



**LACHLAN SHIRE  
COUNCIL**

Wiradjuri Country

# AWNING POLICY

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## PART 1: INTRODUCTION

The Lachlan Shire Council area has many shops and commercial buildings that have awnings which project over public footways.

It is not compulsory for shops and commercial buildings to have awnings. However, they provide many benefits to the public, including protection from heat and rain, shading the premises and providing opportunities for advertising. Appropriately designed awnings create attractive pedestrian environments and also provide clear visibility of the footpath.

Some awnings are supported by steel tension rods connected to the building's facade. These rods can fail over time for various reasons including corrosion, adverse wind and weather conditions, poor maintenance, illegal use and loading, build-up of debris inside the structure, failure at the facade or awning connection, impact by a motor vehicle, demolition of an adjoining building or awning and other reasons. The failure of a tension rod can result in an awnings collapse which can cause property damage, personal injury or death.

For example, in 2007 a man was killed when the awning at the front of a shop in Balgowlah collapsed during a severe thunderstorm. As a result of the Coroner's Court findings, action was recommended to ensure the safety of awnings in public areas - recommending that safety inspections be conducted every five years.

Many modern awnings are 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 legal obligations of the owner are identical to those of awnings with tension rods.

Awnings are part of the buildings to which they are attached and are the responsibility of the owner of the building, even when an awning is located over a public footpath. The Roads Act 1993 clarifies in Section 142(1) the responsibility for awnings over roads (including footpaths) by requiring that a person having a right to control the structure must maintain it in a satisfactory state of repair.

To address the safety of awnings across the state, Councils need to adopt a strategy of progressively requiring inspection, certification and where required, upgrading of existing awnings.

### 1.1 Policy Objectives

The objectives of this policy are to:

- raise awareness of the need for owners to regularly monitor the safety of their awnings;
- implement an awnings awareness program framework for owners of awnings within the Lachlan Shire Council area;
- promote an increased level of protection of public health and safety by reducing the risk of harm, injury or death which may result from the failure of an awning overhanging the Council's footways.

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## 1.2 Scope of Policy

The policy applies to all land within the Lachlan Shire Council area.

## 1.3 Legal Context

Awnings are regulated under the following –

- Roads Act 1993 (Roads Act)
- Environmental Planning and Assessment Act 1979 (EPA Act)
- Local Government Act 1993 (LGA Act)

The NSW Government have provided further guidance on the legislative framework through a NSW Department of Planning and Infrastructure Building Circular entitled “Safety of Awnings Over Public Lands”, dated 8 March 2013 (Circular BS13-001) and through a NSW Department of Planning and Environment Circular entitled “Safety of Awnings Over Public Lands”, dated 10 May 2017 (Circular BS17-001).

## 1.4 Approval Requirements

Approvals required for an awning may include a:

- consent for the purposes of complying with Section 138 of the Roads Act,
- development consent or complying development certificate under the Environmental Planning and Assessment Act 1979 (EPA Act) for the erection or future continued use of an awning where required by the applicable planning controls, and

In cases where there is no record of an approval for the erection of an awning a Building Information Certificate may be obtained.

An application for a **new** awning is to comply with the relevant provisions of the National Construction Code of Australia and:

- Australian Standard 1170.0 – Structural Design Actions – General Principles,
- Australian Standard 1170.1 – Structural Design Actions – permanent, Imposed and other Actions,
- Australian Standard 1170.2 – Structural Design Actions – Wind Actions. An application is also to comply with this Policy.

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## PART 2: POLICY CONTENT

### 2.1 General

The owner of an awning;

1. is encouraged to engage a National Engineering Register (NER) registered structural engineer to inspect the awning or balcony and structures required for its support and provide a written report detailing:
  - a. the structural integrity of the awning and building elements required to support the structure.
  - b. The adequacy of the awning stormwater drainage system.
  - c. The date of the inspection.
  - d. Confirmation that they have considered information contained within Practice Note No. 18: Inspection and Assessment of Existing Tied Awnings, dated July 2008.
  - e. Provide certification that the awning, balcony and building elements required to support the structures are structurally sound, fit for purpose and are adequate for the next five year period.
  - f. If repair works are required, a schedule of proposed works is to be provided to Council prior to any works taking place. Generally only minor work and repairs may be able to be carried out as exempt or complying development. As many shops are also heritage affected, it is strongly recommended that you contact Council with details of proposed works to check whether development approvals are needed.
  - g. A copy of the report is to be provided to Council within two months of the date of the inspection.
2. are to seek their own legal advice about their potential liabilities in the event of failure or collapse of their awning or balcony;

The above requirements must be undertaken;

- Upon adoption of this policy;
- on a recurrent five (5) year basis; and
- for all awnings more than 10 years old.

Council may require an owner to obtain structural certification from a suitably qualified engineering expert following a severe storm event, flood, fire or accident which damages the awning and in the opinion of the Council is likely to be unsafe.

The owner of an awning is to bear the cost of any inspection of the awning for the purposes of this policy.

#### 2.1.1 Implementation

The Council -

- intends to establish a 'base-date' record of all awnings over public roads;
- will identify the location and ownership of all existing awnings by searching the available records and undertaking street and other inspections where necessary or desirable; and

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- will send a letter to all awning owners on an annual basis advising owners of their responsibility to maintain their awnings and have inspected those awnings for structural suitability on a regular basis.

