

**Report to General Manager**

Attachments:

1. Amended Graffiti Management Policy
2. Discussion Paper
3. NSC Review of Graffiti Control Act - Ministerial Response Letter and Submission Feb 2020

SUBJECT: Graffiti Management Update and the Review of the Graffiti Control Act 2008**AUTHOR:** Danilo Giribaldi, Works Manager**ENDORSED BY:** Duncan Mitchell, Director Engineering and Property Services**EXECUTIVE SUMMARY:**

The purpose of this report is to update Council on the recent submission the Engineering and Property Services Division made to the Minister of Local Government as part of the Department of Communities and Justices review of the Graffiti Control Act 2008. In addition, this report also updates Council on the proposed amendments that have been made to Council's graffiti management policy and the related documentation that is available to the public on Council's website.

This submission from North Sydney Council responds to the request from the Minister for Local Government (Honourable Shelley Hancock – MP) to participate in the NSW Government Review of the Graffiti Control Act 2008 (the Act). The submission responds directly to the key focus areas of the discussion paper prepared by the Department of Communities and Justice in October 2019 that also includes “Bill Posters” as a focus area.

North Sydney Council since 2006 has provided an effective rapid graffiti removal program for all property types across the North Sydney Local Government Area. Council adheres to all the requirements of Part 4 of the Act whereby we invite both residents and businesses to enter into an agreement with Council to carry out graffiti removal work on their property. A register of the properties where an agreement has been reached with the owner or occupier is kept by Council.

Council also encourages residents and businesses to report any graffiti on public or private property.

In addition to formal agreements entered with residents and businesses, Council also undertakes ad-hoc removal of graffiti from private property when its reported and is easily accessible. North Sydney Council currently offers this service to all property owners in the North Sydney Council Local Government Area (LGA) for “free”.

North Sydney Council bears all the costs of graffiti removal across the LGA which is currently managed through a contract with a specialist graffiti removal company at a cost of \$133,000 per annum. The contract is a biannual contract that forms part of Council's Annual Schedule of Rates Contract for maintenance services and minor works.

The contract cost of \$133,000 per annum does not include any of Council's on costs that include contract management, reporting, staff resources and general administration which is estimated to cost a further \$100,000 per annum.

In summary the following statistics highlight the success of this program in the last three (3) years, (January 2017 to December 2019):

A total of 4,254 x graffiti removal jobs across the North Sydney LGA have been undertaken over 3 years (average 5 jobs per working day), of which:

- 2,549 x jobs were on Council / public property, comprising a total of 4,103 square meters of graffiti removed.
- 1,038 x jobs were on private property, comprising a total of 1,979 square meters of graffiti removed, and
- 667 jobs were on public authority properties, such as utility companies Ausgrid, Telstra, Sydney Water and State Government agency property such as that controlled by the RMS, RailCorp and the like comprising a total of 904 square meters of graffiti removed.

In summary Council's submission to the Minister of Local Government concluded that increased powers to Council are required with further funding in resourcing to ensure effective enforcement of the Act is continued. Council also made recommendations on how the regulation of "Bill Posters" could be better managed including comments on liability, managing clean up requests, community service orders and current penalties under the Act.

North Sydney Council is supportive of the NSW State Governments review of the Act, and welcomes change to help Council combat this anti-social behaviour which is a large cost impost on Council as well as being resource intensive to manage.

FINANCIAL IMPLICATIONS:

Current annual graffiti removal contractor budget allocation is \$133,000 for 2019/20.

RECOMMENDATION:

- 1. THAT** Council notes the submission and recommendations made to the Minister of Local Government as part of the Department of Communities and Justices review of the Graffiti Control Act 2008.
 - 2. THAT** Council notes the amendments that have been made to the Graffiti Management policy and related graffiti documentation that are available to the public via Council's website.
 - 3. THAT** Council's amended Graffiti Management Policy go on Public Exhibition for 28 days during which time submissions can be received.
 - 4. THAT** Council at the conclusion of the 28-day exhibition period, if no submissions are received, adopt the amended Graffiti Management Policy 2020.
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LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

Direction: 1. Our Living Environment

Outcome: 1.4 Public open space and recreation facilities and services meet community needs

Direction: 2. Our Built Infrastructure

Outcome: 2.1 Infrastructure and assets meet community needs

BACKGROUND

Graffiti is defined as illegally applied markings and/or graphics in multiple forms including designs, words and images using chalk, paint, marking pens, acid etching, partially wiped dirty surfaces (e.g. dusty surfaces), or other material such as adhesive stickers and posters defacing private and public property without the owner's consent.

On 13 November 2019, Council received a letter from The Honourable Shelley Hancock MP requesting Council to participate in the NSW Government's review of the *Graffiti Control Act 2008* (the Act). The purpose of the review is to see how the State Government can improve and help Councils in tackling graffiti and illegal bill posting which has significant costs as well as broader social, health and environmental impacts, including making people feel unsafe in their local community.

Currently Local Government plays an important role in graffiti and bill poster removal. A discussion paper was provided and prepared by the 'Department of Communities and Justice', outlining key focus areas where improvements could be made to assist Councils in managing Graffiti and illegal bill poster removal.

The Key focus areas in the discussion paper include:

- whether the current offences adequately capture the right behaviours;
- whether penalties for offences remain appropriate;
- any issues with mandatory clean up requirements in community service orders;
- whether liability for bill posters should be extended to those that authorise or otherwise benefit from illegal bill posting;
- whether councils should need to provide more areas for legal bill posting; and
- improvements to the community clean up scheme or Council's graffiti removal powers.

Council provided feedback along with a recommendation for each key focus area. The review and feedback of the current *Graffiti Control Act 2008* then prompted the Engineering and Property Services Division to review and update all of Council's graffiti related documentation and Policies. A review of the following documentation was undertaken:

- Graffiti Management Policy- last adopted by Council on 25 June 2018 (Last amended and reviewed February 2013);
 - 'Graffiti Solutions' brochure made available on Council's website;
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- ‘Graffiti Clean Up’ page on Council’s website; and
- Graffiti Removal on Private Property Agreement Form.

Council’s Engineering and Property Services Division is responsible for administering the “Free” graffiti removal service that Council offers, including raising community awareness of the program, managing all the graffiti removal agreements that are entered into between Council and Property owners of which there are many, and managing all communication with Council’s graffiti removal contractor.

CONSULTATION REQUIREMENTS

Community engagement will be undertaken in accordance with Council’s Community Engagement Protocol.

SUSTAINABILITY STATEMENT

The sustainability implications are of a minor nature and did not warrant a detailed assessment.

DETAIL

Since September 2006, North Sydney Council has established a very effective graffiti removal program as per Part 4 of the current Graffiti Control Act - 2008. Council adheres to all the requirements of Part 4 of the Act whereby we invite both residents and businesses to enter into an agreement with Council to carry out graffiti removal work on their property. A register of the properties where an agreement has been reached with the owner or occupier is kept by Council. Council also encourages residents and businesses to report any graffiti on public or private property. In addition to formal agreements entered with residents and businesses, Council also undertakes ad-hoc removal of graffiti from private property when its reported and is easily accessible. North Sydney Council currently offers this service to all property owners in the North Sydney Council Local Government Area (LGA) for “free”.

North Sydney Council bears all the costs of graffiti removal across the LGA which is currently managed through a contract with a specialist graffiti removal company at a cost of \$133,000 per annum. The contract is a biannual contract that forms part of Council’s Annual Schedule of Rates Contract for maintenance services and minor works.

The contract cost of \$133,000 per annum does not include any of Council’s on costs that include contract management, reporting, staff resources and general administration which is estimated to cost a further \$100,000 per annum.

Performance contract outcomes are that graffiti shall be removed within three (3) x working days of the graffiti being identified except for offensive graffiti which shall be removed within one (1) x working day of the graffiti being identified.

Each year Council must budget in its operational plan the cost of funding this “free” graffiti removal service. Council receives a lot of positive feedback from the community (residents, property owners and Strata Managers) on its program and responsiveness to requests to remove graffiti.

In summary the following statistics highlight the success of this program in the last three (3) years, (January 2017 – December 2019):

A total of 4,254 x graffiti removal jobs across the North Sydney LGA have been undertaken over 3 years (average 5 jobs per working day), of which:

- 2,549 x jobs were on Council / public property, comprising a total of 4,103 square meters of graffiti removed.
- 1,038 x jobs were on private property, comprising a total of 1,979 square meters of graffiti removed, and
- 667 jobs were on public authority properties, such as utility companies Ausgrid, Telstra, Sydney Water and State Government agency property such as that controlled by the RMS, RailCorp and the like comprising a total of 904 square meters of graffiti removed.

North Sydney Council's graffiti removal program consists of both an inspection regime across the LGA, including "hotspots", and ad-hoc removal jobs based on public notification.

North Sydney Council as of March 2020 has 1441 x signed Graffiti Removal Agreements in place with Private Property owners across the LGA. So far in the 2019/20 financial year, Council has entered into 38 x agreements with Private Property Owners. The breakdown of numbers of agreements in each suburb in the North Sydney Council LGA is outlined in Table 1 below.

Table 1. Graffiti Removal Agreement Received by Suburb – North Sydney LGA

Suburb	No of Signed Agreements
Cammeray	125
Cremorne	257
Cremorne Point	7
Crow's Nest	325
Kirribilli	45
Kurraba Point	1
Lavender Bay	23
McMahons Point	44
Milsons Point	19
Neutral Bay	244
North Sydney	203
St Leonards	50
Waverton	31
Wollstonecraft	67
Total	1441

The graffiti removal program at North Sydney Council costs Council over \$233,000 per annum, including overheads in managing the program.

However, despite the success of this program in North Sydney, Council believes that the Graffiti Control Act -2008, can be improved to further discourage illegal graffiti and markings of public and private property. Council's views and feedback in relation to the points raised in the discussion paper are outlined in this report.

Key Focus Areas

North Sydney Council's response to the key focus areas identified in the Department of Justice Discussion Paper – Review of the Graffiti Control Act 2008, are as follows:

1. Do the current offences adequately capture the right behaviour?

Recommendation:

North Sydney Council would recommend that there should be some nexus in the Maximum Penalty (Penalty Units) and the extent of the graffiti marking on a public or private property, (Size – square meters of the marking) as well as the degree of difficulty to remove the graffiti, resources required to remove it and whether it permanently damages the surface that has been defaced, e.g. glass etching.

