

LEGISLATIVE COUNCIL

Design and Building Practitioners Bill 2019

Second print

Proposed amendments

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- No. 1      **Duty of care**  
Page 15, clause 30(1), lines 6–9. Omit all words on those lines. Insert instead—  
*building* has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.
- No. 2      **Duty of care**  
Page 15, clause 30(1). Insert after line 11—  
*building work* includes residential building work within the meaning of the *Home Building Act 1989*.
- No. 3      **Duty of care**  
Page 15, clause 30(1), definition of *construction work*. Insert after line 15—  
(d) supervising, coordinating, project managing or otherwise having substantive control over the carrying out of any work referred to in paragraph (a), (b) or (c).
- No. 4      **Duty of care**  
Page 15, clause 30(1), lines 17 and 19. Omit “individual” wherever occurring. Insert instead “person”.
- No. 5      **Duty of care**  
Page 15, clause 30(1), definition of *owner*, line 18. Omit “possession”.
- No. 6      **Duty of care**  
Page 15, clause 30(1), definition of *owner*. Insert after line 18—  
(a1) for a lot within a strata scheme, the owner of a lot within the meaning of the *Strata Schemes Management Act 2015*,  
(a2) for a development lot or neighbourhood lot within a community scheme, the proprietor in relation to the lot within the meaning of the *Community Land Management Act 1989*,
- No. 7      **Duty of care**  
Page 16, clause 31(4), lines 7–9. Omit all words on those lines. Insert instead—

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- (4) The duty of care is owed to an owner whether or not the construction work was carried out—
    - (a) under a contract or other arrangement entered into with the owner or another person, or
    - (b) otherwise than under a contract or arrangement.

No. 8 **Duty of care**

Page 16, clause 32. Insert after line 14—

- (1A) The economic loss suffered by an owners corporation or association for the purposes of subsection (1) includes the reasonable costs of providing alternative accommodation where necessary.

No. 9 **Duty of care**

Page 16, clause 32(3), line 17. Omit “Subsection (1) does not”. Insert instead “Subsections (1) and (1A) do not”.

No. 10 **Duty of care**

Page 41, lines 41 and 42 and page 42, lines 1–29, Schedule 1, clause 5. Omit all words on those lines. Insert instead—

- (1) Part 3 of this Act extends to construction work carried out before the commencement of section 31 as if the duty of care under that Part was owed by the person who carried out the construction work to the owner of the land and to subsequent owners when the construction work was carried out.
- (2) Subclause (1) only applies to economic loss caused by a breach of the duty of care extended under that subclause if—
  - (a) the loss first became apparent within the 10 years immediately before the commencement of section 31, or
  - (b) the loss first becomes apparent on or after the commencement of that section.
- (3) Part 3 of the Act as extended by subclause (1) applies regardless of whether an action for breach of a common law duty of care has commenced before the commencement of section 31 and may be taken into account in those proceedings unless the court considers that it would not be in the interests of justice to do so.
- (4) Section 34 extends to a contract, agreement or stipulation relating to the construction work whenever made.
- (5) For the purposes of this clause, a loss becomes apparent when an owner entitled to the benefit of the duty of care under Part 3 of this Act first becomes aware (or ought reasonably to have become aware) of the loss.
- (6) Words and expressions used in this clause have the same meaning as in Part 3 of this Act.