



Department of Local Government
Circular to Councils



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LOCAL GOVERNMENT AMENDMENT (GRAFFITI REMOVAL) ACT 2001

The Local Government Act has been amended to facilitate agreements between councils and private landowners to allow the quick removal of graffiti from private property. **The Local Government Amendment (Graffiti Removal) Act will commence on 1 July 2001.**

A copy of the second reading speech by the Hon Harry Woods, Minister for Local Government is attached under. It explains the background to the legislation, the specific amendments being made and some of the options that councils have to combat graffiti.

Quick removal of graffiti is one avenue that has been shown to have an impact on the problem. The amendments facilitate quick removal of graffiti through:

- Section 67A - specifically empowers councils to enter into agreements with private landowners to allow council staff to enter private property to remove graffiti, whenever it occurs. The agreement may:
 - ◆ Permit the use of water/ electricity/ tools on the property
 - ◆ Require council staff to leave the property as it was and make good any damage
 - ◆ Provide that the landowner will contribute to the cost
 - ◆ Provide notification requirements so that council must notify an owner where possible of its intention to enter and remove graffiti
 - ◆ Provide reporting requirements so council may inform a landowner about work undertaken
 - ◆ Provide any special arrangements where property is leased.

New section 67A does not affect any current agreements that councils may have with landowners. These are still valid.

- Section 67A – also requires council to keep a register of graffiti removal work undertaken under an agreement made under s.67A. That section lists the information that must be included in the register.
- Council is not required to comply with s.67 (work on private lands) when removing graffiti under s.67A.

- Council is not required to comply with s.356 (advertising the granting of financial assistance to a person) but only where graffiti removal is part of a program for removal from private land.

A handwritten signature in blue ink, appearing to be 'Garry Payne', with a long horizontal stroke extending to the right.

Garry Payne
Director General

LOCAL GOVERNMENT AMENDMENT (GRAFFITI REMOVAL) BILL

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Bill introduced and read a first time.

Second Reading

Mr WOODS (Clarence—Minister for Local Government, Minister for Regional Development, and Minister for Rural Affairs) [11.25 a.m.]: I move:

That this bill be now read a second time.

Briefly, the provisions in this bill are designed to facilitate agreements between councils and owners or occupiers of private land for the timely removal of graffiti. In the past 20 years or so what is broadly described as graffiti has become a prominent feature of the landscape of cities in Europe, in North America and in Australia. Graffiti is now seen by many as a significant social and environmental problem. In response, a range of anti-graffiti laws and other measures have been introduced. Most people in the community believe that there is no justification, and certainly never any right, for someone to change the appearance of someone else's property without permission. It has often been said that the only difference between vandalism and art may be permission.

Illegal graffiti on public and private property is estimated to cost the Australian community between \$50 million and \$100 million per annum. Unwanted graffiti can seriously affect property values, community wellbeing and civic pride. Graffiti is done in many forms by a wide range of people with an equally wide range of motives. Consequently, a range of strategies to address illegal graffiti is necessary. Local communities often look to councils to fix concerns about graffiti. In recognition of this, the New South Wales Government is keen to assist councils to address graffiti. One initiative that involves councils is the establishment of the graffiti strategy task force. This is a whole-of-government approach to addressing graffiti, and oversees the implementation of the Government's Graffiti Solutions program.

Another initiative is the Beat Graffiti Grants scheme. Under the scheme, \$900,000 is available over three years, commencing in 1999, for councils, police and community youth clubs, and community organisations to address graffiti at the local level. Thirty projects received funding in the first year of this three-year scheme. In 1999-2000 grants of between \$2,500 and \$15,000 were available from a total fund of \$300,000 for projects developed by communities in which there is a significant problem with illegal graffiti. Seventeen of the 30 projects, or 57 per cent, approved for funding in 1999-2000 involve councils and represent a total of \$173,000. In the main, the projects entail the engagement of artists and young people in education programs, providing opportunities to create murals in appropriate spaces, development of graffiti prevention plans and removal of graffiti from business and residential property.

In the 2000-2001 funding round, 25 of the 54 projects, or 46 per cent, approved for funding involve councils and represent a total of \$197,000. Under the Community Service Order [CSO] scheme, 66,000 CSO hours are available to councils for the removal of illegal graffiti. Fourteen councils are currently participating in the scheme: Auburn, Blacktown, Blue Mountains, Campbelltown, Dubbo, Fairfield, Gosford, Leichhardt, Maitland, Shellharbour, Wagga Wagga, Wollongong and Woollahra. The teams are working on a range of sites, including council properties, private residences, bus shelters, shopping centres, parks and playgrounds. Some teams are involved in painting murals on significant graffiti sites. For example, a very successful project has been completed in Shellharbour which involved the painting of a mural. The site has not had any incidents of graffiti since the mural was completed, and the project has had a positive impact on the offenders who were involved. Other councils are being encouraged to set up graffiti clean-up teams.

