



# Pothole Damage Factsheet

## Claims Explained

Potholes and other road defects can appear suddenly, especially after heavy rain.

Under Section 45(1) of the Civil Liability Act 2002 (NSW), councils are not liable for damage caused by such defects unless they had actual knowledge of the specific defect and failed to take action within a reasonable timeframe and within the resources available to them.

Council operates a regular inspection and maintenance program for its extensive road network.

Identified defects are assessed, prioritised, and scheduled for repair in line with available resources.

Section 42 of the Civil Liability Act 2002 (NSW) also recognises that public authorities, such as Council, must balance their responsibilities against financial and operational resources.

We would like to remind road users that they are expected to take reasonable care for their own safety, which includes keeping a proper lookout and adjusting driving to suit the conditions

**In consideration of the information above, should you wish to make a claim against Council, please provide:**

- Two quotes/invoices/receipts for the repair of the damage.
- Your claim in writing detailing the circumstances of your incident.
- Email your claim to:  
[council@shellharbour.nsw.gov.au](mailto:council@shellharbour.nsw.gov.au)

**Please note that claims are seldom successful.**

Council can only potentially be held liable for damages if we are made aware of damage and have done nothing to address the situation within a reasonable timeframe and within council's ability in terms of resources.

**For more information, please call Council on  
42 216 111 or visit [www.shellharbour.nsw.gov.au](http://www.shellharbour.nsw.gov.au)**