

The Year that Was

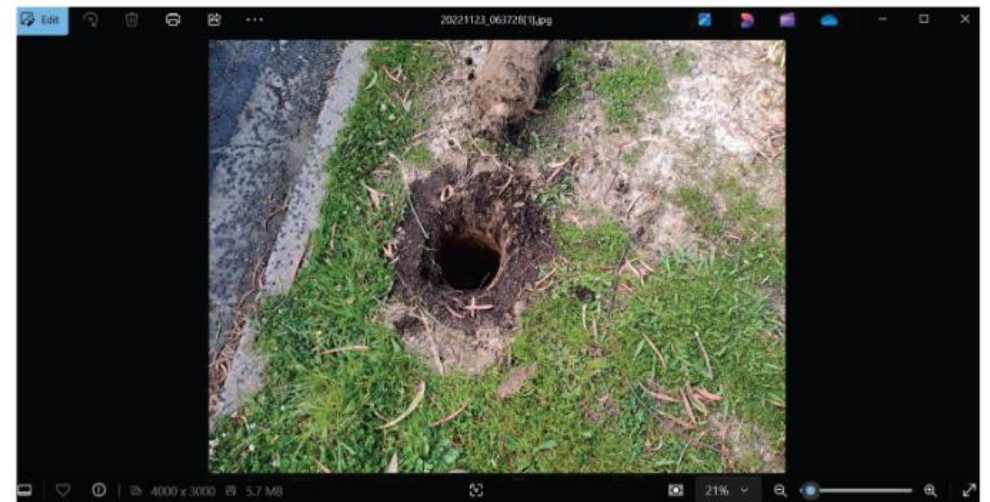
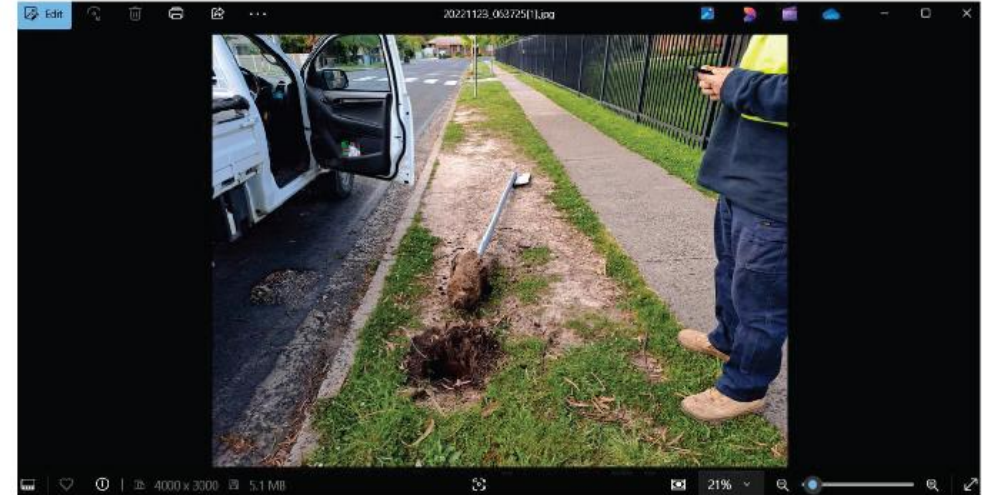
Nikki Cassar
Partner