Through the Graffiti Blasters project, the New South Wales Government is funding the purchase of equipment and materials to remove graffiti, and councils are meeting the costs of staffing,

administration and insurance. The project was piloted with Newcastle and south Sydney councils, and a further 13 councils—Auburn, Bankstown, Blacktown, Blue Mountains, Campbelltown, Gosford, Hornsby, Hurstville, Lake Macquarie, Penrith, Ryde, Sutherland and Wollongong—are in the process of being provided with blasting equipment. Also, the New South Wales graffiti information web site contains information about graffiti. The graffiti solutions handbook provides advice for councils, planners and developers about addressing graffiti. The handbook is designed to complement information already available on the New South Wales graffiti information web site at www.graffiti.nsw.gov.au.

The Department of Local Government has also assisted councils to address the issue of graffiti through its involvement in the production of the crime prevention resource manual for councils, which includes a range of strategies to address graffiti in public places. Councils are also implementing their own initiatives in response to community concern about graffiti. For example, a number of councils have established graffiti hotlines for the reporting of graffiti; removed graffiti from council property and public places; provided information and advice and in some cases materials to residents so that they can remove graffiti from their property; and established legal walls where graffiti is acceptable. A number of factors can reduce the occurrence of illegal graffiti, including urban design; providing legitimate venues of public communication; making observation easier and more likely; generating activity in public spaces; and eliminating the incentive by speedy removal of the graffiti and continuing to remove it if it recurs.

It is this last factor that the amendments seek to facilitate. The advantages in removing graffiti as soon as possible are that it is much easier and less costly to remove graffiti if it is done within 72 hours or before it has had time to fully dry and harden; and the graffitist gets the least recognition from others the sooner the so-called work is removed. At present councils are able to make voluntary agreements with land-holders of private property to remove illegal graffiti, and some have already done so. However, the explicit legislative support for agreements will provide impetus to councils to make agreements having an ongoing effect. It is intended that councils will work with land-holders of property which is particularly susceptible to illegal graffiti so that timely removal and efficient use of resources will, in conjunction with community support, provide an effective deterrent to graffiti.

These amendments are part of the wider government strategy to prevent graffiti and encourage councils to take an active and participatory role in graffiti prevention. The proposed legislative provisions will empower councils to enter into agreements with owners and/or occupiers of private property to allow councils to enter onto private property and carry out work to remove graffiti. Property owners need to be given an opportunity to enter into agreements to remove graffiti, as they may be asked to clean up property damage caused by another person. Council employees cannot just enter private property or interfere with it without the owner's permission. An agreement would allow the owner to give permission for council employees to remove graffiti whenever it occurs rather than having to obtain permission on each occasion. This will enable the timely removal of graffiti which has been found to be important. However, the agreement may include that the owner be advised by council on the exercise of authority under an agreement.

The agreement may permit council staff or contractors to enter property whenever graffiti is present; permit the use of water, electricity or tools and/or equipment on the property to remove the graffiti; require council staff to leave the property as it was and make good any damage; provide for a contribution from the landowner-occupier towards the graffiti removal costs; contain notification requirements so council must notify if possible of the intention to enter and remove graffiti; provide for reporting and other notification so the landowner/occupier is informed about the work carried out on the property; and contain provisions concerning leases and other arrangements. Section 67 of the Local Government Act imposes conditions on councils for performance of work on private land. This section will not apply to agreements with land-holders for the removal of graffiti.

Section 356 of the Act places obligations on councils when providing financial assistance for the purposes of exercising its functions. It is intended that the public notice requirement will not apply where graffiti is removed from private property under an agreement with council as part of a program of graffiti prevention and removal. In other words, the public interest character of graffiti removal will allow councils to subsidise the cost of removal of graffiti in part or in total, subject to

the terms of the agreement with the land-holder. Council will need to have passed a resolution for a program to contribute money or otherwise grant financial assistance for removal of graffiti under section 356 (1) of the Act. Once this has been done, and agreements providing for financial assistance are consistent with the program of graffiti removal, the public notice requirement in section 356 will not apply.

There is a need to ensure accountability where council subsidises work it carries out on private property. Consequently, new section 67A (2) provides that a register of graffiti removal work carried out in accordance with agreements will need to be kept. The register will itemise expenditure identifying the person for whom the work was carried out, the nature of the work and the amount of any subsidy in relation to graffiti removal. This ensures that subsidies provided are available as a matter of public record under section 12 of the Act. Different groups are involved in different types of graffiti for different reasons.

In recognition of this complexity, a range of initiatives aimed at preventing graffiti in the first place or removing it if it occurs is required and has been put in place. A number of these initiatives as outlined previously involve councils. In addition, councils are taking the initiative to implement strategies in response to community concern about illegal graffiti. Evidence indicates that timely and persistent removal of graffiti is an effective deterrent. The current proposal is part of a suite of strategies being used by the Government to deal with illegal graffiti and which will assist councils in this quest. It will encourage councils and the community to work together to address the issues relating to illegal graffiti. In turn, communities should feel less degraded, and their sense of wellbeing and civic pride restored. I commend the bill to the House.

Debate adjourned on motion by Mr R. H. L. Smith.

Extract from the Legislative Assembly Hansard of 04/04/2001 - Corrected Copy

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