



Department of Local Government  
Circular to Councils



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**LOCAL GOVERNMENT AMENDMENT  
(GRAFFITI) AMENDMENT ACT 2002**

The *Local Government Act 1993* (the Act), has been amended by the *Local Government Amendment (Graffiti) Amendment Act 2002*, to enable councils to remove graffiti from property without the prior consent of the owner/occupier where it is visible and accessible from a public place.

The amendments passed through Parliament on 18 June 2002, and **commence on 19 July 2002**. You can view the amendment Act at <http://www.legislation.nsw.gov.au>.

Amendments were made to the *Local Government Act 1993* in 2001 to facilitate agreements between councils and private landowners to allow the quick removal of graffiti from private property (see Council Circular No.01/43). The current amendments add to this by giving councils the discretionary power to remove graffiti from property without the prior consent of the owner/occupier in the circumstances where the graffiti:

- is visible from a public place; and
- it can be accessed and removed from a public place.

Consequently officers are not able to enter the property to remove the graffiti without the owner's/occupier's consent. This is to minimize the interference with property rights. On the other hand, it facilitates the removal of graffiti from surfaces that generally are visible from public land and particularly attractive targets for graffiti.

If council uses this power it is required to:

- meet all costs associated with the removal of the graffiti;
- give written notice to the owner or occupier that the work has been done;
- compensate for any damage that occurs as a result of the graffiti removal work. (Note that in the event that a dispute arises about a claim for compensation for damage the matter can be referred for resolution by arbitration and failing that to the Land and Environment Court (see s730 of the Act);
- keep a register of graffiti removal work it carries out, which the public can inspect free of charge.

The conditions imposed on councils by s67 of the Act for the performance of work on private land will not apply. Furthermore, when graffiti is removed as part of a program of graffiti removal, council will be exempt from the obligations under s356 of the Act.

**Garry Payne**  
Director General