Orange City Council v Willis



Orange City Council v Willis [2025] NSWDC 208

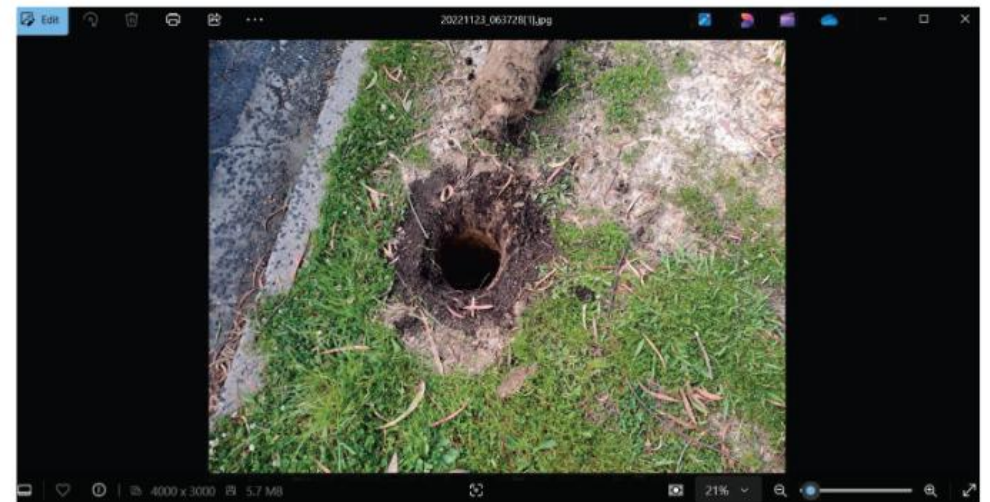
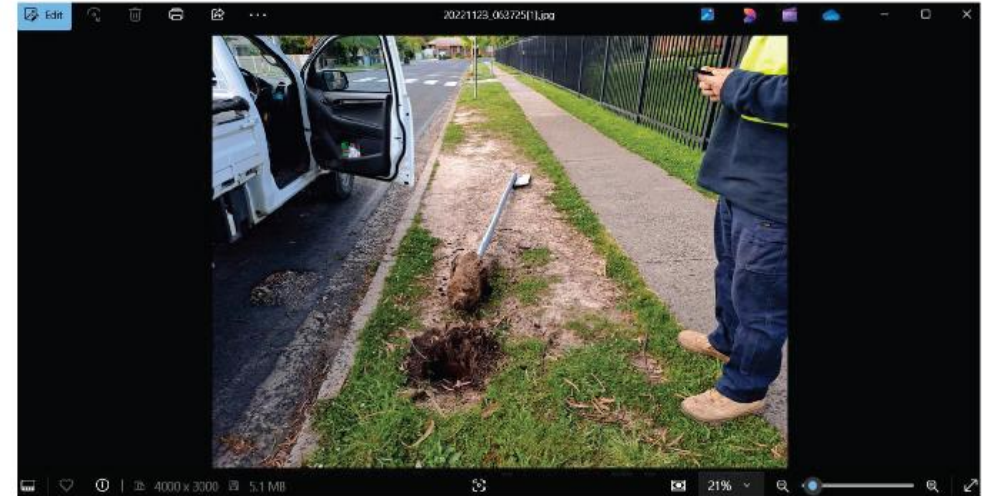
- Mr Willis tripped on a concealed hole in a grass verge
- Hole created following a parking sign having come out of the ground
- Grass grew over area obscuring hazard





Orange City Council v Willis [2025] NSWDC 208

- Hearsay evidence that a report of the fallen sign was made to Council
- No record in Council's CRM of that report
- Trial Judge's factual findings:
 - The report was made to Council
 - That report also informed Council there was a hole in the grass verge
 - The fallen sign was removed by Council shortly after the report was made to Council





Orange City Council v Willis [2025] NSWDC 208

Trial Judge's findings:

- All elements of s 5B CLA satisfied:
 - Risk of harm foreseeable,
 - Not insignificant; and
 - A reasonable person in Council's position would have taken precautions against the risk of harm
- Section 45 – Council had actual knowledge of the particular risk
- Section 43A – provided no protection based on the facts



Orange City Council v Willis [2026] NSWCA 51

- Dismissed the Appeal
- Section 45 – Actual knowledge may be established by inference and the weight of the available evidence
- Section 43A – the filling of the hole, covering it and providing a warning did not involve the exercise of a power conferred by statute

