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Update Summary

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PERSONAL INJURY LAW MANUAL QUEENSLAND

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Currently updated by
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Update Summary

The following new commentary has been provided by Lisa Blumke.

Occupier's liability

Swimming pools/Diving cases

In *Huckleberry Australia Pty Ltd v Guilfoyle* [2023] QDC 208 two Japanese students on an international exchange program died after drowning in Lake McKenzie during a guided tour of Fraser Island. Costanzo J considered that a penalty of not less than \$250,000 was appropriate. See [8.330].

Schools

In *DJW v State of Queensland* [2023] QSC 138 the plaintiff, a 65-year-old Aboriginal man claimed damages against the State of Queensland for psychiatric injuries allegedly sustained when he was a child whilst residing in two dormitories. The proceedings were permanently stayed. See [8.530].

Clubs

In *Black Head Bowling Club Ltd v Harrower* [2023] NSWCA 267 a 3-year-old girl (the deceased) was playing near a 400 kg ANZAC Memorial headstone at the Blackhead Bowling Club when it dislodged from its base and fell on her. Their Honours unanimously held that the primary judge's finding in respect of the scope of liability was erroneous. The responsibility for harm should have been extended to Edstein, as the designer and installer of the monument. See [8.480].

Residential premises

In *Furner v Jackson* [2023] NSWSC 914 the plaintiff slipped, fell and injured herself on the driveway of a home where she was attending an 'open house' scheduled by a real estate agent. The plaintiff instituted proceedings, claiming damages against the property owners, and the real estate agent engaged by the owners to sell the home. See [8.490].

Sporting premises

In *Karaoglu v Fitness First Australia Pty Ltd* [2023] NSWCA 229 the plaintiff used an incline leg press he had loaded with 240kg at the defendant's gym as part of his training. As he got off the leg press, the footplate descended and hit his head, causing him injuries. He instituted proceedings against the defendant claiming negligence. See [8.350].