The other offences – the enablers of graffiti, being the sale, secure display of spray cans and possession of graffiti sprays is a responsibility of Council Rangers and is difficult to enforce. Penalties are also only \$500 which is low considering the cost of Graffiti removal. Council would request more assistance from State Government authorities (The Police) to assist with the enforcement of the enablers of Graffiti.

2. Are the current penalties for offences under the Act, including the higher maximum penalties for serious and persistent offenders and the alternative penalties, appropriate?

Recommendation:

North Sydney Council would support to generally increase penalties for offences to deter poor behaviour, however, it is more important to increase the effectiveness and resources towards adequate enforcement of the Act by the Police and Council, including looking at consolidating enforcement powers from other Acts (Legislation) that Council Rangers operate under to manage both Graffiti and illegal Bill Posting.

Enforcement powers for Council Rangers in North Sydney for prosecuting people who undertake illegal Graffiti and illegal Bill Poster activities are spread across three (3) Acts that are enforceable by Council Rangers and or Building Compliance Officers. These are the Protection of the Environment and Operating Act – this Act gives Council Rangers powers to enforce offences around littering which can include Graffiti and Bill Poster related activities. The Local Government Act which gives Council planning controls and legal powers under the DCP to take enforcement action for unapproved advertising which applies to most Bill Posting activities undertaken in the Public Domain. Finally, the Graffiti Control Act 2008 – clause 6 which gives Council Rangers some enforcement powers around Graffiti and illegal Bill Posting.

North Sydney Council would recommend some form of consolidation of the current legislation from the three (3) relevant Acts to simplify and streamline what enforcement action is open to Council in terms of managing both Graffiti and illegal Bill Posting. The consolidation of enforcement powers should come under the Graffiti Control Act which should also include a name change to the Graffiti Control and Bill Posters Act or something similar.

North Sydney Council would also support increased penalties for offences for Bill Posting to act as a greater deterrent.

Council would also recommend that the maximum penalty units for people caught “*marking premises or property*” and who are over 18 years of age be significantly increased. For people under the age of 18, the penalties should remain the same with more of a focus on what can be achieved with the offender through Part 3A of the act “*Community Clean Up Work*”.

Council would recommend the removal of the alternate penalty where the suspension of driver’s licence may occur, to allow young people the ongoing opportunity to gain or continue an apprenticeship or study requiring travel in many distant locations. We want to minimise youth idleness to help minimise graffiti.

3. Are there any issues with mandatory clean-up requirements in community service orders?

Recommendation:

Community service orders such as mandatory clean-up requirements, need to adequately address the Workplace Health and Safety (WHS) issues inherent in this work, with adequate funding to Council to provide the required supervision and management for minimum standard compliance in safety, quality of work, and protection of property.

Mandatory clean up requirements cannot be restricted to just the removal of the offenders graffiti, but needs to be open to the removal of other suitable graffiti and all other clean up works in public spaces like illegal Bill Poster removal, removing gum off footpath and street furniture, cleaning bus shelters, bins and the like.

4. Is the current scope of bill posting regulation sufficient?

Recommendation:

All relevant legislation including the Act, needs much greater scope in dealing with illegal Bill Posters. The current legislation is not strong enough to act as an effective deterrent for illegal bill posting. We recommend a first step would be for the penalties to be increased and a second step would be some form of consolidation of powers from the three (3) relevant Acts to give Council’s Rangers and Building compliance Officers clearer powers to prosecute offenders. (Refer to recommendation No 2). Fines recovered through successful prosecution do already come back to Council, however the fines should be higher to cover not just the costs associated with the physical removal and make good of property but also to cover Council’s operating costs for the removal of illegal Bill Posters and Graffiti.

More funding needs to be provided to Council to also cover other costs such as ‘fixed penalty notice signs’, mentioning the penalty to erect/display or cause to erect/display an unapproved poster. More powers need to be given to Council Rangers to prosecute, as these offences are not currently covered within Council’s ‘Police Prosecutor Arrangement’.

The current legislation also needs to change to allow penalties to target and prosecute either the promoters or those seeking to derive a benefit from the illegal Bill Posting as well as the venues that are potentially benefiting from the activities that are advertised on the Bill Posters.

5. Should liability for bill posting extend to those that authorise or otherwise benefit from the illegal posting of a bill, as in some other Australian jurisdictions?

Recommendation:

Refer to recommendation number 4. The current legislation needs to change to allow penalties to target and prosecute either the promoters or those seeking to derive a benefit from the illegal Bill Posting as well as the venues that are potentially benefiting from the activities that are advertised on the Bill Posters.

NSW should review and amend the Act to adopt similar anti-graffiti legislation to that of Victoria, South Australia and Western Australia, in providing an ‘Authorising Offence’, introducing penalties on those who promote or otherwise seek to commercially benefit from the bill poster. Applied if the person who authorised the illegal bill posting did so intentionally (to derive a benefit), recklessly or negligently.

Consideration of another or additional option via a ‘warning and clean up order’, which allows the Council Rangers the appropriate powers to prosecute or issue penalty notices effectively.

In this option Council can issue to the perpetrators (promoters or beneficiaries) a formal warning notice to clean up and remove all posters themselves or otherwise be prosecuted under the Act. This way Council avoids the cost of removal by staff or contractor following the issuance of penalty notices or prosecution action.

6. Should liability only be where Councils “opt in”?

7. Should local Councils provide more areas for free and lawful posting?

In the current review of the Act, the ‘authorising offence’ option is proposed for Councils that “opt-in” which then allows prosecution of the authorising person or corporation deriving a benefit from the bill posting. This will provide a stronger disincentive against bill posting and should result in a reduction in illegal bill posting. In return, the NSW Government is proposing that a Council Opt-in, by providing more designated areas for free and lawful posting – i.e. additional community notice boards or walls etc. So that deterrence of unlawful bill posting is achieved without stifling commercial interests.

Recommendation for questions 6 and 7

An ‘opt in’ scenario may be possible in utilising the numerous existing community notice boards, however the placement of additional space for free and lawful postings would not be supported because of costs, poor aesthetics, and lack of available locations which are appropriate (high pedestrian and traffic volumes) for effective commercial advertising.

We do not believe that the ‘authorising offence’ penalty option should be conditional upon Council accepting an ‘opt in’ scenario, as it doesn’t really help or support Council effectively.

North Sydney Council is willing to explore an option of providing space on Council’s future “*Smart Cites Strategy and Action Plan*” initiative, which is to roll out digital community notice boards, in an effort to remove paper-based bill posting. For Council to roll out an integrated digital community notice board network which could accommodate Bill Posting, significant capital investment is required. Council would request State government funding to assist in the roll out.

8. Are there any improvements that can be made with the current community clean up order scheme or with the powers provided to local Councils for graffiti removal?

Recommendation:

The Council be given additional powers to recover costs from the removal of graffiti that is in hard to get places. There is a need for further amendments to the Act to allow Council to enforce the owner or occupier to remove all types of graffiti, and or posters at their cost, which is placed on private property that is **not easily accessible** by Council from a public place, which:

- is visible from a public road, park or other land the general public can use.
- higher than 2 meters in height, as it cannot be safely undertaken by a two-person crew without the aid of scaffolding or other specialised lifting equipment.
- if removal cannot be undertaken with limited traffic control equipment that can be reasonably carried out in the vehicle being used by a two-person crew.

The only exception to the above is that Council will pay for removal in difficult access areas if it is deemed offensive in any way, including political influences, where rapid removal is required.

In relation to s.12 (5) of the Act, Council would like to be able to remove any graffiti or posters without consent and **without** any liability for possible damage caused by Council in carrying out the removal works, if the graffiti is offensive to any public group or person in any way, including political influences. This will allow for rapid removal which is essential to act as an effective disincentive.

To allow Council to enforce and direct the removal of glass etching graffiti (which is costly and difficult to remove) on private property, visible from a public place at the cost to the owner, property manager or occupier. Otherwise, if not compliant to this order in a timely manner after repeated requests, Council may choose to carry out the works without damage liability and have the powers to recoup costs from the private owner or property manager.

Community ‘Clean-up order schemes’, need to be planned and approved by Council in order to also address concerns with work health and safety, and prevent further or permanent property damage.

Summary of changes to Council’s Graffiti Management Policy and documentation on Council’s website.

A review of the following graffiti related documentation was undertaken with the following suggested amendments:

- ‘Graffiti Management Policy’- last adopted by Council on 25 June 2018 (Last amended and reviewed February 2013) – Improved graffiti definition included and updated related documents and current legislation which the policy refers to. For public exhibition for 28 days.
 - ‘Graffiti Solutions’ brochure made available on Council’s website – removed reference to Yellow Pages and added reference to an internet search for graffiti protective coatings.
 - ‘Graffiti Clean Up’ page on Council’s website – added reference to reported / identified bill posters to be removed within five (5) working days.
 - ‘Graffiti Removal on Private Property Agreement Form’ – added the definition of graffiti
-

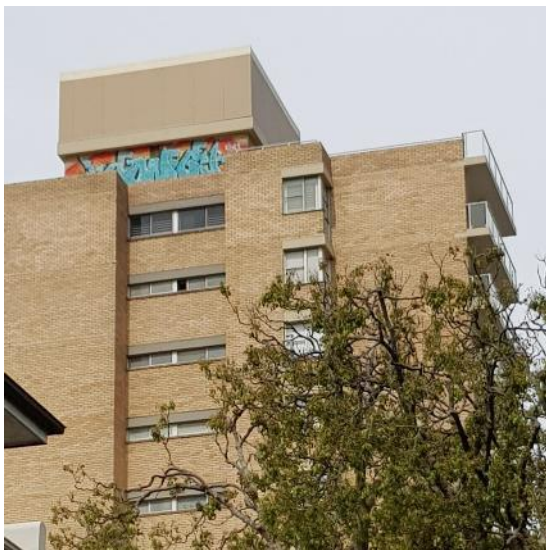
and that glass etching is excluded from the agreement.

Conclusion

In conclusion, North Sydney Council is supportive of the NSW State Governments review of the Act, and welcomes change to help Council combat this anti-social behaviour which is a large cost impost on Council as well as being resource intensive to manage. Council is thankful for the opportunity to provide feedback on this Discussion Paper and the current operation of the Act.