*The Owners – Strata Plan
No 31337 v Balacco*



The Owners – Strata Plan No 31337 v Balacco [2026] NSWCA 50

- Ms Balacco slipped and fell on a speed hump in a carpark
- Inadequate lighting
- Speed hump unpainted and blended in with surroundings

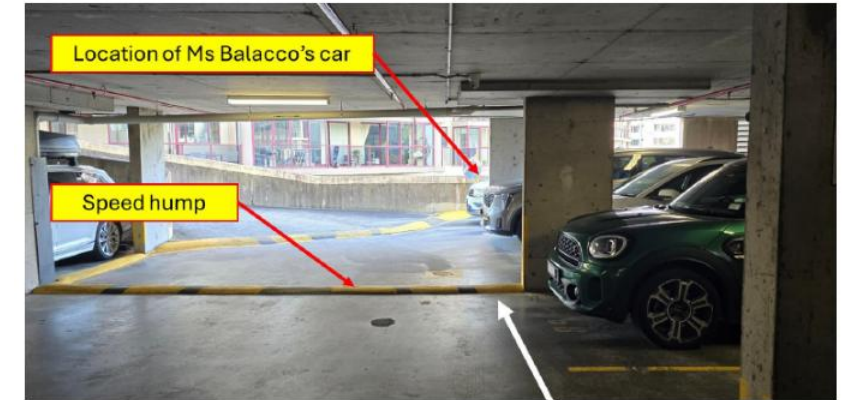




The Owners – Strata Plan No 31337 v Balacco [2026] NSWCA 50

Grounds of Appeal:

- Lighting
- Section 5F CLA – obvious risk
- Section 5B CLA – reasonable precautions
- Causation
- Contributory negligence



Maclean v Richmond Valley Council



Maclean v Richmond Valley Council [2025] NSWDC 189

- Ms Maclean tripped and fell on a 23mm height differential on a footpath
- Council aware of it for 6 years
- Council's Operational Policy for Inspection, Assessment and Maintenance of Footpaths and Cycleways





Maclean v Richmond Valley Council [2025] NSWDC 189

Trial Judge's findings

- Section 45 – X
- Obvious – ✓
- Duty of care owed – X
- Section 5B – X
- Section 43A - X





Maclean v Richmond Valley Council [2026] NSWCA 66

Court of Appeal

- Council's Policy was aspirational rather than obligatory – self imposed guideline
- Expectation pedestrians will take sufficient care when walking
- Type of hazard pedestrians should expect
- Obvious



Coonamble Shire Council v Bequick Pty Ltd



Coonamble Shire Council v Bequick Pty Ltd [2026] NSWSC 607

- 23 August 2018 - Arson attack
- 27 August 2018 – Council issued Emergency Orders
- Orders not complied with
- 15 October 2018 – Council undertook works to give effect to the orders
- Council issued invoice to Bequick for the costs incurred
- Bequick alleged the Orders were invalid
- Claim in trespass made by Bequick





Coonamble Shire Council v Bequick Pty Ltd [2026] NSWSC 607

- Section 43A – not applicable
- Orders were valid
- No trespass
- Procedural fairness

The 27 August 2018 orders:¶

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Order number	Action required	Date for which action to be completed
1	Render the premises safe	Within 24 hours of 29 August 2018
2	Erect fences surrounding the premises to prevent entry by unauthorised people	Within 24 hours of 29 August 2018
3	Engage an Occupational Hygienist to identify all areas that contain asbestos on the premises and furnish this report to Council	Within 72 hours of 29 August 2018
4	Engage a licensed contractor to spray PVA sealant and dye	Within 7 days of 29 August 2018
5	Engage a licensed contractor to remove the asbestos and demolish and remove all building debris from the premises make site safe and dispose to a licensed facility¶	Within 21 days of 29 August 2018
6	Furnish Council with receipts from the licensed facility for the disposal of the asbestos	Within 21 days of 29 August 2018

Difficult residents



The
Guardian