish to claim for property damage or loss you believe to be the result of the negligent actions or omissions of the Department of Transport and Main Roads and/or its contractors. If you believe you have sustained personal injuries as a result of this incident, you should not complete this form. You should seek independent legal advice as time limits may apply.

This form is set out in five parts:

Part A - provides important privacy information.

Part B - provides space for you to set out information about the circumstances of the incident.

Part C - provides space for you to set out details of any claim for damages you may wish to make against the department.

Part D - provides important information about disclosure of information to other organisations.

Part E - is a Statutory Declaration.

If you only wish to report an incident but do not intend to make a claim for damages against the department, you should contact us on 131 940.

Part A - Privacy statement

The information disclosed by you in the Notice of Incident and Claim - Property Damage, may be used to investigate the incident, consider and respond to a claim (including in the course of legal proceedings), to take any necessary remedial action in respect of the road and/or road infrastructure and for the purpose of analysing accidents and planning and implementing road management and safety measures. We may disclose any information you provide to our insurers and advisers, including investigators and legal advisers, and to any other organisation we consider might have responsibility in respect of this incident. You have a right of access to information we collect about you. For further information, contact the Information Privacy team on contact@ti.tmr.qld.gov.au.

Part B - Notice of incident

Note - this report should be received within 30 days from the date of the incident.

Details of person or company reporting incident, and if applicable, proposing to make a claim.

Company name (if applicable)

ABN (if applicable)

--	--

Full name

--

Residential/Business address

Postcode

Postal address (if different from above)

Postcode

Telephone number

Facsimile number

Email

--	--	--

Vehicle registration

Vehicle make

--	--

Continued next page ...

Notice of Incident and Claim - Property Damage continued ... page 3 of 7

In your opinion, was your vehicle or other property damaged due to the condition of the road or road infrastructure or other infrastructure?

Yes No

If 'yes' please provide a description of the damage to the property (including motor vehicles)

Please sketch the incident scene using X to mark your vehicle and Y1, Y2 etc. to mark other vehicles. To the best of your ability, please include street names, line markings, traffic signals, relevant infrastructure within the road reserve and direction vehicle(s) are travelling.

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Continued next page ...

Notice of Incident and Claim - Property Damage continued ... page 4 of 7

Was the incident reported to the police?

Yes No

If 'yes', please provide the following details. Attach copies of any police reports you have.

Name	Station
<input type="text"/>	<input type="text"/>

Date reported

Were there any witnesses to the incident?

Yes No

If 'yes', please provide the following details

Witness 1: full name	Address
<input type="text"/>	<input type="text"/>

Witness 2: full name	Address
<input type="text"/>	<input type="text"/>

Are you proposing to make a claim for damages against the department?

Yes No

If 'yes', please complete Part C - Notice of claim

Part C - Notice of claim

Please note - should the department accept your claim, photos of damage and either two quotes for repair, or a copy of the paid tax invoice will be required.

Describe the property damaged including, if a motor vehicle, the make and model of the motor vehicle

The amount of the claim (\$) \$

Detail how this amount is calculated

Please state why you believe the department is responsible

Other Information - Insurance

Will you be making, or have you made, an insurance claim?

Yes No

If 'yes', please provide the name and address of the insurer and the insurance policy or claim number.

Continued next page ...

Part D - Disclosure of information

Important notice

The department may not be the organisation responsible for the road or the infrastructure or the incident. We may need to send details of your claim (including any personal or commercially sensitive information we obtain in relation to the claim) to another organisation so that it can:

- investigate the incident
- consider any claim for compensation, including any legal proceedings against them
- enable remedial action to be taken (if necessary) in relation to the road and/or infrastructure
- gather information for the analysis of the causes of accidents and the planning and implementation of road management and safety measures.

By signing the statutory declaration below you consent to disclosure of this Notice of Incident and Claim - Property Damage form and any other information that is obtained by the department in respect of the claim to any person or organisation we consider may be responsible for this incident.

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Continued next page ...

Part E – Statutory Declaration

Oaths Act 1867
Statutory Declaration

QUEENSLAND
TO WIT

I,
of

in the State of Queensland do solemnly and sincerely declare that:

1. All the information contained in this Notice of Incident and Claim - Property Damage form 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 the department and have not withheld any relevant information.
3. Any attached quotation for repairs has been prepared for the sole purpose of repairing any damage directly resulting from the incident as described in this Notice of Incident and Claim form.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act*.