North Sydney Council deploys an effective rapid graffiti removal program from all property types, absorbing all costs for graffiti which is visible from public places and is easily accessible. It seems however, that this is the only mechanism we have for discouragement and more support is needed from amendments to the *Graffiti Control Act 2008*.

Images of typical graffiti in North Sydney and the effectiveness of Council's Graffiti Removal Program

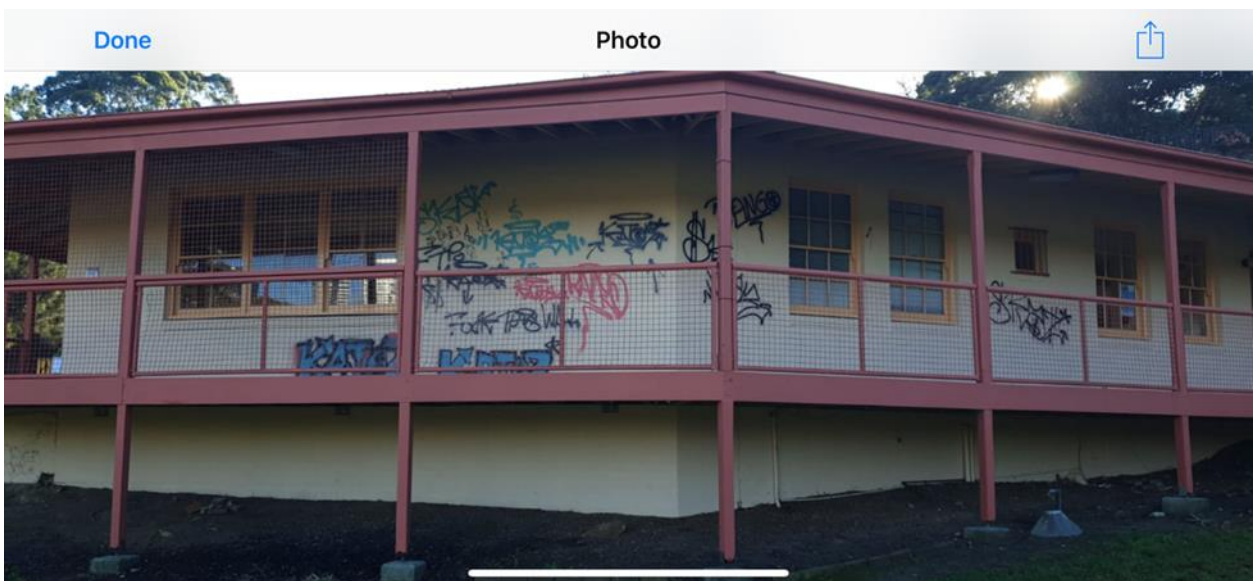


Before and After photos of typical instances of Graffiti in North Sydney on Private Property. Council works with Private property owners and Strata Managers to remove graffiti from hard to access locations like the examples in photographs above (Unit blocks Kirribilli)



Slippery Dip, W H Brothers Park, Cremorne – North Sydney Council

(Texta that penetrates plastic over time is extremely difficult to remove – this site was attempted three times with different cleaning products, after receiving advice from three Graffiti experts!)





Before and after photos of typical instances of Graffiti in North Sydney on Council Facilities – Forsyth Park Community Centre, Neutral Bay.





Before and after photos of typical instance of Graffiti in North Sydney on Council Facilities – Men’s Shed in Smoothey Park, Wollstonecraft.





Before and after photos of typical graffiti in North Sydney on *Private Property* – North Sydney Council removes graffiti from Private Property “*Free of Charge*” to ensure the visual amenity of Council’s Public domain is always kept to a high standard – Property on 25 Euroka Street, Waverton.





Before and after photos of typical instance of Graffiti in North Sydney *in Bushland* – Rock face at Primrose Park, Cremorne.





Before and after photos of typical instance of Graffiti in North Sydney in Council's Parks and Reserves – Ridge Street Lookout, North Sydney.





Before and after photos of typical instance of Graffiti in North Sydney on Private Property in difficult to access places. Council needs Property owners consent to access and remove graffiti in these types of instances - instances (shop on 236 Military Road, Neutral Bay).





Before and after photos of typical instance of Graffiti in North Sydney on Private Property in difficult to access places. Council needs Property owners consent to access and remove graffiti in these types of instances - (shop on 242 Military Road, Neutral Bay).





Before and after photos of typical instances of “Glass etching” in North Sydney on *Council Infrastructure* – Council’s Footbridge over the Pacific Highway – North Sydney Centre. (Note how the etched glass could not be removed completely).

Difficult to remove Stainless Steel Surface:



Before and after photos of typical instances of “hard to remove graffiti” in North Sydney on *Council Infrastructure*– Etched into Stainless Steel - Exeloo public toilets at Bradfield Park (South), Milsons Point.

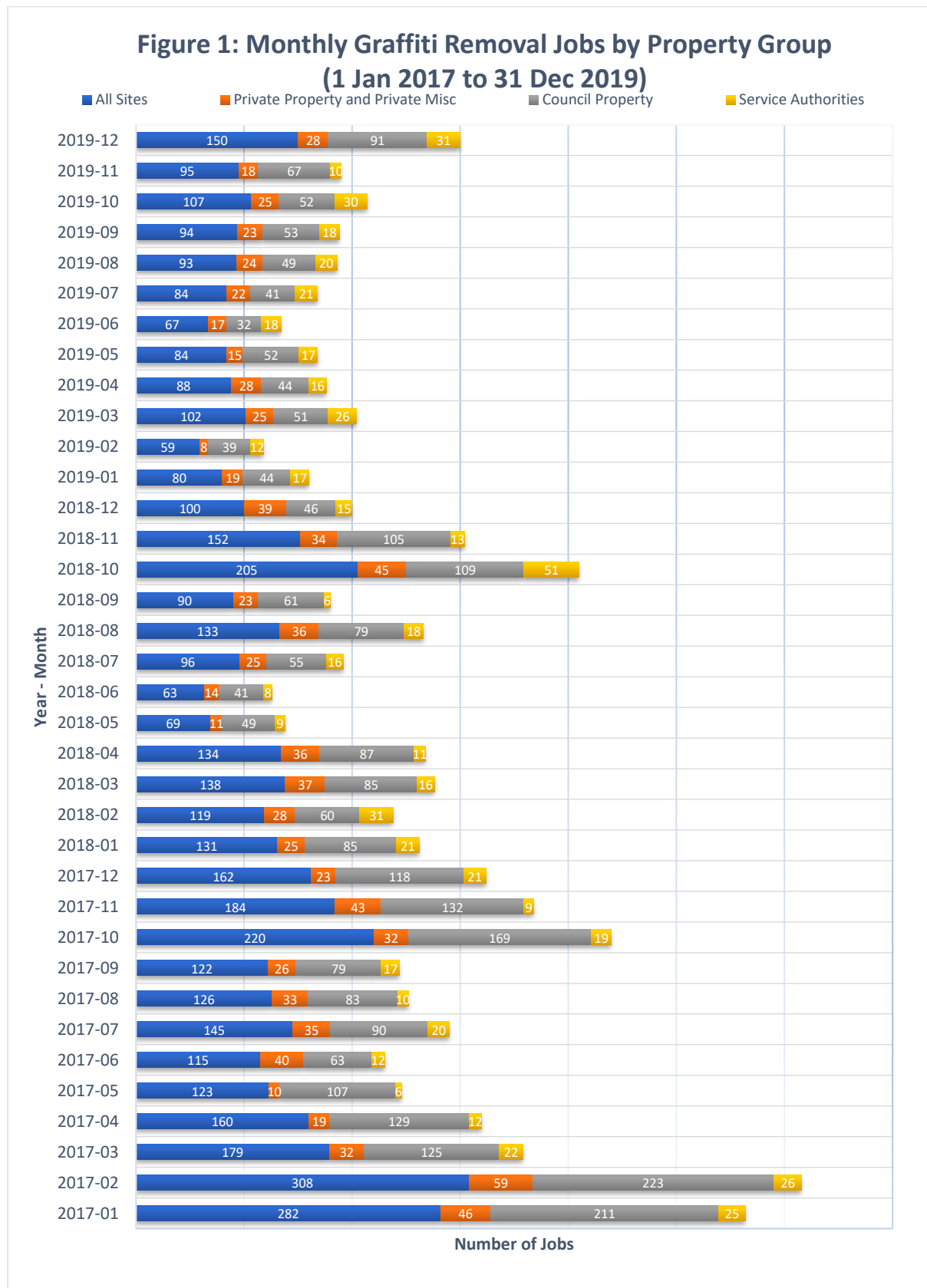


Before and after photos of typical graffiti in North Sydney on *Utility Company Infrastructure* – North Sydney Council removes graffiti from utility Company Infrastructure “*Free of Charge*” to ensure the visual amenity of Council’s Public domain is always kept to a high standard - Substation Energy Australia at Crows Nest Community Centre.



Before and after photos of typical graffiti in North Sydney on *Utility Company Infrastructure* – North Sydney Council removes graffiti from utility Company Infrastructure “*Free of Charge*” to ensure the visual amenity of Council’s Public domain is always kept to a high standard - Australia Post at Alfred Street, North Sydney.

