

Inquest into the death of Christopher Jon Walton

Christopher Jon Walton died on 23 December 2012 from multiple injuries when an awning attached to a building collapsed and trapped him against one of the building pillars below.

Coroner James McDougall delivered his findings of inquest on 27 October 2016.

The Queensland Government responds to recommendations directed to government agencies at inquests by informing the community if a recommendation will be implemented or the reason why a recommendation is not supported.

The departments named in this response will provide implementation updates until the recommendation is delivered. Further information relating the implementation of recommendations can be obtained from the responsible minister named in the response.

Recommendation 1

All local authorities, or their suitably qualified and authorised nominee, at the direction of and with the assistance of the Department of Infrastructure, Local Government and Planning conduct an immediate inspection of all awnings over public footpaths in Queensland.

Response and action: Not agreed. Not being implemented.

Responsible agency: Department of Local Government, Racing and Multicultural Affairs, supported by Department of Housing and Public Works.

On the 20 September 2022, the Deputy Premier and Minister for State Development, Infrastructure, Local Government and Planning supported by the Minister for Energy, Renewables and Minister for Public Works and Procurement responded:

The former Department of Local Government, Racing and Multicultural Affairs (DLGRMA) led a multi-agency group comprising the Local Government Association of Queensland (LGAQ), Gold Coast City Council (GCCC), Office of Industrial Relations – Workplace Health and Safety Queensland (WHSQ), Queensland Building and Construction Commission (QBCC) and the Department of Housing and Public Works. The group met regularly during 2018 and concluded its work in early 2019.

The working group acknowledged the benefits that would arise from a mandatory inspection regime for awnings and potentially all aging buildings and recognised that there were significant challenges in implementing the Coroner's Recommendations 1, 2 and 3 as made. In consideration of the number of awnings in Queensland, Queensland's demographic diversity and the financial and resourcing impacts of implementing a state-wide inspection program as recommended by the Coroner, it is considered such a regime would be too prohibitive for local governments. Noting that an inspection of an awning usually requires that external cladding is removed to enable testing of internal structures and fixings. Local governments do not have the financial or human resources to undertake this task as their resources are necessarily prioritised toward delivering essential municipal services.

It is not feasible or practical for local governments to undertake inspections of all awnings or for the Minister for Local Government or the Department of State Development, Infrastructure, Local Government and Planning to direct a local government to implement an awning inspection program. There is provision in the *Local Government Act 2009* and *Building Act 1975* that empowers local governments to inspect buildings and structures and take enforcement action where appropriate,

particularly where they believe the building or structure is dangerous or dilapidated (in addition to assessing and certifying the compliance of the building work).

Recommendation 2

That where necessary, appropriate orders be made to rectify any awnings presenting a danger of collapse, and that appropriate legislation be put in place to enforce such orders.

Response and action: Agreed and implemented.

Responsible agency: Department of Local Government, Racing and Multicultural Affairs, supported by Department of Housing and Public Works.

On the 20 September 2022, the Deputy Premier and Minister for State Development, Infrastructure, Local Government and Planning supported by the Minister for Energy, Renewables and Minister for Public Works and Procurement responded:

Under existing legislation, where local governments become aware of unsafe awnings, local governments have existing powers to make and enforce orders for rectification works. Under the *Building Act 1975* local governments have powers to, among other things, enforce repair or rectification works or demolish or remove dangerous or dilapidated buildings or structures. It is considered these legislative enforcement powers are sufficient to address the matters raised by the Coroner.

Both local and state governments and the Queensland Building Construction Commission also promote ongoing maintenance of all buildings and structure through their websites, factsheets, guidelines and general communication strategies. However, it remains the building owner's responsibility to maintain their buildings and structures to ensure they are safe.

Recommendation 3

That an ongoing awning inspection program should be introduced in Queensland for structures over public land, to be administered by local authorities. The Minister for the Department of Infrastructure, Local Government and Planning should consider the establishment of a departmental taskforce to develop a suitable program, which can effectively reduce the risk posed to the community by aged awnings. The suggestions made by the expert engineers in this case as to the features that could be included in such a program, should be considered by the taskforce. It is crucial that any program introduced ensures that local authorities/councils have the power to conduct effective inspections of awnings over public lands, and can ensure effective compliance by building owners with any enforcement/remedial action that is deemed necessary to remove the risk posed.