Declarer

Witnessed by a Justice of the Peace or Commissioner for Declarations -

Taken and declared before me at
this day of .

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Continued next page ...

Where to send your Notice of Incident and Claim – Property Damage form

Department of Transport and Main Roads

Region	Office	Current district email address	Postal Address
South Coast	Gold Coast	pdo.regions.goldcoast@tmr.qld.gov.au	PO Box 442 NERANG QLD 4211
Metropolitan	Brisbane	metropolitan.claims@tmr.qld.gov.au	PO Box 70 SPRING HILL QLD 4004
North Coast and Wide Bay	Maroochydore	northcoast@tmr.qld.gov.au	PO Box 1600 MAROOCHYDORE QLD 4558
	Bundaberg	bundaberg.office@tmr.qld.gov.au	Locked Bag 486 BUNDABERG QLD 4670
Downs South West	Roma	downsswr.office@tmr.qld.gov.au	PO Box 126 ROMA QLD 4455
	Toowoomba/Warwick	downsswr.office@tmr.qld.gov.au	Locked Bag 1 WARWICK QLD 4370
Central Queensland	Rockhampton	FitzroyDistrict@tmr.qld.gov.au	PO Box 5096 RED HILL ROCKHAMPTON QLD 4701
	Mackay	Mackay.office@tmr.qld.gov.au	PO Box 62 MACKAY QLD 4740
	Barcaldine	Barcaldine.office@tmr.qld.gov.au	PO Box 3 BARCOLDINE QLD 4725
North Queensland	Townsville	engagement.northern@tmr.qld.gov.au	PO Box 1089 TOWNSVILLE QLD 4810
	Cairns	Cairns.office@tmr.qld.gov.au	PO Box 6185 CAIRNS QLD 4870
	Cloncurry	cloncurry.office@tmr.qld.gov.au	PO Box 338 CLONCURRY QLD 4824

Released under
FOI Act 1992

Property Damage Claims Guide

Information Sheet

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 the Department of Transport and Main Roads is responsible for causing damage to your property (like your car) or for some other type of loss.

Important Information

Independent legal advice & 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 the department will depend on a broad range of factors and considerations. The Queensland Law Society can assist you to choose a legal representative.

Time limits

Strict statutory time limits 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 the department in your place.

Claims the department probably won't accept

The department will not ordinarily accept any claims for:

- damage to tyres with an aspect ratio (profile) of 40% or less, or damage to the associated rims
- 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.

Personal Injury

This guide and the associated claim form should not be used to submit a claim for compensation for personal injuries. These types of claims are covered by the *Personal Injury Proceedings Act 2002*. Generally speaking, you cannot make a claim for compensation unless it is in accordance with that Act. If you have suffered a personal injury as a result of something you think the department did or did not do, you should seek independent legal advice as soon as possible.

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.

Your claim may be submitted using the Claim Form. The Claim Form should not be used for a claim arising from a personal injury.

The Claim Form may also be used as a guide to tell you what type of information we require in order to assess your claim for compensation from us.

Our Responsibilities

Transport and Main Roads is required to maintain the road network under its control to certain standards. 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 help identify areas that need maintenance or repair.

The Department'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 the department's level of responsibility or liability, the financial resources available to the department can be taken into consideration. In other words, Transport and Main Road'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.

Similar obligations apply to other road authorities in respect of the roads for which they are responsible (for example, local governments).

Our Roads

Transport and Main Roads is responsible for over 33,000 kms of Queensland's road network. We call these roads, "State controlled" roads. We are also

responsible for installing and maintaining traffic signals, regulatory signs (e.g. stop signs) and line marking on all "State controlled" roads.

Our network includes all major arterial roads such as the Pacific Motorway and the Bruce Highway as well as many main roads across the state. All other roads are the responsibility of local government or private organisations (e.g. mining companies).

You can check whether the road, which is the subject of your claim for compensation is a "State controlled" road by referring to the maps set out by region on www.tmr.qld.gov.au.

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 main road, such as a pothole, a damaged stop sign or traffic signal, please call us on 131940 and www.131940.qld.gov.au to report incident.