North Sydney Council's Graffiti Removal Statistics from 2017-2019



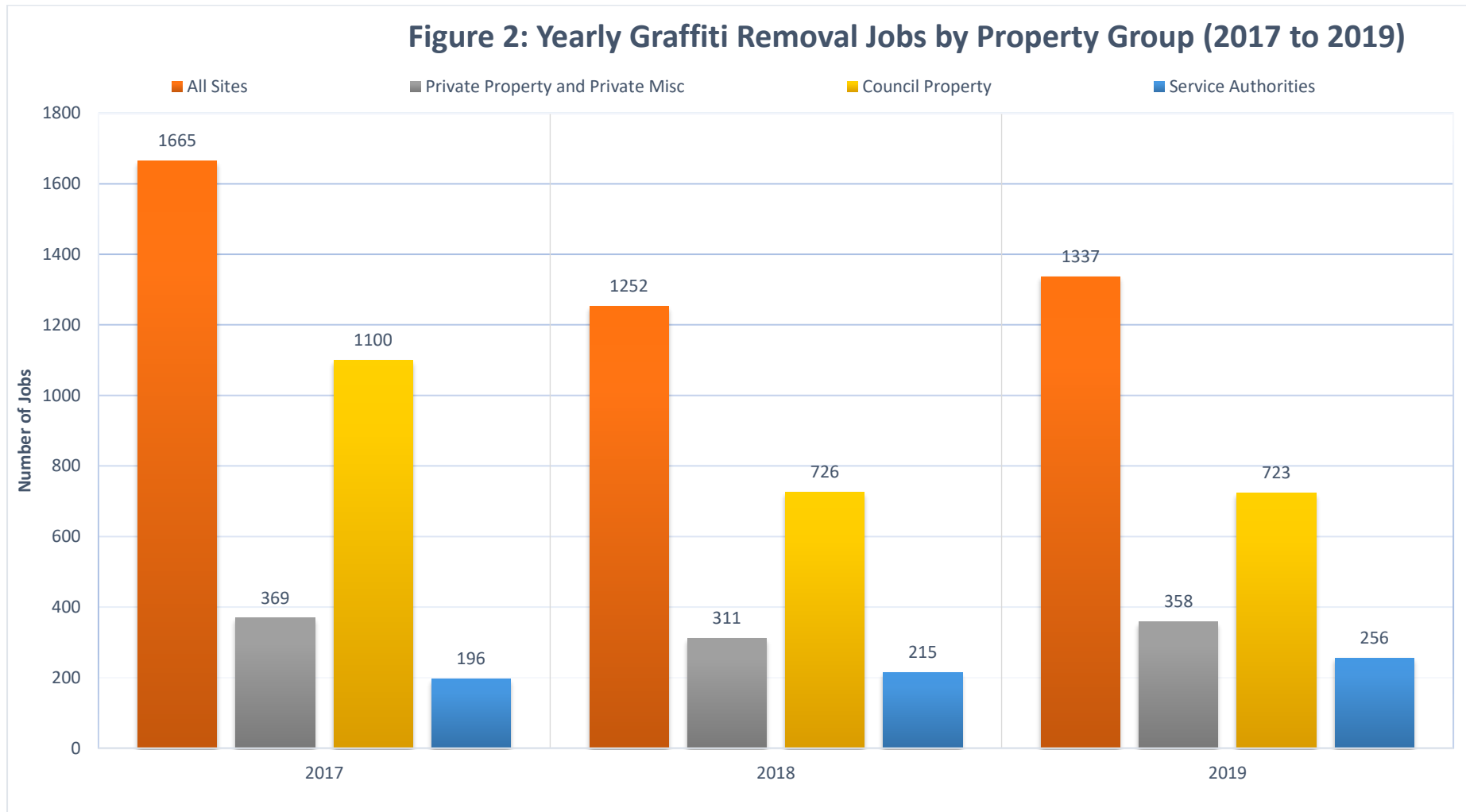
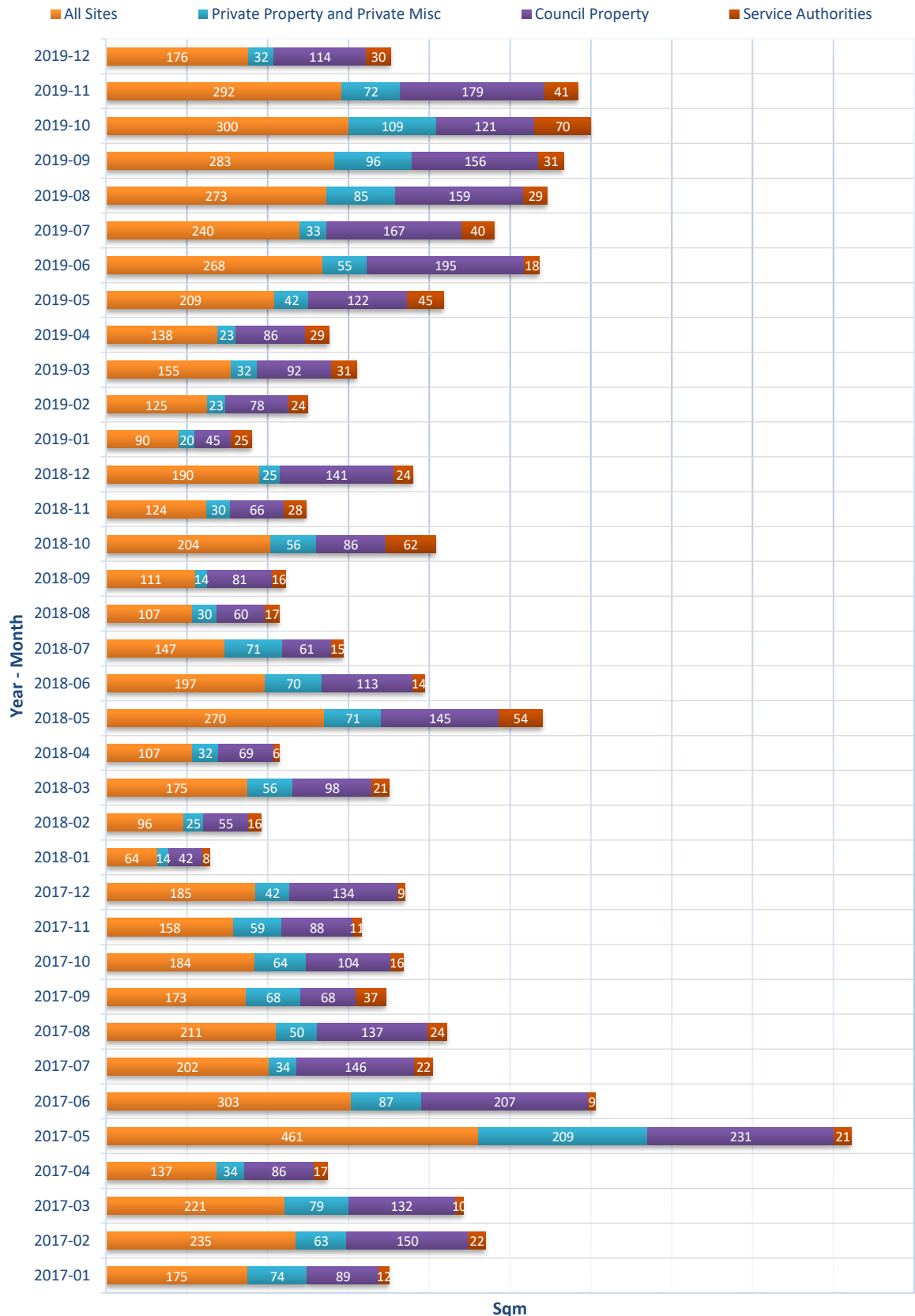
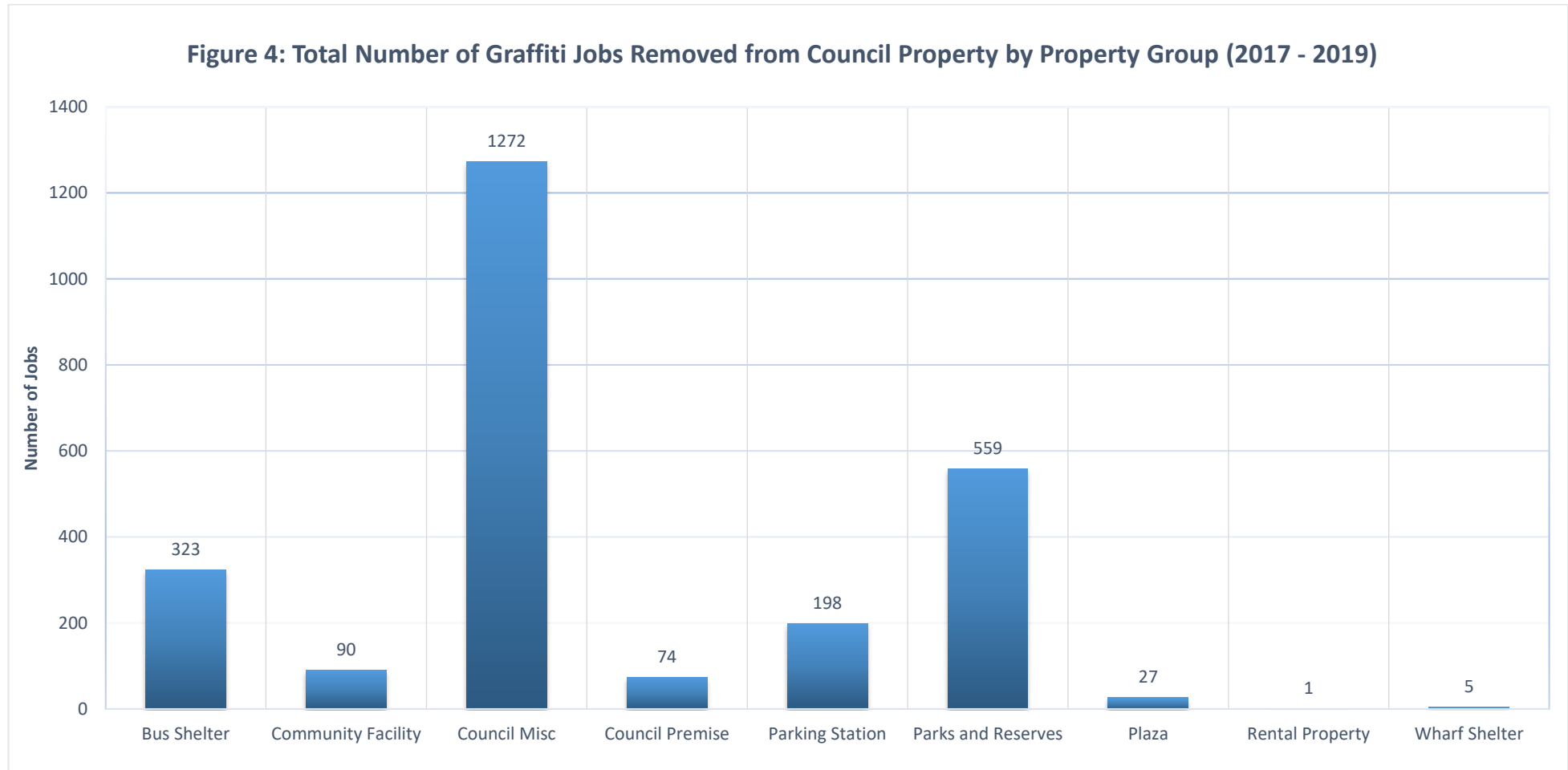


Figure 3: Monthly Graffiti Area (Sqm) Removed by Property Group (1 Jan 2017 to 31 Dec 2019)





Note: Council Miscellaneous Property Group is made up of: Bins, all street furniture, seating benches, posts, light poles, signs etc.



