

COUNCIL POLICY



Street Awnings and Balconies Safety Policy

Commencement Date	22 February 2021
Council Department	Environmental Services
Relevant Legislative Provisions:	Environmental Planning and Assessment Act 1979 Local Government Act 1993 Roads Act 1993
Contact Officer	Director-Environmental Services
Revision Required	Every 4 years

Policy Review

This policy shall be reviewed at four (4) yearly intervals at least, to ensure it meets all statutory requirements and the needs of council. It may also be reviewed at other times as determined by council.

Revision History

Version	Council Meeting Date	Resolution No.	Responsible Officer
1	23 May 2016	129/2016	Director-Environmental Services
2	22 February 2021	50/2021	Director-Environmental Services

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1. Introduction

Currently there are approximately 85 buildings within the Cowra Shire which have attached awnings or balconies which project over public land and footways (footpaths). A large proportion of these buildings are located in the central business district of Cowra.

Awnings and balconies provide a number of benefits including protecting pedestrians from heat and rain, shading buildings and providing opportunities for advertising. Awnings and balconies also add to the architectural features of a building. However these structures can pose a significant danger if they are not regularly inspected and maintained.

Most awnings in the Shire are tied to building facades using steel tension rods. Historically some of these awnings were supported by posts mounted on the footpath with an attachment to the facade of the building. In the 1950's legislation required the supporting posts of awnings to be removed due to the danger of collapse if a motor vehicle mounted the footpath and knocked out a support. The posts were replaced by the steel tension rods connected to the building facade. This legislation has since been repealed.

Steel tension rods supporting awnings can fail over time due to numerous reasons including corrosion, wind loads, weather conditions, lack of maintenance and increased loading on the awning by such things as air conditioner units and debris. Failure of a steel tension rod can lead to an awning collapse resulting in property damage, personal injury or death.

The Roads Act 1993 clarifies in section 142(1) that a person who has a right to the control, use or benefit of a structure in, on or over a public road (which includes a footway), must maintain the structure in a satisfactory state of repair. This obligation does not apply to a person whose right to the control, use or benefit of a structure or work consists merely of a right of passage that the person has as a member of the public or a right of access that the person has as the owner of adjoining land.

2. Purpose

The NSW Government has requested Council's implement a program to raise awareness of the need to monitor the safety of awnings as they age, both in their own organisations and with the owners of buildings with awnings over public land.

This policy has been developed to increase the awareness of building owners which have awnings or balconies which project over public land or footways about the need to have these structures regularly inspected and maintained to ensure they are safe, and stipulate the requirements to undertake inspections or work on these structures.

3. Objectives

The objectives of this policy are to:

1. Identify all buildings within the Cowra Shire with awnings or balconies which project over public land or footways and maintain a register of these buildings;
2. Notify owners of these structures about the dangers of collapse and their responsibility to ensure that these structures are structurally adequate at all times especially during and after adverse weather conditions;

3. Encourage owners of such awnings and balconies to get the structures regularly inspected by an appropriate professional engineer and refer them to Practice Note 18 'Inspection and Assessment of Existing Tied Awnings', issued in July 2008 by the Association of Consulting Structural Engineers of NSW, which provides a process which can be used for the determination of awning safety;
4. Advise owners to seek their own legal advice about their potential liabilities in the event of failure or collapse of their awning or balcony;
5. Require owners to notify Council of the results of any inspections conducted on their awning or balcony and ensure that Council approval is obtained prior to undertaking any works on these structures.

4. Scope

This policy applies to all land within the Cowra Shire on which there is a building with an awning or balcony which projects over public land or a footway.

5. Provisions

5.1 Identification

Council will identify the location and ownership of all existing awnings or balconies which project over public land or footways within the Cowra Shire and generate a base date register of these structures.

All new awnings or balconies which are constructed over public land or footways will require development consent and will be placed on the register once completed.