Road works

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

The Law

It may be useful for you to understand the circumstances in which the department may be legally liable to pay you compensation and how the civil claims process operates generally.

The following information is provided as a guide only. As stated above, it is your responsibility to obtain your own independent legal advice on the department's potential liability.

The Common Law (also known as Case Law)

The department has a common law duty of care to road users to maintain the road network under its control. In general terms, the law of negligence provides for the existence of a duty of care; the standard of care expected; and whether loss or damage was suffered as a result of a breach of the duty.

If you think we have failed to meet our duty of care to you as a road user, then the law provides that the burden of proof rests with you. In other words, you will have to prove your claim.

In general terms, you will have to show that we have not taken reasonable steps to maintain the road network to prevent foreseeable risks of harm. "Reasonable steps" means considerations like whether we knew (or ought to have known) about the hazard, what resources were available to us and if there were any competing responsibilities on us at the relevant time (like other road safety projects).

You will also have to show that our actions (or inactions):

- caused the incident;
- caused you to suffer loss; and
- that such loss was foreseeable to us.

The Civil Liability Act 2003

The common law can be overridden by legislation. In this regard, the Queensland Parliament passed the *Civil Liability Act 2003*. This Act provides a framework for the law of negligence and some possible limitations on the department's liability.

As our maintenance contractors cannot be everywhere all the time, this Act provides (at section 35) that road authorities such as the department may not be liable for damage or loss arising from a road hazard, unless we had prior knowledge of the particular hazard. In other words, unless it can be shown that we were aware (or

ought to have been aware) of a particular road hazard, we may not be liable to pay compensation in relation to a particular incident on the road. Section 37 of that Act also sets out some important factors that are relevant to the department's liability.

You will also have to substantiate the extent of your loss by providing independent evidence (like receipts, etc).

It is important to keep in mind that if the department can demonstrate that it took all reasonable steps to maintain the road, it may avoid liability and may not be required to pay you compensation.

If your claim is denied by us, there are **no avenues for appeal within the department**. If you think you have a strong legal case supporting your claim, your next step is to pursue it through the civil courts. If you think you have been dealt with unfairly with respect to the administrative process followed by the department and/or the standards of service provided to you, you can contact the **State Ombudsman** or the **Queensland Association of Independent Legal Service** who may investigate your complaint.

What happens if I make a claim?

The best way to submit a claim is to complete a **Claim Form** or provide us with all relevant **information in writing together with supporting documents or information**. Once we receive 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 us, 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 department or its contractors regarding the incident subject of your claim.