GRAFFITI MANAGEMENT POLICY

D2-05

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Policy Owner: Director Engineering and Property Services

Category: 2. Our Built Infrastructure

1. STATEMENT OF INTENT

- 1.1 The aim of this Policy is to create and maintain better neighbourhoods for residents, businesses and visitors by effectively preventing and managing graffiti and bill posters. Illegal graffiti is a concern to both North Sydney Council and the community. Graffiti incurs substantial social and economic costs to the community.
- 1.2 This Policy provides guidance to the implementation of Council's free graffiti removal program. With the active cooperation of property owners Council endeavours to quickly remove any graffiti from Council and privately owned properties.

2. ELIGIBILITY

- 2.1 All property owners within the North Sydney local government area are eligible to enter into an agreement with Council to participate in the free graffiti removal service.

~~3. DEFINITIONS~~

- ~~3.1 Graffiti vandalism generally refers to illegally defacing private and public property with markings and/or graphics without the owner's consent. Graffiti vandalism can take multiple forms including designs, words, images using chalk, paint, textas, acid etching or other material such as stickers and billposters.~~

3. DEFINITION

- 3.1 Graffiti shall be defined as illegally applied markings and/or graphics in multiple forms including designs, words and images using chalk, paint, marking pens, acid etching, partially wiped dirty surfaces (e.g. dusty surfaces) or other material such as adhesive stickers and posters defacing private and public property without the owner's consent.

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4. PROVISIONS

- 4.1 Removal of graffiti from surfaces on the subject property will be undertaken by Council at no cost to the property owner, **under certain conditions.**
- 4.2 Councils free graffiti removal service is an 'opt-in' program. Property owners must enter into an agreement with Council to allow Council to remove graffiti from their property. Under the agreement the property owner gives Council authority to remove any graffiti from surfaces on the property at the sole discretion of Council and without prior consent from the property owner on each occasion. On each occasion Councils contractor will make reasonable attempts to inform the property owner of its intention to remove graffiti from the property prior to commencing any graffiti removal works.
- 4.3 This agreement excludes the removal of engraving or glass etching graffiti.
- 4.4 Under Councils free graffiti removal program, graffiti will only be removed by Council if:
- a) It can be seen from a public road, park or other land the general public is allowed to use;
 - b) Its removal can safely be undertaken by the two-person crew without the aid of scaffolding or other specialised lifting equipment; and
 - c) Its removal can safely be undertaken with limited traffic control equipment that can be reasonably carried in the vehicle being used by the two-person crew.

5. RESPONSIBILITY/ACCOUNTABILITY

- 5.1 Councils Engineering and Property Services Division is responsible for administering the graffiti removal service, including raising community awareness of the program and managing all communication with Councils graffiti removal contractor.

6. RELATED POLICIES/DOCUMENTS/LEGISLATION

The Policy should be read in conjunction with the following Council policies and documents:

- Community Strategic Plan
- **'Graffiti Solutions' Brochure**
- **'Graffiti Clean Up' – web site guidelines and information**

The Policy should be read in conjunction with the following documents/legislation:

- **The Graffiti Control Act 2008**
 - Summary Offences Act 1988
 - **Summary Offences Amendment Act 2006**
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Version	Date Approved	Approved by	Resolution No.	Review Date
1	18 February 2013	Council	61	2016/17
2	25 June 2018	Council	214	2020/21

Discussion Paper

Review of the *Graffiti Control Act 2008*

October 2019



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1. Introduction and context

Review of the Graffiti Control Act

The *Graffiti Control Act 2008 (the Act)* deals with graffiti offences, the supply of spray paint cans to minors, graffiti removal work by local government and illegal bill posting. The Act was introduced to consolidate all aspects of graffiti law ranging from graffiti offences through to the regulation of the possession and sale of spray paint.

The Act expanded existing offences relating to spray cans to include all graffiti implements, and improved the enforcement of regulations relating to the sale and display of spray paint cans. The Act also distinguishes graffiti offences from other property offences in order to improve statistics on graffiti and therefore better inform graffiti policy and decision-making.

The legislation requires a review to determine whether the Act's policy objectives remain valid and whether its terms remain appropriate for securing these objectives.

Purpose of this statutory review discussion paper

This discussion paper describes key components of the Act and any known issues with its provisions. The discussion paper also asks targeted questions seeking stakeholders' views on these issues. Stakeholders are also welcome to raise any issues outside of these targeted questions.

How to make a submission

The Department of Communities and Justice welcomes input from the public, community organisations, local councils and NSW Government agencies. Submissions can be made:

By email to: policy@justice.nsw.gov.au (with the subject 'Graffiti Control Act Review')

By mail to: Graffiti Control Act Review
Law Enforcement & Crime Policy
Department of Communities and Justice
Locked Bag 5111
Parramatta NSW 2124

Submissions close: 10 February 2020

For more information about the review or making a submission, please email policy@justice.nsw.gov.au.

2. Questions

1. Do the offences under the Act adequately capture graffiti-related behaviour?
2. Are the current penalties for offences under the Act, including the higher maximum penalties for serious and persistent offenders and the alternative penalties, appropriate?
3. Are there any issues with the mandatory clean-up requirements in community service orders?
4. Is the current scope of bill posting regulation sufficient?
5. Should liability for bill posting extend to those that authorise or otherwise benefit from the illegal posting of a bill, as in some other Australian jurisdictions?
6. If so, should liability only be where councils 'opt in'?
7. Should local councils be required to provide more areas for free and lawful posting?
8. Are there any improvements that can be made with the current community clean up order scheme or with the powers provided to local councils for graffiti removal?

3. Offences under the Act

Overview of key offences

The Act intends to capture criminal conduct related to graffiti. Key offences in the Act are:

- marking premises or property (section 4)
- possession of a graffiti implement (section 5)
- posting bills (section 6)
- sale of spray paint cans to people under 18 (section 7)
- supply of spray paint cans to people under 18 (section 8A) and
- possession of spray paint cans by people under 18 (section 8B).

NSW courts finalised a total of **960** charges for offences under the Act from July 2018 to June 2019. The Local Court dealt with 570 of these cases and the Children's Court 390.

The table below shows the number of people charged and convicted for the five most common offences under the Act. These offences are discussed in further detail below.

Provision	Offence	Charged	Convicted
4(1)	Intentionally mark premises without prescribed consent	238	211
4(2)	Intentionally mark premises without prescribed consent where the mark is not readily removable	418	369
5(1)	Possess graffiti implement with intent to commit a s4(2) offence	214	185
6	Bill posting without consent	57	57
8B(1)	Possession of spray paint in public place by a person under 18	33	30

Source: NSW Bureau of Crime Statistics and Research

Offences relating to graffiti marking

The Act has two graffiti marking offences:

1. Section 4(1): a lower level offence for non-permanent markings that can be removed by soap and water.
2. Section 4(2): an aggravated offence for markings that are not readily removable by wiping or by the use of soap and water.

Offences relating to possession of graffiti implements

Section 5 of the Act makes it an offence for a person to possess a graffiti implement with the intention of committing an offence under the Act. A graffiti implement is a spray can, a marker pen or any implement designed or modified to produce a mark that is not readily removable

Offence relating to the posting of bills

Section 6 makes it an offence for a person to intentionally affix a placard or paper, within view from a public place, on any premises without the consent of the owner or occupier of the premises. Bill posting is further discussed in Chapter 5 of this paper.

Offences relating to aerosol spray paint cans

Part 3 of the Act prohibits the sale or supply of aerosol spray paint cans to people under 18. There are additional offences for possession of aerosol spray paint cans by individuals under the age of 18 and unsecured retail storage of spray cans. Police may, in a public place, confiscate spray cans from a person they reasonably believe to be under 18.

Question

- 1. Do the offences under the Act adequately capture graffiti-related behaviour?***

4. Penalties for offences under the Act

Summary of maximum penalties

The table below shows the maximum penalties that are available for offences under the Act. One penalty unit is \$110.

Section	Offence	Max penalty
4(1)	Intentionally mark premises without prescribed consent	4 penalty units
4(2)	Intentionally mark premises without prescribed consent where mark is not readily removable	20 penalty units or a driver license order and/or a community service order
4(4)	Intentionally mark premises without prescribed consent where mark is not readily removable and offender is a serious and persistent offender	20 penalty units or imprisonment for 12 months
5(1)	Possess graffiti implement with intent to contravene section 4	10 penalty units or a driver license order and/or a community service order for community clean up work
5(2)	Possess graffiti implement with intent to contravene section 4 – serious and persistent offender	10 penalty units or imprisonment for 6 months, or a driver license order and/or a community service order for community clean up work
6	Bill posting without consent	4 penalty units
7(1)	Sale of spray paint to person under 18	10 penalty units
8(1)	Unsecured display of spray paint cans by retailers	10 penalty units
8A(1)	Supply of spray paint can to person under 18	10 penalty units
8B(1)	Person under 18 possess spray paint in public place	10 penalty units
8B(5)	Person under 18 possess spray paint in public place – serious and persistent offender	10 penalty units or imprisonment for 6 months

Alternative penalties which may apply

As noted in the table above, a court may impose different penalties on a person for an offence under s.4(2) or s.5. Instead of imposing a fine, a court may make a community service order directing the offender to perform community service work for a specified number of hours. Following amendments in 2012, a court that imposes a community service order for an offence under the Act must include a condition that the offender cleans up the graffiti, unless such a condition is not reasonably practicable. The purpose of these conditions is to ensure that an offender contributes to remediating the damage caused by graffiti offences.

A court may also make a driver licence order, in addition to or instead of imposing a fine or sentencing a person to imprisonment for an offence under s.4(2) or s.5. A driver licence order is either an order extending a person's learner or provisional licence period for a maximum of six months or an order requiring a person not to incur a certain number of demerit points for a maximum period of six

months. Where a person incurs the number of demerit points specified in the driver licence order, the person's licence is suspended for 3 months.

There are also penalties of up to five years imprisonment for the more serious offence of maliciously damaging property under the *Crimes Act 1900* (NSW).

