

<b>Policy title</b>	Graffiti Removal from Non-Council-Owned Property/Assets
<b>Responsible manager(s)</b>	Director, Infrastructure Services
<b>Contact officer(s)</b>	Divisional Manager, Works
<b>Directorate</b>	Infrastructure Services
<b>Approval date</b>	9 August 2022
<b>Outcome area</b>	5. Our engaged community with progressive leadership
<b>Strategy</b>	5.2. Proactive, responsive and strategic leadership
<b>Delivery Program</b>	5.2.3 Advocate and collaborate to advance the region and address local issues
<b>Operational Plan</b>	5.2.3.1 Develop and maintain strategic partnerships

### Purpose

This Policy aims to ensure that our community is maintained free from unwanted graffiti and that there is no cost to Council for removal of graffiti from non-Council-owned property/assets.

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.

### Policy aims

This 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 details

<b>1</b>	<b>Legislation</b> Eurobodalla Shire Council will comply with the <a href="#">Graffiti Control Act 2008</a> .
<b>2</b>	<b>Application</b> Removal of graffiti from non-Council owned property/assets shall be the responsibility of the owner and should be carried out at their cost.  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.

	<p>Council may assist in removing graffiti on the owner’s behalf should the work be undertaken as a Private Works Order (PWO), i.e., at the property owner’s 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.</p> <p>Under the Act, if work is carried out without the approval of the property owner, Council must:</p> <ul style="list-style-type: none"> <li>• within a reasonable period give notice that the work has occurred;</li> <li>• bear the cost of the removal of the graffiti;</li> <li>• pay for any damage caused in the removal process;</li> <li>• maintain a graffiti removal register.</li> </ul>
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### Implementation

Requirements	Responsibility
<p><b>1</b> 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 the <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> <ul style="list-style-type: none"> <li>(a) the owner or occupier of the premises on which the graffiti was situated, and</li> <li>(b) the nature of the work carried out, and</li> <li>(c) the actual cost, or an estimate of the cost at current market rates, of carrying out the work, and</li> <li>(d) in the case of graffiti removal work carried out in accordance with the <i>Graffiti Control Act 2008 (Section 11)</i>, the actual amount charged by the local Council for carrying out the work.</li> </ul>	Council
<p><b>2</b> 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> <ul style="list-style-type: none"> <li>(a) 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>.</li> </ul>	Council

	<p>(b) 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>(c) 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>	
<b>3</b>	<p><b>Staff</b></p> <p>Under supervision, and once appropriate training has been received, relevant Council staff will be responsible for ensuring that this Policy is implemented within their work area.</p>	Council officers
<b>4</b>	<p><b>Concerns</b></p> <p>Public concerns communicated to Council in relation to this Policy will be recorded on Council's records system and handled in accordance with Council's Customer Service or Complaints Policy. These records will be used to determine any follow-up actions and analyse the history of reported public concerns.</p>	Council officers
<b>5</b>	<p><b>Consultation</b></p> <p>Any consultation deemed necessary will occur as required with key stakeholders, which may include (but not be limited to) the community, other agencies, statutory and industry bodies. Public submissions regarding this Policy are invited for consideration during the exhibition period.</p>	As applicable

### Review

This policy will be reviewed every 4 years. It may also be reviewed and updated as necessary if legislation requires it; or when Council's related policies, 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.

The policy may be revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless Council updates or revokes it sooner.

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

Performance indicator	Data source(s)
Delivery Program/Operational Plan outcomes achieved	Council reporting
Concerns or complaints registered	Council records
Customer feedback, survey responses	Surveys
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
Related Eurobodalla Shire Council Policy or Code of Practice	<a href="https://www.esc.nsw.gov.au/_data/assets/pdf_file/0010/138583/Graffiti-Removal-from-Non-Council-Owned-Property-or-Assets-Policy.pdf">https://www.esc.nsw.gov.au/_data/assets/pdf_file/0010/138583/Graffiti-Removal-from-Non-Council-Owned-Property-or-Assets-Policy.pdf</a>
Local Government Act 1993	<a href="http://www.legislation.nsw.gov.au/#/view/act/1993/30">www.legislation.nsw.gov.au/#/view/act/1993/30</a>
Graffiti Control Act 2008	<a href="http://www.legislation.nsw.gov.au/#/view/act/2008/100/part5/sec23">www.legislation.nsw.gov.au/#/view/act/2008/100/part5/sec23</a>
Commercial Arbitration Act 2010	<a href="http://www.legislation.nsw.gov.au/#/view/act/2010/61/whole">www.legislation.nsw.gov.au/#/view/act/2010/61/whole</a>

*Related external references*

Name	Link
Office of Local Government	<a href="http://www.olg.nsw.gov.au">www.olg.nsw.gov.au</a>

*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 Legislative changes and Graffiti Control Act 2008
4	22 Sep 2009	Council	09/291	E09.3418	Reviewed and adopted, report G09/99
5	23 Jul 2013	Council	13/172	E06.0375 E13.7095	Updated Policy Template, updated review date, updated references and links – report O13/112
6	09 May 2017	Council	17/120	E16.0297 E06.0375	Reviewed and updated (start of new Council term)
7	9 Aug 2022	Council	22/190	E16.0297 E06.0375	Reviewed and updated (start of new Council term).Report GMR22/080.

*Internal use*

Responsible officer	Director Infrastructure Services		Approved by	Council	
Minute	22/190	Report	GMR22/080	Effective date	9 August 2022
File	E16.0297 E06.0375	Review date	May 2022	Pages	4