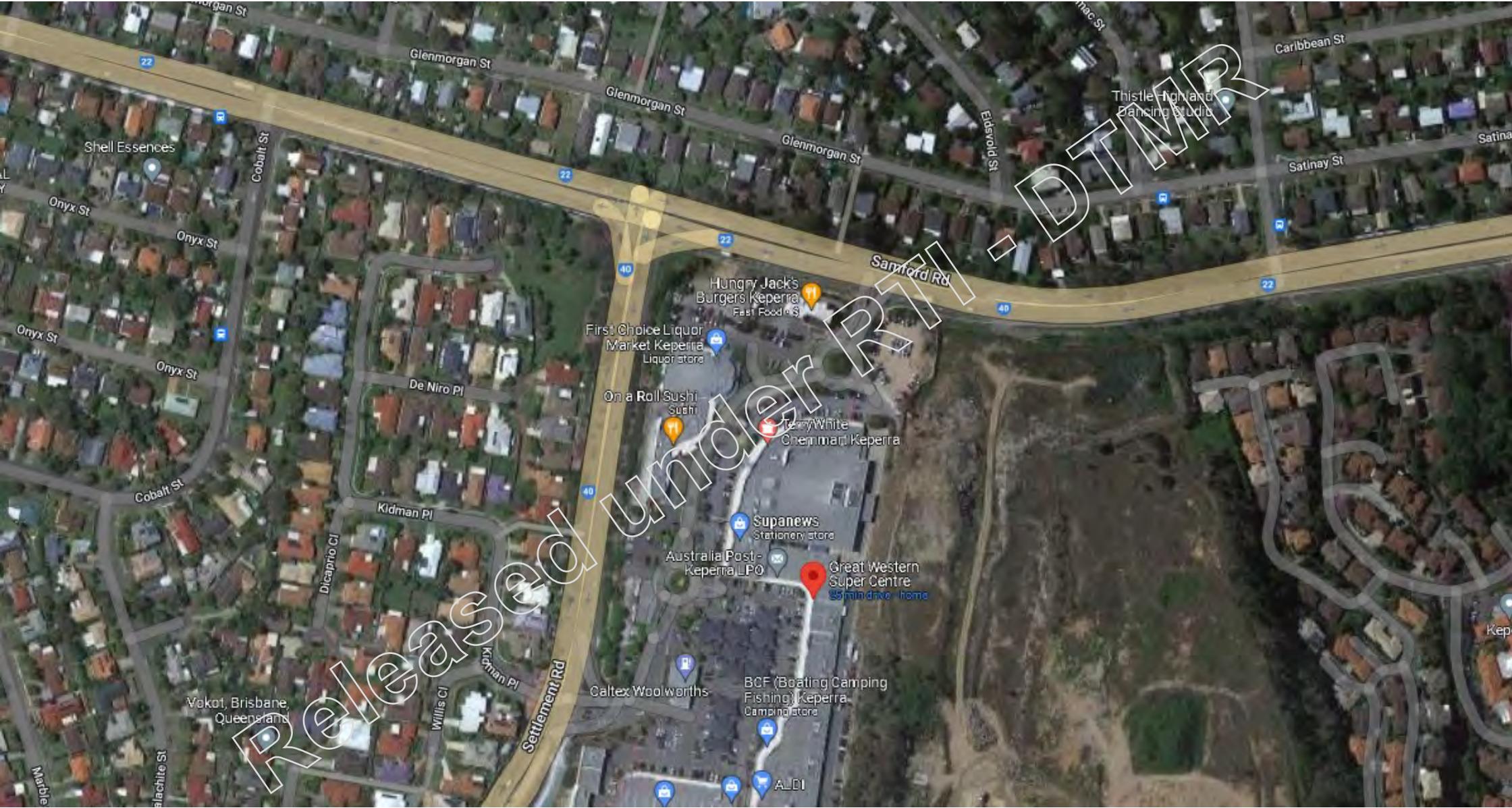
Advice for Minister for Transport and Main Roads

Subject: FERNY GROVE EO on behalf of [Refuse Sch.4 Part 4 s.6 PI] and [Refuse Sch.4 Part 4 s.6 PI] about damage to their cars as a result of potholes on Samford road near Great Western Centre in Keperra

Document ID: EE15411

- A Department of Transport and Main Roads (TMR) inspector visited the site and confirmed that Golding Contractors was working on a nearby development and had dug trenches across Samford Road (**Attachment 1**).
- On 2 June 2022, TMR received written compensation claims from [Refuse Sch.4 Part 4 s.6 PI] and [Refuse Sch.4 Part 4 s.6 PI] regarding damage to their vehicles.
- TMR referred these two new claims onto Golding Contractors the same day of receipt.
- A Golding Contractors representative advised TMR the claims would be assessed and the claimants contacted directly.
- On 2 June 2022, TMR contacted [PI] and [PI] to advise their claims fall under the control of Golding Contractors, which was working on a nearby development, and that their claim forms had been forwarded to the contractor who would respond to them directly.
- For further information, the claimants can contact Golding Contractors on 5557 6100.

Action Officer/Approved by:	Endorsed by GM	Endorsed by DDG	Endorsed by DG
John Ryan	Ann-Maree Knox	Amanda Yeates	Neil Scales
A/Regional Director (Metropolitan)	General Manager (Program Delivery and Operations)	Deputy Director-General (Infrastructure Management and Delivery)	Director-General
Tel: [Not Relevant]	Tel: 3066 2301	Tel: 3066 7118	Tel: 3066 7316
Date: 15 June 2022	Date: 15 June 2022	Date:	Date: 16 June 2022



RTI-2658 REQUEST

- A. The number of compensation claims made and the amount claimed against and by the department for each financial year
- B. Status against the above.
- C. How much of those above were successful and the value paid out and the total for each year.