Questions

- 2. *Are the current penalties for offences under the Act, including the higher maximum penalties for serious and persistent offenders and the alternative penalties, appropriate?***

- 3. *Are there any issues with the mandatory clean-up requirements in community service orders?***

5. Bill Posting

Offences relating to bill posters

It is an offence under s.6 of the Act to affix placards or papers on any premises, within view from a public place, without the consent of the owner or occupier of the premises. This includes light and electricity poles, walls, trees, bus shelters and fences.

Generally, the cost of removing illegal commercial bill posters is borne by local councils, and ultimately rate payers. The City of Sydney has indicated that it spent approximately \$900,000 in 2014-15 on the removal of unlawful bills. This does not include costs associated with repairing surfaces that are damaged during the bill removal process or the cost of patrolling areas that have recently been cleaned up. Unlawful bill posting may also increase litter, including blockage of storm water drains, which also incurs costs for local councils.

Prosecutions for bill posting offences have risen steeply since the introduction of the current bill posting provision in 2014, from 20 convictions in its first year to 98 convictions in 2017-18¹. This increase in prosecutions has highlighted an opportunity for reform to reduce bill posting and removal costs for local government.

Section 6 currently only applies to individuals who affix posters and not to those who commissioned the poster or who stand to derive a financial benefit from it. The majority of bill posters are commercial advertisements, however there is no mechanism in the Act to enable the prosecution of the promoters or those who seek to benefit from commercial bill posting.

Bill posting offences in other jurisdictions

In addition to people who actually post a bill, anti-graffiti legislation in other jurisdictions captures people who authorise, commission, arrange, incite, cause, counsel or procure the posting of a bill (an 'authorising offence'). Victoria, South Australia and Western Australia have legislated for this type of authorising offence², and it carries equal or greater penalties in those jurisdictions than the offence of bill posting itself.

Consideration of a similar offence in NSW

This review is considering whether the Act should be amended to introduce a new statutory duty on those who promote or otherwise seek to commercially benefit from a commercial event. The duty would require these persons or corporations to take reasonable steps to ensure that the promotion does not involve unlawful bill posting by allowing the prosecution of people (or corporations), even if they did not post the bill themselves. A suggested option for this offence is outlined below.

Suggested option

A new 'authorising offence,' similar to those in Victoria, South Australia and Western Australia, could be introduced in NSW. This would allow prosecutorial action or the issuance of penalty notices against a person or a corporation that authorises the illegal posting of a bill. This offence could apply if the person who authorised the illegal bill posting did so intentionally (as to derive a commercial benefit), recklessly or negligently.

This option would be available for local councils who 'opt in.' Opting in would in turn require local councils to provide designated areas where bill posting is lawful. This option would deter unlawful bill posting without stifling commercial interests.

¹ Bureau of Crime Statistics and Research.

² *Summary Offences Act 1966* (Vic) s10(2) and (3), *Local Nuisance and Litter Control Act 2016* (SA) s23(2), *Litter Act 1979* (WA) s24B(1).

Questions

- 4. *Is the current scope of bill posting regulation sufficient?***
- 5. *Should liability for bill posting extend to those that authorise or otherwise benefit from the illegal posting of a bill, as in some other Australian jurisdictions?***
- 6. *If so, should liability only be where councils 'opt in'?***
- 7. *Should local councils be required to provide more areas for free and lawful posting?***

6. Clean-up powers and orders

Community clean-up orders

Part 3A of the Act allows offenders to pay off fines by undertaking court-ordered community clean-up work and a two hour graffiti education program. Each hour of clean-up work pays off \$30 of their fine, and the clean-up order cannot exceed 300 hours for an adult or 100 hours for a child.

The scheme is restricted to situations where the court is satisfied that the offender is suitable for community clean-up work and that such work is available. A community clean-up order may be revoked if the offender fails to report for work or comply with the requirements of the order, or where the offender is no longer capable of or suitable for the work. An order may also be revoked at the offender's request if the revocation would be in the interests of justice.

Graffiti removal by local councils

Part 4 of the Act allows local councils to carry out graffiti removal work on private land with or without the consent of the owner or occupier. A local council may only commence graffiti removal work without the consent of the owner or occupier if the graffiti is visible from a public place. If graffiti removal is carried out without consent, the local council is required to:

- bear the cost of the work
- carry out the work from a public place and
- give the owner or occupier written notice (within a reasonable period) that the work has occurred.

Local councils are required to keep a register of graffiti removal work under s.13 of the Act. The register must specify the nature of the work carried out and the actual or estimated costs of carrying out the work. In the case of graffiti removal work done in agreement with the owner or occupier, the local council must record in the register the actual amount charged for carrying out the work.

Question

8. Are there any improvements that can be made with the current community clean up order scheme or with the powers provided to local councils for graffiti removal?

N O R T H S Y D N E Y C O U N C I L



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ABN 32 353 260 317

The Hon. Shelley Hancock MP
 Minister for Local Government

7 February 2020

CC: Department of Communities and Justice

David Spackman Policy Manager
 Law Enforcement & Crime Policy
 Policy, Reform and Legislation Branch
 Department of Communities and Justice
 P: 02 8346 1360 | E: david.spackman@justice.nsw.gov.au

Dear Minister,

Re: North Sydney Councils Submission on the Review of the *Graffiti Control Act 2008*

I write in reference to your letter dated 13 November 2019, inviting North Sydney Council to participate in the NSW Government review of the Graffiti Control Act 2008.

Since September 2006, North Sydney Council has established a very effective graffiti removal program as per Part 4 of the current Graffiti Control Act - 2008. Council adheres to all the requirements of Part 4 of the Act whereby we invite both residents and businesses to enter into an agreement with Council to carry out graffiti removal work on their property. A register of the properties where an agreement has been reached with the owner or occupier is kept by Council.

Council also encourages residents and businesses to report any graffiti on public or private property. In addition to formal agreements entered into with residents and businesses, Council also undertakes ad-hoc removal of graffiti from private property when its reported and is easily accessible. North Sydney Council currently offers this service to all property owners in the North Sydney Council Local Government Area (LGA) for "free".

North Sydney Council bears all the costs of graffiti removal across the LGA which is currently managed through a contract with a specialist graffiti removal company at a cost of \$133,000 per annum. The contract is a biannual contract that forms part of Councils Annual Schedule of Rates Contract for maintenance services and minor works.

The contract cost of \$133,000 per annum does not include any of Councils on costs that include contract management, reporting, staff resources and general administration which is estimated to cost a further \$100,000 per annum.

Performance based KPIs stipulated in the contract are that graffiti must be removed within three (3) x working days of the graffiti being identified except for offensive graffiti which shall be removed within one (1) x working day of the graffiti being identified.



100% recycled paper

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Each year Council must budget in its operational plan the cost of funding this “free” graffiti removal service. Council receives a lot of positive feedback from the community (residents, property owners and Strata Managers) on its program and responsiveness to requests to remove graffiti. Some examples of the compliments Council receive are included in Appendix 4 of this submission.

In summary the following statistics highlight the success of this program in the last three (3) years, (January 2017 – December 2019):

A total of 4,254 x graffiti removal jobs across the North Sydney LGA have been undertaken over 3 years (average 5 jobs per working day), of which:

- a. 2,549 x jobs were on Council / public property, comprising a total of 4,103 square meters of graffiti removed.
- b. 1,038 x jobs were on private property, comprising a total of 1,979 square meters of graffiti removed, and
- c. 667 jobs were on public authority properties, such as utility companies Ausgrid, Telstra, Sydney Water and State Government agency property such as that controlled by the RMS, RailCorp and the like comprising a total of 904 square meters of graffiti removed.

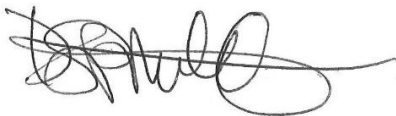
North Sydney Councils graffiti removal program consists of both an inspection regime across the LGA, including “hotspots”, and ad-hoc removal jobs based on public notification.

The graffiti removal program at North Sydney Council costs Council over \$233,000 per annum, including overheads in managing the program.

However, despite the success of this program in North Sydney, Council believes that the Graffiti Control Act -2008, can be improved to further discourage illegal graffiti and markings of public and private property. Council’s views and feedback in relation to the points raised in the discussion paper are outlined in Appendix 1 – attached to this letter (North Sydney Councils Submission).

If you have any further queries about North Sydney Councils submission, please feel free to contact Danilo Giribaldi – Works Manager, directly on phone 02 9936 8121, mobile 0410 031 405.

Yours Sincerely



Duncan Mitchell

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Appendix 1 - North Sydney Councils Submission on the Review of the Graffiti Control Act 2008
Appendix 2 - North Sydney Councils Graffiti Removal Statistics - 2016 to date
Appendix 3 – Images of Typical Graffiti and its removal in North Sydney (Before and After Photos)
Appendix 4 - Typical Compliments North Sydney Council receives on its Graffiti Removal Program
Appendix 5 - Letter from the Minister for Local Government

Appendix 1

NORTH SYDNEY COUNCIL

Submission on the Review of the Graffiti Control Act 2008



Department of Communities and Justice Discussion Paper

For

The Minister of Local Government



200 Miller Street, North Sydney NSW 2060 - February 2020

Executive Summary

This submission from North Sydney Council responds to the request from the Minister for Local Government (Honourable Shelley Hancock – MP) to participate in the NSW Government Review of the Graffiti Control Act 2008. The submission responds directly to the eight (8) key focus areas of the discussion paper prepared by the Department of Communities and Justice in October 2019.



Before and after photos of typical instance of Graffiti in North Sydney – utilizing Councils “Free” Graffiti Removal Service.

Introduction

Since September 2006, North Sydney Council has established a very effective graffiti removal program as per Part 4 of the current Graffiti Control Act - 2008. Council adheres to all the requirements of Part 4 of the Act whereby we invite both residents and businesses to enter into an agreement with Council to carry out graffiti removal work on their property. A register of the properties where an agreement has been reached with the owner or occupier is kept by Council. Council also encourages residents and businesses to report any graffiti on public or private property. In addition to formal agreements entered into with residents and businesses, Council also undertakes ad-hoc removal of graffiti from private property when its reported and is easily accessible. North Sydney Council currently offers this service to all property owners in the North Sydney Council Local Government Area (LGA) for “free”.

North Sydney Council bears all the costs of graffiti removal across the LGA which is currently managed through a contract with a specialist graffiti removal company at a cost of \$133,000 per annum. The contract is a biannual contract that forms part of Councils Annual Schedule of Rates contract for maintenance services and minor works.

