

PROPORTIONATE LIABILITY IN NSW

A Timeline of Legal Developments

2002

The Civil Liability Act 2002 (NSW)

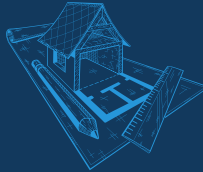
Introduced in New South Wales to formalise proportionate liability, and address issues of joint and several liability, where multiple defendants could be held 100% liable for a plaintiff's loss, regardless of their individual level of responsibility.



2014

The Multiplex Case

The High Court decision in *Brookfield Multiplex Ltd v Owners Corporation Strata Plan 61288* highlighted limitations in builders' duty of care, impacting the interpretation and application of proportionate liability in construction cases.



2014-2017

Numerous Building Disasters

Tragic events like the Grenfell Tower fire (2017) and the Lacrosse building fire (2014) underscored the need for stringent liability laws and influenced legislative changes to address safety and liability in the construction industry.



2020

Design and Building Practitioners Act 2020

In response to these building disasters, the *Design and Building Practitioners Act 2020* was enacted in New South Wales, reintroducing certain aspects of joint and several liability, particularly in ensuring building safety and accountability.

2023

The Case of Pafburn

The *Pafburn* decision by the New South Wales Supreme Court In December 2023, the NSW Court of Appeal ruled that proportionate liability does not apply to the statutory duty of care under s 37 of the *Design and Building Practitioners Act*.



Future

Emerging Legal Landscape

Moving forward, the proportionate liability regime will continue to evolve, balancing the need to fairly apportion liability among defendants while ensuring that plaintiffs can recover damages, especially in cases involving significant construction defects and safety concerns.