RTI-2658 RESPONSE

Compensation Claims made Against the Department (Data extracted from the Small Claims database - Brisbane Metropolitan & Gold Coast regions)

	Question A		Question B			Question C
			Open	Closed		
Financial Year	Number of claims made	Amount claimed	Number of claims open and unpaid	Number of claims closed and unpaid	Number of claims closed and paid	Amount paid
Financial year 20/21	163	\$213,333.82	6	123	34	\$ 25,987.97
Financial year 21/22	243	\$220,816.05	55	169	19	\$ 10,443.28

Compensation Claims made By the Department (Data extracted from the Small Claims database - Brisbane Metropolitan, Gold Coast & North Coast regions)

	Question A		Question B			Question C
			Open	Closed		
Financial Year	Number of claims made	Amount claimed	Number of claims open and unpaid	Number of claims closed and unpaid	Number of claims closed and paid	Amount received
Financial year 20/21	1009	\$1,977,473.26	431	460	118	\$ 802,599.27
Financial year 21/22	651	\$131,932.71	579	52	20	\$ 108,958.66

Sunshine Coast (North Coast Region)

Calendar Year	Claims received by TMR From 1 July 2020 to 9 June 2022	Claims Referred to Contractors			Claims declined by TMR	Totals	Claims Approved by TMR
		Councils	Downer	RoadTek			
Claims 1 July 2020 to 31 December 2020	24		4	10	10	24	0
Claims 1 January 2021 to 31 December 2021	97	1	48	9	39	97	0
Claims 1 January 2022 to 09 June 2022	183	7	68	2	106	183	0
Totals	304	8	120	21	155	304	0

Released under RTI - DTP

This Data has been compiled from the Program Delivery and Operations (PD&O) Small Claims Database used by the Districts Claims Officers.

The relevant legislation covering claims is:

1. The *Civil Liability Act 2003* – The Department of Transport and Main Roads (TMR) is responsible for the management and maintenance of TMR owned property which, for the purposes of this manual, includes the road reserve as well as vacant land. Where TMR's actions, or failure to take action, in relation to TMR property cause third parties damage, they may be able to claim compensation. These claims are termed as "Against TMR" as it is an external party seeking compensation from TMR.
2. The *Transport Infrastructure Act 1994* (TIA) - TMR is responsible for the management, construction, maintenance and operation of State-controlled infrastructure. Where a person causes damage to TMR infrastructure, it may be possible for the department to seek compensation for repair costs. These claims are termed as "By TMR" as the department is seeking compensation for costs incurred to repair the damage to our infrastructure. The *Transport Operations (Road Use Management) Act 1995* – section 51g and 51i (spills and debris); *Transport Operations (Road Use Management – Road Rules) Regulation 2009* – section 293 and Common Law also apply to claims by TMR.

Released under RTI/DTPMR

RTI-2658

10 most recent compensation payouts against the department

Number 1: Refuse Sch.4 Part 4 s.6 PI Driveway damaged by tree roots. \$2,860.00
See attached Claim Form, some photos provided by the claimant in the Claim Form.

Number 2: Refuse Sch.4 Part 4 s.6 PI Contribution towards fencing work. \$345.00



Number 3: REMAX Real Estate. Contribution towards fencing work. \$2,125.00
See attached Claim Form. No photos were provided.

Number 4: Refuse Sch.4 Part 4 s.6 PI Backyard damaged by tree roots. \$61,587.05
See attached report from Not Relevant Photos are in that report.

Number 5:

Refuse Sch.4 Part 4 s.6 Stormwater pipes blocked by tree roots. \$7,141.40



Number 6: Refuse Sch.4 Part 4 s.6 PL Contribution towards fencing work. \$3,273.00

See attached Claim Form. No photos were provided.

Number 7: Refuse Sch.4 Part 4 s.6 PL Sewer pipes damaged by tree roots. \$8,152.05

This photo was provided by the plumber who fixed the pipe.



Number 8: Refuse Sch.4 Part 4 s.6 PL Bicycle tyre punctured by nails on the road surface. \$164.98

See attached document with some photos provided by the claimant.

Number 9: Refuse Sch.4 Part 4 s.6 PI Mobile phone damaged by fall at bus station. \$304.00

See attached Claim Form. Some photos were attached to the form by the claimant.

Number 10: Refuse Sch.4 Part 4 s.6 PI, Not Relevant Sewer pipes damaged by tree roots. \$450.00

See attached document with some photos provided by the claimant.