The contract cost of \$133,000 per annum does not include any of Councils on costs that include contract management, reporting, staff resources and general administration which is estimated to cost a further \$100,000 per annum.

Performance contract outcomes are that graffiti shall be removed within three (3) x working days of the graffiti being identified except for offensive graffiti which shall be removed within one (1) x working day of the graffiti being identified.

Each year Council must budget in its operational plan the cost of funding this “free” graffiti removal service. Council receives a lot of positive feedback from the community (residents, property owners and Strata Managers) on its program and responsiveness to requests to remove graffiti. Some examples of the compliments Council receive are included in Appendix 4 of this submission.

In summary the following statistics highlight the success of this program in the last three (3) years, (January 2017 – December 2019):

A total of 4,254 x graffiti removal jobs across the North Sydney LGA have been undertaken over 3 years (average 5 jobs per working day), of which:

- a. 2,549 x jobs were on Council / public property, comprising a total of 4,103 square meters of graffiti removed.
- b. 1,038 x jobs were on private property, comprising a total of 1,979 square meters of graffiti removed, and
- c. 667 jobs were on public authority properties, such as utility companies Ausgrid, Telstra, Sydney Water and State Government agency property such as that controlled by the RMS, RailCorp and the like comprising a total of 904 square meters of graffiti removed.

North Sydney Councils graffiti removal program consists of both an inspection regime across the LGA, including “hotspots”, and ad-hoc removal jobs based on public notification.

The graffiti removal program at North Sydney Council costs Council over \$233,000 per annum, including overheads in managing the program.

However, despite the success of this program in North Sydney, Council believes that the Graffiti Control Act -2008, can be improved to further discourage illegal graffiti and markings of public and private property.

North Sydney Council as of March 2020 has 1441 x signed Graffiti Removal Agreements in place with Private Property owners across the LGA. So far in the 2019/20 financial year, Council has entered into 38 x agreements with Private Property Owners. The breakdown of numbers of agreements in each suburb in the North Sydney Council LGA is outlined in Table 1 below.

Table 1. Graffiti Removal Agreement Received by Suburb – North Sydney LGA

Suburb	No of Signed Agreements
Cammeray	125
Cremorne	257
Cremorne Point	7
Crow's Nest	325
Kirribilli	45
Kurraba Point	1
Lavender Bay	23
McMahons Point	44
Milsons Point	19
Neutral Bay	244
North Sydney	203
St Leonards	50
Waverton	31
Wollstonecraft	67
Total	1441



Before and After photos of typical instance of Graffiti in North Sydney on Private Property. Council works with Private property owners and Strata Managers to removal graffiti from hard to access locations like the examples in photographs above (Unit blocks Kirribilli)

Key Focus Areas

North Sydney Councils response to the eight (8) Key Focus Areas identified in the Department of Justice Discussion Paper – Review of the Graffiti Control Act 2008 are as follows:

1. Do the current offences adequately capture the right behaviour?

In general, the offences under the act do align with the current and historical trends in graffiti related behaviour. The offences as per Part 2 and Part 3 of the Act include the following:

- Marking premises or property
- Possession of a graffiti implement
- Posting bills
- Sale of spray paint cans to persons under 18
- Unsecured displays by retailers of spray paint cans
- Supply of spray paint cans to persons under 18
- Possession of spray paint cans by persons under 18

From a local government and North Sydney Council perspective the offence “*marking premises or property*” is the only offence that Council can provide relevant feedback on, as it’s a daily part of Councils operations.

The other offences – the enablers of graffiti, being the sale, supply and possession of graffiti sprays and implements is an enforcement issue for State Government authorities (The Police) and is difficult for Council to comment on as it’s not an area of enforcement or operational responsibility for Council. Council has no meaningful data relating to graffiti enablers as it just deals with the end results.

Councils feedback on the offence “*marking premises or property*” and current graffiti behaviour in North Sydney is that while the Act deals with the severity of graffiti marking in relation to markings that are readily removable and markings that are not (Section 4.1 to 4.3 respectively), it does not otherwise attempt to assess the extent of markings, the difficulty (due to accessibility), and or the expense of permanent removal or restoration of the damaged property.

Council in its day to day graffiti removal operations, removes everything from small tags that are only a few centimetres high to areas of graffiti that are 10m2 or larger. The graffiti also can in some instances be completely inaccessible and requires specialist equipment to access.

In North Sydney one of the most common and expensive forms of graffiti treatment and removal from public property is not paint based but glass etching or scratching which permanently marks the surface of the material that has been defaced. This impacts everything from public art through to bus stops, signage, playground equipment, street furniture and Council buildings and other property.

As academic research shows the key drivers of Graffiti related behaviours which are universal are as follows:

- Recognition
- Rebellion
- Adrenaline
- Illegality
- Producing graffiti in dangerous or hard to get to places – “exclusiveness of place”
- Increasing skills
- “Being King” – “Going Over” and “Getting Up”

- Most graffiti writers are young males aged between 14 and 16 years old
- Public Property is more popular than Private Property for graffiti writers to target

Source: Jannes van Loon "Just writing your name?" An analysis of the spatial behaviours of graffiti writers in Amsterdam -2014

In North Sydney all of these recognised behaviours are prevalent in many different forms of the graffiti that Council removes each day (on average 5 individual pieces per day), with the the "tagging" and graffiti of *public* property being the dominant targeted property type in alignment with the universal trend. Refer to the appendix 2 of this submission which outlines the graffiti related statistics for recent years in North Sydney.

Councils successful rapid removal program has shown overall jobs to decrease from 3 years ago, however the number with private and service authorities remain static.

It would also be accurate to say the systematic and organised removal regime that exists in North Sydney (Councils graffiti removal program) has contributed to shaping the graffiti writers' behaviours. "Hot Spots" that are regularly cleaned and reported to Council eventually become unpopular as the graffiti writers recognise that their "tag" or "piece" is likely to be removed within 48 hours therefore they change locations for graffiti regularly, so hotspots change all the time in North Sydney. They also generally choose locations that are harder to access and remove graffiti.

North Sydney Council has many iconic and prominent heritage structures and properties that are regular targets for Graffiti writers. These include the Sydney Harbour Bridge, Harbour foreshore areas and several main roads and associated road structures that traverse the LGA including the Warringah Freeway, Pacific Highway and Military Road.



Before and After photos of typical Instance of Graffiti in North Sydney on Public Art.

Recommendation:

North Sydney Council would recommend that there should be some nexus in the Maximum Penalty (Penalty Units) and the extent of the graffiti marking on a public or private property, (Size – square meters of the marking) as well as the degree of difficulty to remove the graffiti, resources required to remove it and whether it permanently damages the surface that has been defaced, e.g. glass etching.

The other offences – the enablers of graffiti, being the sale, secure display of spray cans and possession

of graffiti sprays is a responsibility of Council Rangers and is difficult to enforce. Penalties are also only \$500 which is low considering the cost of Graffiti removal. Council would request more assistance from State Government authorities (The Police) to assist with the enforcement of the enablers of Graffiti.

2. Are the current penalties for offences under the Act, including the higher maximum penalties for serious and persistent offenders and the alternative penalties, appropriate?

Our statistical evidence from North Sydney Council over the last 3 years shows that the total number of jobs is again increasing in the last two years, and also the graffiti area removed in recent months is also increasing (Figure 1, 2, and 3- Appendix 2), indicating that the problem is not going away and further combating strategies need to be deployed, including harsher penalties to be applied.

Academic research shows that increasing penalties is non-conclusive.

'Although graffiti offenders have been subject to significantly harsher penalties since January 2010 than before that date, it is unclear what effect the increased penalties have had on deterring young potential offenders'. Source – Tough on Graffiti Strategy 2011-2015 Final Evaluation Report – Prepared for WA Police Graffiti Team by Clear Horizon – 9 July 2015

However, harsher penalties will not be effective without adequate and effective resources in policing and fining / prosecuting offenders. Council do not have to powers to assist in this regard as it is a matter for The Police. Council will be able to assist The Police if provided with appropriate powers to Council Ranges to enforce, and if it receives further funding or grants to install and manage CCTV cameras in public spaces.

The lack of resources for enforcement is also evident from the table provided on page 6 of the 'Discussion Paper- Review of the Graffiti Control Act 2008', showing the low number of charges for offences under the Act made in one year from July 2018 to June 2019 in the whole of NSW. This comes as a total surprise when we know that each Local Government Area and other Service Authorities suffers greatly with the amount and frequency of graffiti and poster bill placements.

While current penalties under Section 4-1 (up to 4 penalty units or \$440) and Section 4-2 (up to 20 penalty units or \$2200, or 12 months imprisonment) exist, they seem non effective from our data. Council does not have any data relating to offenders successfully prosecuted in relation to offences committed in the Local Government Area (LGA) and their relative severity, and as a result is not positioned to make further response to this point.

It would be helpful to Council if the Department of Justice could provide data on the number of graffiti related prosecutions in the North Sydney LGA. Council could use this data to assist in analysing the success of its graffiti removal program.

The offence *Bill posting without consent* with 4 penalty points is also very low and should be increased as this is a major problem for Council, with repetitive cleaning required to remove posters and the glue left behind on our light posts.

Under Section 13C of the Act, alternative penalties where a driver's licence may be suspended would not be recommended as a licence is so critical for young people in pursuing apprenticeship in current times, where they are required to work in many distant locations. The aim is to get young people, especially young males engaged into the workforce and to discourage idleness which leads to anti-social behaviour such as graffiti.

Recommendation:

North Sydney Council would support to generally increase penalties for offences to deter poor behaviour, however, it is more important to increase the effectiveness and resources towards adequate enforcement of the Act by the Police and Council, including looking at consolidating enforcement powers from other Acts (Legislation) that Council Rangers operate under to manage both Graffiti and illegal Bill Posting.

Enforcement powers for Council Rangers in North Sydney for prosecuting people who undertake illegal Graffiti and illegal Bill Poster activities are spread across three (3) Acts that are enforceable by Council Rangers and or Building Compliance Officers. These are the Protection of the Environment and Operating Act – this Act gives Council Rangers powers to enforce offences around littering which can include Graffiti and Bill Poster related activities. The Local Government Act which gives Council planning controls and legal powers under the DCP to take enforcement action for unapproved advertising which applies to most Bill Posting activities undertaken in the Public Domain. Finally, the Graffiti Control Act 2008 – clause 6 which gives Council Rangers some enforcement powers around illegal Bill Posting.