## 2.2 Specific Provisions

### 2.2.1 Public liability insurance

The owner of an awning which overhangs a public footway/road reserve or space is required to ensure that they hold appropriate insurance to the value of \$20 million in respect of an awning noting Lachlan Shire Council as an interested party on the policy.

### 2.2.2 Access to premises

The Council may enter premises supporting an awning in order to inspect and make an assessment of the structural adequacy and safety of the awning.

The Council has the power to enter premises for this purpose under Sections 191 and 192 of the Local Government Act 1993.

The Council may authorise persons other than Council officers for this purpose.

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## Appendix 1 – Annual Awnings Awareness Letter

**Contact:** Insert Contact Officer

**Ref:** Annual Awnings Awareness Reminder

Date

Address Line 1

Address Line 2

Address Line 3

Dear Sir/Madam

**Re: Safety of Awnings over Public Land – Structural Certification of Awning over Public Land  
### Bathurst Street CONDOBOLIN**

I am writing to you in relation to an awning attached to your building on land at the above mentioned address.

As the property owner you are responsible for the structural adequacy of the building and any other structure attached, whether it overhangs the public footway or not.

Lachlan Shire Council seeks to ensure that sufficient measures are in place and necessary steps taken to ensure that users of the footways within Lachlan Shire are protected from injury that may result from the structural failure of awnings. Over a period of time awnings and balconies may become structurally weakened and in the absence of regular maintenance or repair, may pose a real risk to public safety.

*For example, in 2007 a man was killed when the awning at the front of a shop in Balgowlah collapsed during a severe thunderstorm. As a result of the Coroner's Court findings, action was recommended to ensure the safety of awnings in public areas - recommending that safety inspections be conducted every five years.*

In response to recommendations of the Coroner's Court, the NSW Department of Planning and Infrastructure released a circular concerning the safety of awnings over public lands.

The purpose of the circular was to raise awareness of safety issues and to seek cooperation to minimise risks of awning collapse.

It is the owner's responsibility to ensure that appropriate action is taken to avoid the risk associated with potential collapse or failure of awnings. Accordingly, all building owners with awnings attached to their building, or overhanging a public place are encouraged to take appropriate action. This may include seeking legal advice on the potential liability for any failure or collapse of their awning.

To assist with reducing the risk and incidence of awning collapse, Council recommends that the gutters of awnings be cleaned of all leaf debris on a regular basis. The most appropriate time for removal of such debris is between May to August each year. During May to August of each year, awning owners will not be required to obtain a hoarding permit for the explicit activity of

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cleaning the gutters of awnings. Awning owners should reference the Safe Work Australia publication entitled “Managing the Risk of Falls at Workplaces” prior to undertaking any work at height in association with the cleaning of awnings. Please see the following link for further information –<https://www.safeworkaustralia.gov.au/doc/model-codes-practice/model-code-practice-managing-risk-falls-workplaces>

Awning owners can obtain further safety advice by contacting SafeWork direct, on 13 10 50.

Council would also strongly encourage owners of awnings, particularly those more than 10 years old, to have those awnings inspected by a professional engineer for structural adequacy. I would also request, that the results of any such inspection and any action taken as a result of such an inspection be communicated to Council.

**What do I have to do?**

Engage a NER registered structural engineer to inspect the awning or balcony and structures required for its support and provide a written report detailing:

The structural integrity of the awning, balcony and building elements required to support these structures.

1. The adequacy of the awning stormwater drainage system.
2. The date of the inspection.
3. Confirmation that you have considered information contained within Practice Note No. 18 Inspection and Assessment of Existing Tied Awnings dated July 2008.
4. Provide certification that the awning, balcony and building elements required to support the structures are structurally sound, fit for purpose and are adequate for the next five (5) year period.
5. If repair works are required a schedule of proposed works is to be provided to Council prior to any works taking place.
6. A copy of the report is to be provided to Council within two (2) months of the date of this letter.

**What action will Council take if this request is not actioned?**

In the event a response is not provided or information is received that an awning may be structurally unsound Council will have no alternative but to invoke its statutory powers, in the interest of the public, to address the risk. Regulatory action to have this issue addressed may include the issue of orders to carry out works, infringements of \$3,000 for individuals and \$6,000 for companies or court proceedings.

Please be advised that Council is empowered by the Environmental Planning and Assessment Act 1979, the Local Government Act 1993 and the Roads Act 1993 to issue Orders to ensure buildings do not pose a potential safety threat to the public.

The attached Practice Note 18 ‘Inspection and Assessment of Existing Tied Awnings’, issued in July 2008 by the Association of Consulting Structural Engineers of NSW and NSW Planning and Infrastructure circulars “Safety of awnings over public Lands” in 2017 and 2013 may assist you with the processes used to determine awning safety.

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Note: Council recommends owners of a structure which overhangs a public footway, road, reserve or space hold appropriate insurance cover to the value of \$20 million and nominate Lachlan Shire Council as an interested party on the policy.

For further information, or to provide certification for your structure please contact Council on phone numbers listed above or email [council@lachlan.nsw.gov.au](mailto:council@lachlan.nsw.gov.au)

Please ensure you give a copy of this information to your engineer or building consultant.

Yours sincerely

Name  
(Position)

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