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Housekeeping amendments to the Codes SEPP

- Feedback from the Sydney City Council

The following feedback (from two officers) is provided:

- Building Compliance Specialist – Health and Building Unit (**blue** text);
- Standards and Policy Specialist – Construction and Building Certification Services Unit (**red** text).

Signage on cranes

I do not believe that the State (nor the City) should limit this type of signage. The signs, like the crane, is temporary and is totally within the confines of the site. If anything, site identification is a beneficial action for the greater community.

Given that the nature of cranes does not allow for significant volume of miscellaneous signage (other than crane company and site details) it would seem inappropriate for the state or Council to limit such use.

Although the effect of illumination should be limited (say to provide curfews between 10pm and 6 am for example where any illuminated or animation is to be extinguished) such signage should be exempt.

I note that it is not an offence to have a company logo etched onto a truck or excavator, so why not allow such signage on a crane?
It is also noted that illumination of cranes at night is a public safety issue in respect to aircraft.

The proposed housekeeping amendment is supported as some control is necessary in relation to the size of permitted signage and finishes as cranes are generally viewable high in the sky and highly visible from long distances. One change or clarification is however suggested in relation to the reference of '*colour'* in one of the development control criteria (see below):

"it does not contain reflective materials, colours and finishes"

A person could read the provision as prohibiting, outright, the use of colours in signage. I don't believe this is the intention. I believe the provision requires that there be no reflective colours in the signage (text) content. The following suggested minor change will therefore make this clear:

"it does not contain reflective materials ***including reflective*** *colours and finishes"*

Safety of existing (street) awnings

Firstly, how does one ensure that ALL exempt works to a building is inclusive of an engineering certificate? For example, a small and low cost internal alteration will potentially add a $600-$1200 inspection/report fee for a structural check of an awning.

Then, there is the practical consideration that it is virtually impossible that any awning built prior to 2000 could ever be compliant with Part B of the BCA. This does not mean that it is unsafe, but rather, the implied loads (AS1170) could not be satisfied in most cases.
Any steel in older awnings is also unlikely to comply with AS 4100 or AS 4600.

The masonry structures to which an awning is attached (not uncommon to be solid 9 inch masonry with lime mortar bed-joints) could also be considered as being inadequate in relation to AS 3700 (masonry standard).

It is also noted that many of the awnings within the City of Sydney are either heritage sensitive / listed or within conservation areas and/or are contributory in the streetscape. As such, the soffits and 'roofing fabric' would also be non-compliant (and any required adjustments to an awning could impact on significant heritage fabric).
It is accepted that an alternative (performance) solution may be possible, however this could present a higher risk to an assessor (engineer), and as such, result in a potentially higher costs (fees) for property owners and/or tenants.

The cost of inspection fees and the potential cost of altering/strengthening of an awning could result in less maintenance being undertaken on the main structure of a building.
In situations where the awning is deemed to be 'non-compliant' (likely to be the case in most cases), the preferred economic and most practical response would be remove the awning totally. This is not in the interest of the general public, the streetscape appearance nor is it in-line with 'ecologically sustainable' development.

The comments above are generally supported. The following additional feedback is provided:

1. Concerns are raised in relation to exempt development where awnings are found to be structurally inadequate (unsafe) and need to be rectified. In these cases there is no requirement for accredited certifier involvement. This aspect, including public safety risks, needs to be more effectively dealt with to ensure that buildings undergoing change as exempt development, and which have street awnings, are dealt with more comprehensively to ensure that awnings are appropriately inspected and rectified if needed, including an effective follow-up process.

   Works undertaken as complying development is an effective way to address any issues regarding awning adequacy, subject to appropriate development standards being specified to require awning rectification. This ensures that appropriate enforcement / compliance action can be taken through certifier follow-ups and if not corrected, can be referred to the local council for the serving of orders, if necessary.

   However, in circumstances where there is no certifier involvement (exempt development works) it's important that a competent person be responsible to ensure that street awnings are inspected and any required rectification works are undertaken. To address this important aspect, it is recommended that exempt development works should only apply to buildings that do not have street awnings in place that are older than a prescribed date or where an awning has been inspected and certified as being structurally safe.

   In circumstances where this does not apply the proposed works to a building must be undertaken through a complying development certificate which will require the appointment of a principal certifying authority to ensure that an awning is checked and rectified (if found necessary). An alternative process allow for 'exempt works' to the building to be undertaken without a CDC however a PCA must be appointed in relation to the street awning safety checks;

2. Any changes to awnings and/or removal and rebuild will need Local Government Act and Roads Act approvals from the local roads authority (councils). This needs to be highlighted in the Codes SEPP provision as a notation;

3. Some concerns are highlighted regarding the process of checking/confirming that street awnings are safe when alterations to buildings are subject to a development application /development consent. It is therefore recommended that prescribed provisions be included in the proposed new, but not yet released, EP&A Regulations to require mandatory checking of street awnings similar to the prescribed matters that currently apply when issuing a construction certificate (Division 8A), example Clause 98E below.

> ***98E Condition relating to shoring and adequacy of adjoining property***
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> *(1) For the purposes of section 4.17 (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:*
>
> *(a) protect and support the building, structure or work from possible damage from the excavation, and*
>
> *(b) where necessary, underpin the building, structure or work to prevent any such damage.*
>
> *(2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.*

4. There has been a significant volume of work undertaken by the DPE over the past 6-7 years in relation to street awning safety of which the City of Sydney has been involved in several workshops and meetings. It is therefore strongly recommended that the proposed SEPP amendments be discussed with the Building Policy Unit to confirm that the proposed amendments are appropriate and adequate to address the significant public safety risks.

Land contamination

How is this practically going to be enforced?

If anything, it should be a pre-commencement condition that requires all CDCs to have a geotech report to demonstrate that the land is free of contamination prior to the CDC being addressed.

If the land is contaminated, then it is no longer available via the CDC pathway.
Again, this will have a negative impact upon the uptake of CDCs as it is potentially less onerous to seek a DA than to apply via the CDC pathway (in respect to land contamination).

Compiled by:

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