Released under RTI - DTMR

Released under RTI - DTMR

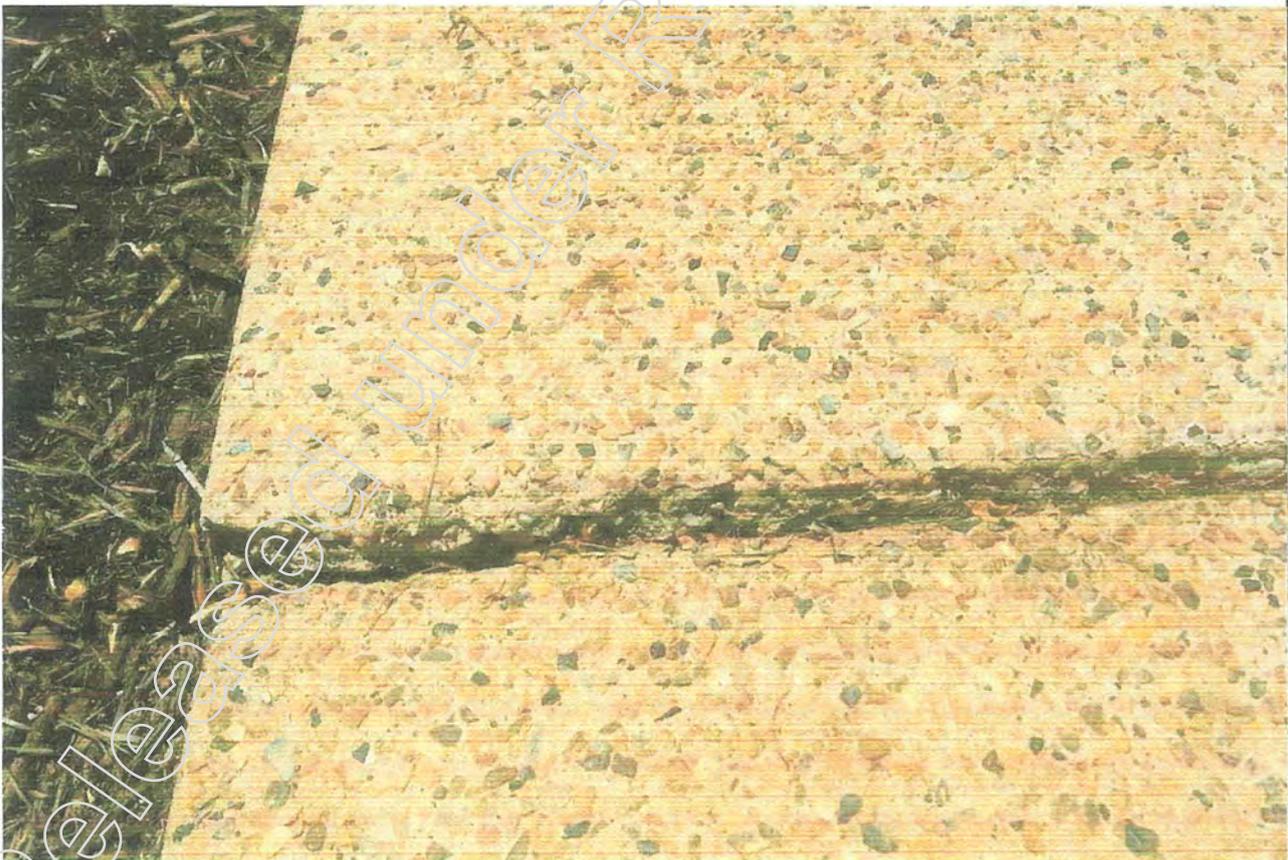




Fig 1.



Fig 2.



Fig 3.

