



# TREE DAMAGE TO PRIVATE PROPERTY

## Procedures for claiming and applying for reimbursement where damage is caused by government trees

Transport Canberra and City Services (TCCS) is the ACT Government agency responsible for the management of Canberra's urban trees.

Please Note: The Australian Capital Territory does not automatically accept liability for damage until the circumstances have been investigated.

Where damage to private property occurs when an ACT Government tree falls or a branch falls from an ACT Government tree, TCCS will consider reimbursing costs after considering all circumstances. Where an incident is considered to be an accident or an extraordinary occurrence that could not have been readily foreseen and guarded against, it will be classified as unforeseeable incident and TCCS will not accept responsibility for any costs incurred.

An example of an unforeseeable incident is where damage occurs to private property during strong winds when a tree is blown over or damaged by the intensity of the wind and where the tree is considered to be sound and healthy. In these cases, the ACT Government will not accept responsibility for the damage. The owner of the damaged property will be advised that they are responsible for the cost of repairs and to make a claim against their insurance company for the property damage, if they are insured.

If a falling tree branch or tree has caused damage to a vehicle, fence, wall, roof or other private property and the claimant believes they can demonstrate that the ACT Government has been negligent in its maintenance of the offending tree, the following procedure should be followed:

1. The claimant should contact Access Canberra on 13 22 81 as soon as possible after the incident has occurred so that an inspecting officer who represents TCCS can assess the situation and obtain further evidence including photographs. When damage occurs as a result of a fallen tree or tree part the site inspection will be carried out by an arborist independent of the tree maintenance crew responsible for removing the fallen tree or tree part.
2. All aspects of the incident will be considered by the inspecting officer including; the prevailing weather conditions, the health and condition of the tree, tree maintenance history, the extent and type of damage sustained and any evidence that might demonstrate that the ACT Government has been negligent in its tree management responsibilities.



3. If, after considering all available information, the investigating officer considers that the ACT Government is not liable for the damage, the claimant will be advised to contact his/her insurance company or arrange for repairs to be carried out.
4. If the claimant is advised that the ACT Government will accept responsibility for part or all of the damage, the claimant will need to obtain three (3) written quotations for repairs to the damage as agreed by the inspecting officer. The claimant must then submit the quotations to the inspecting officer who will review the quotations and inform the claimant of the acceptable quotation. The claimant should then arrange for the work to be carried out and for the bill to be paid.
5. The ACT Government will take no responsibility for arranging for quotations, nor for the repairs to be carried out.
6. The claimant must then submit a written claim for reimbursement of costs incurred in repairing the damage to:  
  
The Manager  
Urban Treescapes  
GPO Box 158  
CANBERRA ACT 2601
7. The claimant should include as much detail as possible in their claim for reimbursement including the date and time of the incident, dates and times they met the inspecting officer, copies of the three quotations, a copy of the paid account and any other relevant information such as photographs or written reports on the incident.
8. TCCS will obtain a report from the inspecting officer and after considering all factors will arrange for reimbursement of costs if reimbursement is recommended.
9. TCCS may seek legal advice from the ACT Government Solicitor about claims. It is not obliged to provide the advice to claimants, who are free to obtain their own legal advice at their own cost.
10. TCCS will not necessarily accept responsibility for 100% of any claim for reimbursement and payment will not be made until the claimant has signed and returned an indemnity form to TCCS.