

# ROADS OR FOOTPATHS INCIDENT APOLOGY POLICY

## STRATEGIC POLICY

**Responsible Department:** Cabonne Services

**Responsible Section:** Governance & Corporate Performance

**Responsible Officer:** Department Leader - Governance & Corporate Performance

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### Objective

All apologies by Council in connection to Council's roads or footpaths must be issued in accordance with this policy.

### Introduction

This policy has been developed taking into consideration the provisions of the Civil Liability Amendment (Personal Responsibility) Act (The Act) and advice from the NSW Ombudsman's Office and Statewide (Council's Underwriter).

According to the NSW ombudsman, "when things go wrong, many complainants demand no more than to be listened to, understood, respected and, where appropriate, provided with an explanation and apology."

Council may consider apologising to an aggrieved person where it appears, prima-facie, they have suffered some detriment in connection to Council's roads or footpaths.

Apologies should not be made for potential liabilities as set out in s3B of the Civil Liability Act 2002.

### Policy

Apologies issued by Council will be done so promptly and sincerely.

All apologies will be in writing.

An apology may only be drafted by Council's Risk Management Coordinator and signed off by the General Manager on apology letters that are acceptable to the Council's Underwriter for use in conjunction with this policy.

An apology will not make any admission, offer, promise or payment in connection with any occurrence or claim.

Where Council becomes aware of an act or incident through legal representation, then advice should be sought from Council's underwriter as to whether an apology would be appropriate.

Apologies will not extend to an explanation of how the act or omission occurred.

An apology should include the following:

1. Scope – a description of the relevant event to which the apology applies. Specific details of where the event occurred should be included. Do not include any assumptions on how the event occurred.

E.g. "Council is sorry to hear that you recently tripped on the footpath in Moon Street outside number 1234 ..... on Sunday 1 January 1985....."

2. Detriment – Recognition that the affected person has suffered some detriment and acknowledgement of the types of detriment suffered. These can be physical and/or emotional.

E.g. ".....and that you were embarrassed to suffer a scraped knee....."

"Council recognised that this incident caused you inconvenience"

3. Action Taken or Proposed – a statement of the action taken.

E.g. "Council will refer the matter to the appropriate department for investigation"

4. Conclusion.

E.g. ".....Thankyou for bringing this matter to Council's attention....."

## Responsibilities

**General Manager:** responsible for the overall control and implementation of the policy.

**Deputy General Managers & Leaders:** responsible for the control of the policy and procedures within their area of responsibility.

**Supervisors:** responsible for ensuring that all employees within their area of responsibility follow all procedures in relation to this policy.

**Employees:** must undertake all procedures in relation to complying with this policy.

**Others:** All labour hire personnel and contractors must adhere to Council's policies and procedures.

## Definitions

**An Apology:** as defined in the Act is "an expression of sympathy or regret, or of a general sense of benevolence or compassion, in connection with any matter whether or not the apology admits or implies an admission of fault in connection with the matter" (s68).

## References

Civil Liability Act 2002

## History

Minute No.	Summary of Changes	New Version Date
04/04/38		19/04/04
	Reviewed by Risk Management Coordinator - reference to legislation added.	14 January 2010
10/02/17	Readopted by Council	15 February 2010
13/09/30	Readopted as per s165(4)	17 September 2013
18/05/20	Readopted as per s165(4)	22 May 2018
22/11/15	Readopted as per s165(4)	22 November 2022