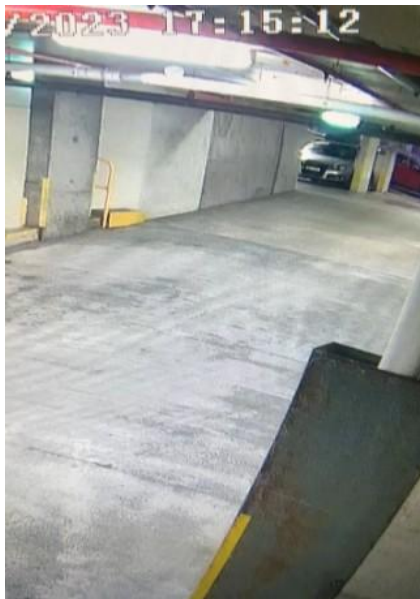


How careful does an owners corporation need to be to manage its duty of care | Speed bumps

Does an owners corporation owe a duty of care to all persons who visit the building?

A recent decision of the NSW Court of Appeal confirms that an owners corporation owes a duty of care to persons entering the building and may be liable for injuries suffered on the premises.

In *The Owners – Strata Plan No 31337 v Balacco* [2026] NSWCA 50, Ms Balacco tripped and fell over an unpainted speed bump as she was walking back to her car in a mixed-use residential building car park and suffered significant injuries, including a fractured right arm. The speed bump was not painted or otherwise highlighted, and blended into the grey concrete surface, thus was difficult to see.



This contrasts with the other hazards in the car park, such as columns and concrete steps, which had been painted yellow but the speed bumps had not.

At first instance, Ms Balacco was awarded \$385,484.78. The primary judge found that the owners corporation owed and breached its duty of care by failing to paint or otherwise highlight the speed bump. Although the risk was not “obvious” under section 5F of the *Civil Liability Act 2002* (NSW), the visibility of other painted hazards was considered relevant.

On appeal, the owners corporation challenged the findings on inadequate lighting, contributory negligence, and damages for future economic loss and domestic assistance. They argued that Ms Balacco must have felt the speed bump as she drove over it.

The Court of Appeal accepted that the primary judge erred in finding that there was inadequate lighting but still found that the owners corporation had breached its duty of care by failing to paint the speed bump. It held that, on the balance of probabilities, Ms Balacco would not have fallen and sustained her injuries had the speed bump been painted and thus clearly visible.

The Court of Appeal also stated that the owners corporation owed a duty of care to any person who used the common area carpark, whether it be a resident who used it daily or someone new to the carpark.



Her damages were reduced on appeal to \$250,499.06 plus interest after the owners corporation succeeded in challenging the awards for future economic loss and domestic assistance.

The decision highlights the need for owners corporations to take a proactive approach to identifying and managing hazards on common property. In particular, hazards should be consistently marked or made visible, as inconsistent treatment may itself increase risk. Owners corporations should also regularly inspect areas such as car parks, walkways and stairs, and should not assume that the absence of prior complaints or incidents will prevent a finding of negligence and liability.

We have considerable experience with these issues and could assist you with any practical challenges you may be experiencing or expect. Please contact us on 02 9929 0226 or enquiries@bannermans.com.au.

Key takeaways

- Owners corporations owe a duty of care to all persons entering the building.
- Failure to highlight hazards like speed bumps can lead to liability for injuries.
- Regular inspections and proactive hazard management are essential to prevent negligence.
- The visibility of hazards must be consistent to reduce risk.
- Legal precedents underscore the importance of managing common property safety.

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Prepared by Bannermans Lawyers

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