

POLICY

Policy name	Graffiti Removal From Non-Council-Owned Property/ Assets
Responsible manager(s)	Director, Infrastructure Services
Contact officer(s)	Divisional Manager, Technical Services
Directorate	Infrastructure Services
Approval date	23 July 2013

Purpose

The Graffiti Removal from Non-Council-Owned Property/ Assets Policy aims to ensure that our community is maintained free from unwanted graffiti and that the cost of graffiti removal from non-Council-owned property/ assets is at no cost to Council.

Graffiti is a visual pollution and can be offensive to sections of the community. When the graffiti is visible to the general public, community expectation is that the graffiti should be removed as soon as possible.

The Graffiti Removal from Non-Council-Owned Property/Assets policy aims to:

- Promote an integrated framework for dealing with graffiti.
- Ensure consistency and fairness in the manner in which the Council deals with the community.
- Ensure compliance with legislative requirements under the *Graffiti Control Act 2008*.
- Promote awareness of the requirements of the Act with respect to the removal of graffiti from non-Council-owned property/assets.
- Take such steps as are appropriate to ensure the removal of graffiti.
- Make Council's policy and requirements for Graffiti Removal from non-Council-owned Property/ Assets readily accessible and understandable to the public.

Policy statement

1	<p>Application</p> <p>Removal of graffiti from non-Council owned property/assets shall be the responsibility of the owner and should be carried out at their cost.</p> <p>Upon receipt of complaints or the identification of graffiti on non-Council owned property/assets, Council shall contact the landowner requesting cooperation in maintaining the exterior of their property/assets free from graffiti at the owner's cost. Council may assist in removing graffiti on the owners behalf should the work be undertaken as a Private Works Order i.e. at the property owners cost, if the work can be undertaken safely and with minimum risk of damage to the property/asset.</p> <p>The <i>Graffiti Control Act 2008</i> provides a framework whereby Council may remove graffiti from non-Council owned property/assets with or without the approval of the property owner (working only from 'a public place'). Council shall first seek to work cooperatively with owners. Under the Act, if work is carried out without the approval of the property owner, Council must:</p> <ul style="list-style-type: none"> • within a reasonable period give notice that the work has occurred • bear the cost of the removal of the graffiti • pay for any damage caused in the removal process • maintain a graffiti removal register
2	<p>Legislation Eurobodalla Shire Council will comply with Graffiti Control Act 2008</p>

Implementation

Requirements	Responsibility
<p>1 Should Council determine to undertake graffiti removal on particular non-Council owned property/assets, with or without approval from the property owner, Council must then keep a register of the graffiti removal work carried out in accordance with <i>Graffiti Control Act 2008 (Section 13)</i>. The register is to specify in respect of each incidence of graffiti removal work carried out:</p> <p>a) the owner or occupier of the premises on which the graffiti was situated, and</p> <p>b) the nature of the work carried out, and</p> <p>c) the actual cost, or an estimate of the cost at current market rates, of carrying out the work, and</p> <p>d) in the case of graffiti removal work carried out in accordance with <i>Graffiti Control Act 2008 (Section 11)</i> – the actual amount charged by the local Council for carrying out the work.</p>	Council
<p>2 Council shall seek full cost recovery from the landowner for any work undertaken on non-council owned property/assets where council has obtained approval from the property owner. Should the cost of the work be disputed, then the processes set down under the <i>Local Government Act 1993 – Section 730</i> shall apply:</p> <p>(1) A claim for compensation under section 12 (5) of the <i>Graffiti Control Act 2008</i>, in case of dispute, may by agreement between the Council and the person claiming the compensation be referred to arbitration under the <i>Commercial Arbitration Act 2010</i>.</p> <p>(2) Failing agreement within 28 days after notice of the claim is served on the Council, either party may refer the claim to the Land and Environment Court for determination.</p> <p>(3) The Land and Environment Court may hear and determine the matter and make any order with respect to the claim and the costs of the case as having regard to the circumstances of the case and to the public interest the Court thinks just.</p>	Council
<p>3 Concerns</p> <p>Concerns received regarding this policy will be recorded on council’s customer service request (CSR) or records system and handled in accordance with council’s Customer Service Request Policy. They will be used to analyse the history of concerns and requests and to help determine follow up actions.</p>	Council Officers
<p>4 Complaints</p> <p>Complaints received regarding this policy will be lodged with the Public Officer and handled in accordance with council’s Complaints Policy.</p>	Public Officer
<p>5 Consultation</p> <p>Public submissions regarding this policy will be considered during the policy exhibition period. Any other consultation deemed necessary may occur when and if required with key stakeholders.</p>	As required

Review

The policy will be automatically revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless council revokes it sooner. (**Note:** Automatic revocation of the policy is provided for by section 165(4) of the Local Government Act 1993. The next general local government election is expected to be held in September 2016.)

This policy may also be reviewed and updated as necessary if legislation requires it; or when council's functions, structure or activities change; or when technological advances or new systems change the way that council manages Graffiti Removal from Non-Council Owned Property/ Assets.

Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Customer Feedback Survey Responses or Complaints	Surveys, Council records
Internal or external audit	Audit

Governance

This policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

Related legislation and policies

Name	Link
Local Government Act 1993	www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182
Graffiti Control Act 2008	www.austlii.edu.au/au/legis/nsw/consol_act/gca2008179
Commercial Arbitration Act 2010	www.austlii.edu.au/au/legis/nsw/consol_act/caa2010219

Related external references

Name	Link
Division of Local Government	www.dlg.nsw.gov.au/

Change history

Version	Approval date	Approved by	Minute No	File No	Change
1	28 Aug 2001	Council	.	.	Policy Adopted 17.4 Private Works Graffiti Removal (378 28/08/01)
2	29 Jun 2006	Council	.	01.5532	Policy updated
3	24 Feb 2009	Council	09/69	E01.5532 E06.0380	Policy reviewed to reflect Graffiti Control Act 2008 Legislative change
4	22 Sep 2009	Council	09/291	E09.3418	Reviewed & adopted, report 09/99
5	23 Jul 2013	Council	13/172	E06.0375 E13.7095	Updated template, review date, references and links – O13/112

Internal use

Responsible officer	Director, Infrastructure Services			Approved by	Council
Min no	13/172	Report no	O13/112	Effective date	23 July 2013
File No	E13.7095	Review date	Sept 2016	Pages	3