

PLANNING &
ENVIRONMENT

Safety of Shop Awnings Policy

Date of Adoption: 18 November 2008

Effective Date: 6 April 2009

BACKGROUND

The City of Canada Bay council area contains many shop and commercial buildings which have an attached awning which projects over the public footpath. It is not compulsory for shops to have awnings, but they provide many benefits to the public, principally protection from heat and rain. They also shade the shop front and are used for advertising. Historically awnings were supported by posts mounted on the footpath, with an attachment to the façade of the building. In the 1950s a NSW Traffic Act required the supporting posts to be removed due to the danger of collapse when a motor vehicle mounted the footpath and knocked out a support. The supporting posts were replaced by steel tension rods connected to the building facia. The rods can fail over time due to numerous reasons including corrosion, adverse wind and weather conditions, lack of maintenance, non approved loading of the awning with AC plant, illegal use as a viewing platform, build-up of debris inside the awning structure, failure of the façade connection, failure of the connection at the awning, impact by a motor vehicle, demolition of an adjoining building or awning and other reasons. A failure of a tension rod can result in an awning collapse which can cause property damage, personal injury or death. Modern awnings are usually constructed with cantilevered beams which are integral to the structure of the building. Cantilevered awnings are much less likely to suffer catastrophic collapse; however the statutory obligations of the owner are identical to those of suspended awnings.

RESPONSIBILITY

Council is of the view that shop awnings are owned and controlled by, and are the responsibility of the building owner/user to which the awning is connected. Council is not the owner of shop awnings even though the awning is located over a footpath which is Council property. Section 142 of the Roads Act 1993 clarifies the responsibility for shop awnings:

142(1) A person who has a right to the control, use or benefit of a structure or work in, on or over a public road:
(a) must maintain the structure or work in a satisfactory state of repair, ...and, the person, is by this section, empowered to do so accordingly.

(2) Subsection (1) applies to all structures and works in, on or over a public road, including structures and works for which there is no consent in force under this Division.

APPROVALS

The statutory approvals required to erect a shop awning are as follows;

- 1) Canada Bay LEP 2008
- 2) Roads Act 1993: S126 and S138

Council's primary concern is for the personal safety of persons who may be using the footpath and who may be injured in the event that an awning collapses. Council is also concerned about other damage that may occur from a shop awning collapsing. For that reason, this policy has been developed and will be implemented in the terms expressed in this policy.

POLICY

Council's policy in respect of safety of shop awnings in summary is as follows;

- 1) Council does not accept responsibility and/or liability for the safety and condition of shop awnings which overhang Council footpaths.
- 2) Council will notify property owners and future owners at the time of property sale of their responsibility to keep shop awnings in a good and safe condition.
- 3) Council will assist shop owners and authorised persons with regard to what processes they need to undertake to satisfy themselves that their awning is in a good and safe condition.

- 4) Council will require shop owners and authorised persons to provide structural engineering certification to demonstrate that their awning is in a good and safe condition when seeking a footway dining approval
- 5) Council will make a notation on Section 149(5) certificates to ensure that when properties change ownership the new owners are made aware of their responsibility in respect to the awning.

IMPLEMENTATION

To implement this policy, Council will undertake the following actions:

- 1) Council will establish the ownership of all properties within the City of Canada Bay on which buildings with existing shop awnings are located;
- 2) Council will engage a structural engineer to provide advice on the following:
 - a) Appropriate standards and requirements to determine whether an existing awning is structurally adequate and in a satisfactory state of repair;
 - b) Wording and specifications for conditions for the planning approval and roads approval issued by the Council;
 - c) A standard template engineer's advice/certificate that should be provided to the Council in accordance with any specific conditions or requirements for conditions for use of footway approvals or other approvals;
 - d) Appropriate maintenance routines and details of inspections that should be carried out by engineers preparing the certificates.
- 3) Council will develop standard conditions and considerations for approvals including building certificates, etc;
- 4) Council will review all use of footway approvals at the time of annual renewal to ensure that adequate assessment of awnings has been undertaken to provide for the safety and condition of the awnings;
- 5) Council will send one notification letter to all owners of existing shop awnings advising of:
 - a) their general obligations and responsibility under section 142(2) of the Roads Act 1993 to maintain the shop awning in a satisfactory state of repair
 - b) advice about maintenance of the awning and the obtaining of structural engineer's certificates based on Council's adopted standards for awnings;
- 6) Owners and prospective owners of properties containing an awning which projects over a road or footpath will be notified of their responsibilities to maintain awnings under the Roads Act 1993, as a notification contained within S149(5) certificate at the time of property sale.
- 7) Development application forms will include the following question:-

Does the application include a shop awning projecting over;

- a) A local road
- b) A classified road (RTA controlled road)

Where the awning is to be erected over a classified road council will seek the concurrence of the RTA prior to issuing consent.

REVIEW

This policy will be reviewed after 1 year of operation.