Response and action: Not agreed. Not being implemented.

Responsible agency: Department of Local Government, Racing and Multicultural Affairs, supported by Department of Housing and Public Works.

On the 20 September 2022, the Deputy Premier and Minister for State Development, Infrastructure, Local Government and Planning supported by the Minister for Energy, Renewables and Minister for Public Works and Procurement responded:

The former Department of Local Government, Racing and Multicultural Affairs led a multi-agency group comprising the Local Government Association of Queensland (LGAQ), Gold Coast City Council (GCCC), Office of Industrial Relations – Workplace Health and Safety Queensland (WHSQ), Queensland Building and Construction Commission (QBCC) and the former Department of Housing and Public Works (DHPW). The group met regularly during 2018 and concluded its work in early 2019.

The working group determined that there were significant challenges in implementing the Coroner's Recommendations 1, 2 and 3 as made. The working group recommended the Queensland

Government's response should address the principle of the Coroner's recommendations with the response being proportionate to the evident level of risk posed by unsafe awnings, while acknowledging that some aspects of the recommendations were, for various reasons, not able to be practically implemented.

The group's deliberations were informed by industry and technical expertise provided by DHPW, QBCC and WHSQ; and the Local Government sector's perspective provided by the LGAQ and the GCCC. The group considered the Queensland Government's approach to regulate use of non-conforming building products and was guided by the experience and learnings from work undertaken by the Gold Coast City Council (GCCC) to mitigate further risk following Mr Walton's death. The GCCC found that identifying and inspecting all awnings in its local government area was not achievable. The group also examined relevant activity in other jurisdictions and found that no other State or Territory had an inspection program for awnings.

The group agreed that inspections of aged awnings over public land may reduce the risks associated with aging structures. However, the conduct of inspections must be implementable in respect of costs, benefits and practicability and, as far as is possible, be consistent with approaches taken to other building safety issues.

For the reasons stated above the recommendation is not being implemented.

Recommendation 4

That a review of Australian Building Standards be undertaken in relation to awnings generally and cantilevered awnings particularly, to ensure that issues, such as minimum required design life prior to major maintenance, corrosion protection, facilitation of the inspection of primary support fixings, the specification of minimum mechanical anchor embedment and structural soundness are adequately addressed.

Response and action: Agreed and implemented.

Responsible agency: Department of Housing and Public Works.

On the 20 September 2022, the Minister for Energy, Renewables and Minister for Public Works and Procurement responded:

The Department of Energy and Public Works (DEPW) consulted with other Australian jurisdictions. The consultation was coordinated through the Australian Building Codes Board's Building Administrations meeting held in July of 2017. The Building Administrators considered the recommendation and representatives agreed that the matter should be referred to Standards Australia in order that its technical committees responsible for standards relevant to the construction of awnings consider the recommendation.

Standards Australia is the peak Australian independent standards organisation, specialising in the development and adoption of internationally aligned standards in Australia. Standards Australia was provided a copy of Recommendation 4 and asked that the relevant committees consider the matters raised by the Coroner.

On 16 October 2017, Standards Australia wrote to DEPW confirming that Standards Australia had identified two standards relevant to the construction of awnings. However, there were no current projects to revise the relevant standards or adopt a new standard. Further they would be prepared to consider a new project proposal to revise an existing standard or develop a new Australian Standard relating to the construction of awnings should that be appropriate. Any proposal would

need to be put forward and funded by a relevant stakeholder such as government, industry or trade association, professional body, consumer organisation or an individual.

On 25 October 2018, Standards Australia wrote to the Queensland Coroner advising that its technical committee had conducted an internal review of the relevant Australian Standards. The technical committee determined it was not within the scope of the standards to address issues such as design life, durability, or design for resistance. Standards Australia also confirmed that no proposals had been received to review, or change, these standards.

Considering the advice of Standards Australia to the Coroner and consultation undertaken with other jurisdiction, the department does not consider any changes to the relevant Australian Standards are required as they address the technical requirements of awning construction and therefore has not put forward a proposal to Standards Australia to review or revise the standards.

DEPW believes that providing continued guidance to building owners about maintenance of buildings and structures will result in improved safety of awnings in Queensland and proposes to do this on an as needs basis.