5.2 Notification

Council will write to the owner(s) of buildings listed on the street awnings and balconies register every two (2) years to advise the following:

1. Building owners are responsible for keeping awnings and balconies in good order at all times including during adverse weather conditions;
2. Building owners should seek legal advice about the liability for failure or collapse of their awning or balcony;
3. Building owners must hold appropriate public liability insurance to a minimum value of \$20 million at all times with regards to their awning or balcony;
4. Awnings and balconies should be regularly inspected by a professional engineer for structural adequacy. Practice Note 18 'Inspection and Assessment of Existing Tied Awnings', issued in July 2008 by the Association of Consulting Structural Engineers of NSW, provides a process which can be used for the determination of awning safety;
5. Cowra Council must be notified of the results of any inspections undertaken on awnings or balconies;

6. Cowra Council's Street Awnings and Balconies Policy must be complied with.

5.3 Inspection

The Roads Act 1993 clarifies in section 142(1) that a person who has a right to the control, use or benefit of a structure in, on or over a public road (which includes a footway), must maintain the structure in a satisfactory state of repair. A building owner is responsible for all costs associated with the inspection, maintenance, repair or demolition of an awning or balcony projecting over public land or a footway.

Awnings and balconies should be regularly inspected by a professional engineer for structural adequacy. Awnings and balconies should be assessed against the requirements of Australian Standard 1170 Parts 1 and 2, as current at the time of the inspection. A previous version of these standards may be used with the agreement of the professional engineer and Council.

Cowra Council also recommends the use of Practice Note 18 'Inspection and Assessment of Existing Tied Awnings', issued in July 2008 by the Association of Consulting Structural Engineers of NSW as the process to be used for the determination of awning safety.

The results of any inspection completed by a professional engineer should be in writing and should be provided to Council within 7 days of being issued. The inspection assessment should provide detailed instructions for any rectification work that may be necessary, recommendations for an ongoing maintenance or inspections and stipulate the methods used to assess the structural adequacy of the awning or balcony.

5.4 Public Liability

The owner of any awning or balcony which projects over public land or footways must hold appropriate public liability insurance to a minimum value of \$20 million at all times. Confirmation of this insurance must be provided to Cowra Council annually.

5.5 Approvals

Prior to undertaking any inspection or works on or over a public road (which includes the road reserve and footway) a section 138 Permit must be obtained from Cowra Council under the Roads Act 1993.

Where upgrading, repair or demolition works are required to be undertaken on an awning or balcony, development consent may be required. Owners must ensure that development consent is obtained where necessary, prior to the commencement of any works.

Any proposed upgrading, repair or demolition works must take into consideration the character, streetscape and heritage values of the subject awning or balcony.

The demolition of an awning or balcony will only be considered where the structure has been assessed by a professional engineer and Council and found to be so dilapidated that it is beyond repair and poses a danger to the public. In this event the building owner will be required to replace the awning unless otherwise stipulated by Council. Development consent will be required for any new structure and it must be designed to take into consideration the character, streetscape and heritage values of the building and surrounding area.

5.6 Enforcement

Environmental Planning and Assessment Act 1979

Where Council identifies that an awning or balcony which projects over public land or a footway, is or is likely to pose a danger to the public or persons or property in the area, Council may take action via the issuing of an order under the Environmental Planning and Assessment Act 1979. An order issued under this Act may require the structure to be repaired, structurally altered or demolished. Council may also require suitable barriers and/or fencing to be installed to protect property or persons in a public place.

Council will comply with the requirements of the Environmental Planning and Assessment Act 1979, prior to issuing any such order. Failure to comply with an order may result in Council taking further action under the Environmental Planning and Assessment Act 1979.

Local Government Act 1993

Where Council identifies that an awning or balcony which projects over public land or a footway is not in a safe or healthy condition, Council may take action via the issuing of an order under the Local Government Act 1993. An order issued under this Act may require the owner of the structure to undertake works in order to ensure the structure is placed or kept in a safe and healthy condition.

Council will comply with the requirements of the Local Government Act 1993, prior to issuing any such order. Failure to comply with an order may result in Council taking further action under the Local Government Act 1993.

6. Review

This Policy will be reviewed every 4 years.