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Friday, June 22, 2018

Attention: Director, Codes and Approval Pathways

Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Deborah Brill,

I'd like to draw your attention to new proposed changes to the safety of existing awnings to comply with Section B of Volume 1 of the BCA. Below I have written some issues and suggestions to improve the current proposal.

RE: Safety of Existing Awnings Change

I've found some issues with the current proposal which I believe will be quite onerous and unworkable if this is linked as proposed to CDC's for Commercial and Industrial Alterations.

Here are some examples of where the proposed measures might cause issues:

Example 1 - Issuing a CDC for a small office tenancy fitout on an upper Level of an existing office tower, with multiple awnings on the ground floor over the street.

Obtaining Structural Certification for a remote awning is unrealistic and unreasonable for a commercial tenant undertaking fitout works to their tenancy The awning is so far remote from the works it doesn't meet the reasonableness test.

Example 2 - A shop fitout to a small internal tenancy in a large shopping centre, with multiple awnings around the perimeter of the building.

Again, obtaining Structural Certification for a remote awning is unrealistic and unreasonable for a minor tenant. The awning is so far remote from the works it doesn't meet the reasonableness test.

Example 3

In either of the above 2 examples, the awning was installed to a previous code, remains structurally adequate, but does not strictly meet current standards

The effect of the requirement will be to stop the use of CDC approvals for shop and office fitouts. Minor tenants (applicants) will firstly have the impractical responsibility to certify any awnings on the building. But secondly, even if these are deemed safe but technically non-compliant, the applicant will be forced to a DA pathway anyway.

The effect Instead, a DA will now be required for all older buildings, reducing the extent of CDC certification for Retail and Commercial applications, forcing those tenants back to obtaining DA from council where this would not apply.

Also, what happens if the Awning is deemed structurally unsound? As rectification works cannot be done as a CDC, does the fitout need to go via a DA as an awning far removed from the works proposed is structurally not compliant with the latest version of the BCA?

Here are some suggestions that I believe will be achievable to the client/owner:

Suggestion 1 - Confirmation should be that the Awning is "structurally adequate" from a structural engineer rather than to the current BCA. This will achieve the same result, as structural references adhere to the latest requirements within the BCA. Awnings may still be structurally sound even if they are built to an older standard, more of a "fit for purpose" assessment. Otherwise, each time the BCA is amended a new assessment would be needed resulting in numerous reviews of the same awning, and potentially upgrades to the awning each time the BCA is amended with no benefit to the community.

Suggestion 2 - This proposed measure should only apply when the application for the CDC is by the sole tenant or owner of the building, similar to Disabled Access Upgrade triggers under the Access to Premises standard. Due to the fact that they have the ability and means to obtain this structural confirmation.

Suggestion 3 – awning certification should be made part of the annual fire certification of a building. However, the timeframe for regular inspections and certification could be reduced as structures do not become unsafe overnight. 5 yearly intervals appears more reasonable.

General comments

An individual tenant/small business owner wanting to install an office, or replacement of a change room to a shop should not be a trigger for a structural review of awnings far removed from the area the subject of the CDC.

Some buildings, such as shopping centres will have numerous CDC's under assessment throughout the year and will require a fresh assessment each time a CDC is lodged. However, if a time-frame is put in place, for example every 5 years rather than each time a CDC is lodged, this will avoid unnecessary busy work by structural engineers.

Finally, requiring existing buildings to comply with current codes is simply not practical.

RE: Contamination from Demolition Change

This change needs a very clear definition as to what "risk of contamination" means. As currently worded, it is open to interpretation. This will mean that a lot of Demolition CDC work will cease due the amendments to clause 7.2(1). Another issue of concern is even if Asbestos Removal is proposed to be undertaken by a licenced Asbestos contractor but the site has been deemed a "risk of contamination", a CDC cannot be issued. This would then again require a DA to no end.

Currently, there is a high volume of Demolition works carried out through Schools. If any of these buildings are to be demolished have asbestos or lead in them then there is a “risk of contamination”, even if licensed removers are engaged, and these works will be delayed.

Here are some proposed suggestions:

1. Remove the proposal to stop CDC Approval for Demolition if there is a “risk” of contamination
2. Provide a clear definition of what is meant by “risk” and what is meant by “contamination”.

I look forward to hearing your feedback,

Kind regards,

Steve Watson
Managing Director
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