

High Court of Australia

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A recent High Court of Australia ruling has serious implications for state and local governments with regards to their “duty of care”.

The Abolition of Nonfeasance Immunity

This recent ruling in the High Court has significant implications for all state and local governments, with regards to road repairs and maintenance.

It is now recognised that state and local governments have a ‘*duty of care*’ to ensure that public roads and pathways are adequately repaired and maintained to reduce the possibility of injury to members of the public.

The installation of *warning signs* to make people aware of the dangers in the immediate area is considered as a discharge of the ‘duty of care’ to take reasonable steps to minimise danger (para 156). For example, where funding is not currently available to carry out the necessary maintenance work .

The ruling also declares “a highway authority *does* control the state of the roads under its management” (para 331). This statement relates to the use of contractors by government bodies.

This is a matter of *risk management* for all government bodies and has significant implications for insurance coverage and minimisation of the increased exposure to tort litigation.