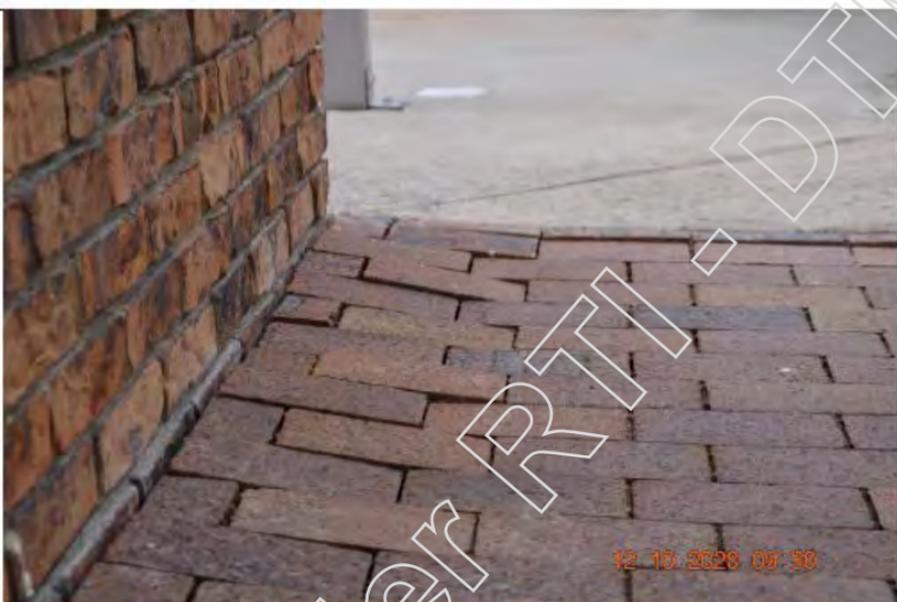


Fig 4.



Fig 5.



Fig 6.



Fig 7.



Fig 8.



Fig 9.



Fig 10.



Fig 11.



Fig 12.



Fig 13.



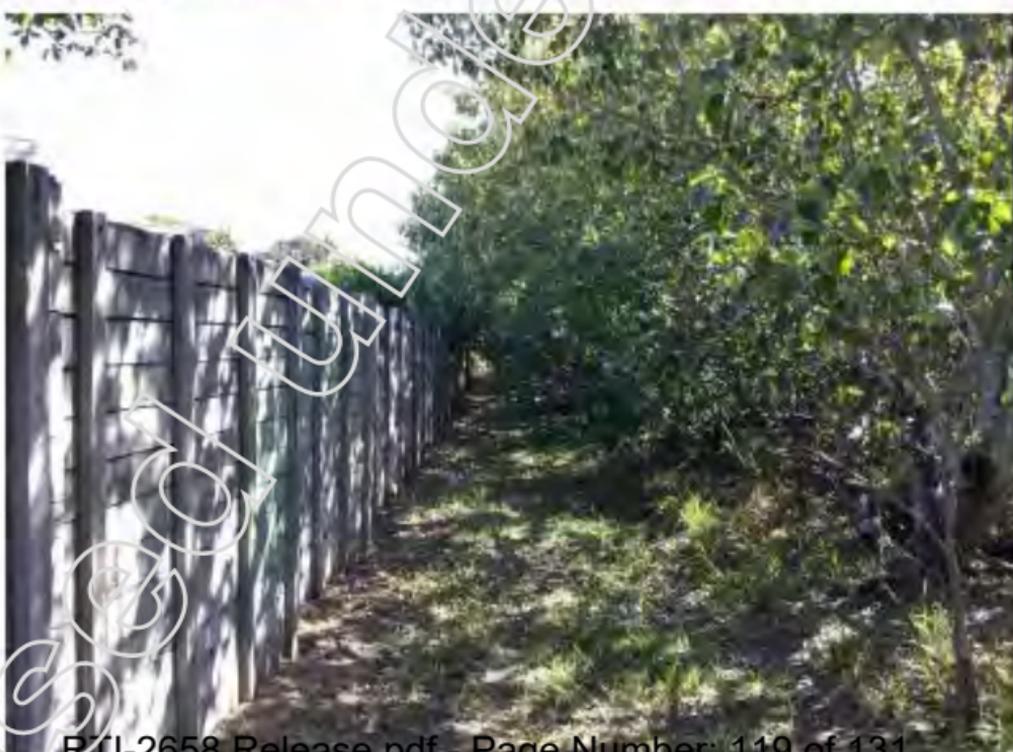
Fig 14.







Released under RTI - DTMR







Claim by

Refuse Sch.4 Part 4 s.6 PI

Photos provided by the customer









Released under RTI - DTW





26/09/2021

Released under RTI - DTMR





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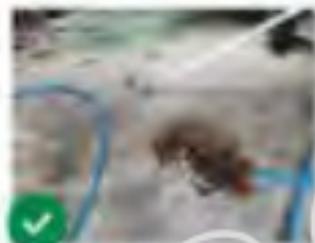
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