North Sydney Council would recommend some form of consolidation of the current legislation from the three (3) relevant Acts to simplify and streamline what enforcement action is open to Council in terms of managing both Graffiti and illegal Bill Posting. The consolidation of enforcement powers should come under the Graffiti Control Act which should also include a name change to the Graffiti Control and Bill Posters Act or something similar.

North Sydney Council would also support increased penalties for offences for Bill Posting to act as a greater deterrent.

Council would also recommend that the maximum penalty units for people caught “*marking premises or property*” and who are over 18 years of age be significantly increased. For people under the age of 18, the penalties should remain the same with more of a focus on what can be achieved with the offender through Part 3A of the act “*Community Clean Up Work*”.

Council would recommend the removal of the alternate penalty where the suspension of driver’s licence may occur, to allow young people the ongoing opportunity to gain or continue an apprenticeship or study requiring travel in many distant locations. We want to minimise youth idleness to help minimise graffiti.

3. Are there any issues with mandatory clean-up requirements in community service orders?

In reference to Part 3A of the Act – *Community clean-up work*, via use of community service orders, and specifically mandatory clean-up requirements, it needs to adequately address the Workplace Health and Safety (WHS) issues inherent in this work.

Community Clean Up work is sometimes given at court direction under the Act Part 3A, in lieu of the offender paying their fine amount. The Clean Up work is defined as a form of community service work under the *Crimes (Administration of Sentences) Act 1999*, for adult offender, and under the *Children (Community Service Orders) Act 1987* for a child offender. The legislation states that

community clean-up work satisfies their fine at the rate of \$30 per hour, so for a fine made for an offence against Section 4-2 (up to \$2,200) this might equate to more than 70 hours.

A child offender being under the age of 21 when charged before a court and was under 18 when the graffiti offence was committed as per Part 3A-9A of the Act.

The mandatory clean-up requirements need to ensure that there is an agreed methodology in place for the works with Councils assigned officer to ensure minimum standards are in place for safety and preservation of property. Protecting working staff on site (especially Children), Council (Public), Private, Utility company properties and infrastructure as a result of the graffiti / bill poster removal process.

Mandatory clean-up orders under Part 3A can be limited in North Sydney by the fact that any graffiti will likely already have been removed by Council's existing rapid graffiti removal program. Any guilty offender would have to be tasked with removing other graffiti, not necessarily rectifying damage caused by their own actions, or alternatively other clean-up work such as bill poster removal, footpaths, bins, plazas clean-ups.

Council has prior experience with individuals servicing Community Service orders: offenders for a variety of offences attended Council and were used for removing chewing gum from footpaths and public plazas, cleaning bus shelters and some minor graffiti removal works. There was a requirement for supervision that was met by Council, not the Department of Justice, at significant cost to Council. The program had mixed success, depending on the level of cooperation and willingness exhibited by the offenders, however the cost to Council of running the program (supervision and internal administration and equipment costs) sometimes exceeded the benefits derived. There was also additional time required to induct the offender in safety procedures, equipment and material use, Material Safety Data Sheets etc.

Recommendation:

Community service orders such as mandatory clean-up requirements, needs to adequately address the Workplace Health and Safety (WHS) issues inherent in this work, with adequate funding to Council to provide the required supervision and management for minimum standard compliance in safety, quality of work, and protection of property.

Mandatory clean up requirements cannot be restricted to just the removal of the offenders graffiti, but needs to be open to the removal of other suitable graffiti and all other clean up works in public spaces like illegal bill poster removal, removing gum off footpath and street furniture, cleaning bus shelters, bins and the like.

4 Is the current scope of bill posting regulation sufficient?

Section 6 of the Act (Posting Bills) states *"A person must not intentionally affix a placard or paper on any premises so that the placard or paper is within view from a public place, unless the person has first obtained the consent of the following:*

- a. if the premises are occupied – the occupier or person in charge of the premises,*
- b. if the premises are unoccupied – the owner or person in charge of the premises."*

The Act defines premises as *"includes the whole or any part of a structure, building, vessel or place, whether built on or not."*

There is no role for Council as such in enforcing this legislation, although Councils inevitably bear to the cost of cleaning up.

Current legislation in the Act is not sufficient. There needs to be provisions and funding to Council towards 'fixed penalty notice signs', mentioning the penalty to erect/display or cause to erect/display an unapproved poster. Then powers need to be given to Council Rangers to prosecute, as these offences are not currently covered within Councils 'Police Prosecutor Arrangement'.

The current legislation also needs changing to allow penalties to target and prosecute either the promoters or those seeking to derive a benefit from the illegal commercial bill posting.

The current legislation allows prosecution of individuals caught posting the bills, however, the requirement of evidence linking the individual to the bill posting means that many bill posting offences cannot be prosecuted, as they are difficult to catch in the offensive act. This is also shown by the very low numbers that have been convicted under the Act. With only 57 charged and convicted in all NSW from July 2018 to June 2019 as *per the NSW Bureau of Crime Statistics and Research*, provided in the discussion paper.

Also as previously mentioned, the maximum penalty of 4 penalty units (\$440) is very low and needs to be increased significantly to act as a greater deterrent. Once again however, the deterrent nature of penalties is only effective if there are enough resources to enforce the legislation either from The Police or by providing the necessary powers to Council Rangers to assist further for compliance via cost effective prosecutions.

Council has no data to date on the cost and frequency of bill poster removal.

Currently Council absorbs significant costs when an incident of illegal bill posting occurs - staff required for investigating and determining the responsible perpetrator, staff following up on the prosecution, and a lawyer to prosecute as these offences are not covered within our Police Prosecutor Arrangement.

As a minimum, an event/incident would cost Council approximately \$2,500 if it was taken to court. We believe our cost would reduce significantly with an effective successful outcome in eliminating illegal bill posters if Council would have the appropriate powers to prosecute effectively. In this case we can also have a warning notice served whereby we demand the perpetrators or beneficiaries to remove all posters themselves or be prosecuted. This way Council avoids the cost of removal by staff or via contractor. One of the most time consuming and added cost component is the contractor cleaning off sticky tape glue residue that is left behind, which is not easy to remove.

Recommendation:

All relevant legislation including the Act, needs much greater scope in dealing with illegal bill posters. The current regulation is weak and ineffective in controlling a major issue faced by many if not all Councils. We recommend a first step would be for the penalties to be increased and a second step would be some form of consolidation of powers from the three (3) relevant Acts to give Councils Rangers and Building compliance Officers clearer powers to prosecute offenders. (Refer to recommendation No 2). Fines recovered through successful prosecution do already come back to Council, however the fines should be higher to cover not just the costs of physical removal and make good of property but also to cover Councils operating costs for the removal of illegal Bill Posters and Graffiti.

More funding needs to be provided to Council to also cover other costs such as 'fixed penalty notice signs', mentioning the penalty to erect/display or cause to erect/display an unapproved poster. More powers need to be given to Council Rangers to prosecute, as these offences are not currently covered within Councils 'Police Prosecutor Arrangement'.

The current legislation also needs to change to allow penalties to target and prosecute either the promoters or those seeking to derive a benefit from the illegal Bill Posting as well as the venues that are potentially benefiting from the activities that are advertised on the Bill Posters.

5. Should liability for bill posting extend to those that authorise or otherwise benefit from the illegal posting of a bill, as in some other Australian jurisdictions?

Yes, addition to people who actually post a bill, NSW should adopt similar anti-graffiti legislation to that of Victoria, South Australia and Western Australia by implementing an 'Authorising Offence'. This would then capture people who authorise, commission, arrange, incite, cause, counsel or procure the posting of a bill.

The Act should be reviewed and amended to introduce penalties on those who promote or otherwise seek to commercially benefit from the bill poster. This would then require these persons or corporations to take reasonable steps to ensure that the promoters do not involve unlawful bill posting, even if they did not post the bill themselves. As suggested in your discussion paper, this new 'authorising offence' could apply if the person who authorised the illegal bill posting did so intentionally (to derive a benefit), recklessly or negligently.

Another suggestion would be via a 'warning and clean up order' by allowing Council Rangers and the Police the appropriate powers to prosecute effectively as suggested above. In this option Council can issue a formal warning notice to clean up, whereby we instruct the perpetrators (promoters or beneficiaries) to remove all posters themselves or otherwise be prosecuted under the Act. This way Council avoids the cost of removal by staff or contractor following the issuance of penalty notices or an intent to prosecute.

As discussed above, broadening legislative scope to allow prosecution of penalties against "authorising" persons or corporations in the absence of reasonable steps taken to prevent the bill posting, will allow all instances of a particular bill posting to be captured, and will provide a stronger disincentive than prosecution against individuals for particular instances of bill posting.

Recommendation:

NSW should review and amend the Act to adopt similar anti-graffiti legislation to that of Victoria, South Australia and Western Australia, in providing an 'Authorising Offence', introducing penalties on those who promote or otherwise seek to commercially benefit from the bill poster. Applied if the person who authorised the illegal bill posting did so intentionally (to derive a benefit), recklessly or negligently.

Consideration of another or additional option via a 'warning and clean up order', which allows the Council Rangers the appropriate powers to prosecute or issue penalty notices effectively. In this option Council can issue to the perpetrators (promoters or beneficiaries) a formal warning notice to clean up and remove all posters themselves or otherwise be prosecuted under the Act. This way

Council avoids the cost of removal by staff or contractor following the issuance of penalty notices or prosecution action.

6. Should liability only be where Councils “opt in”?

In the current review of the Act the ‘authorising offence’ option is proposed for Councils that “opt-in” which then allows prosecution of the authorising person or corporation deriving a benefit from the bill posting. This will provide a stronger disincentive against bill posting and should result in a reduction in bill posting. In return, the NSW Government is proposing that a Council Opt-in, by providing more designated areas for free and lawful posting – i.e. additional community notice boards or walls etc. So that deterrence of unlawful bill posting is achieved without stifling commercial interests.

An “opt in” scenario might be possible in North Sydney Council, as there are substantial numbers of community notice boards already in place throughout the Local Government Area.

However, we do not believe that the ‘authorising offence’ penalty option should be conditional upon Council accepting an ‘opt in’ scenario, as it doesn’t really help or support Council in resolving the large issue at hand in reducing or eliminating the cost and cleaning of illegal bill posting.

7. Should local Councils provide more areas for free and lawful posting?

North Sydney Councils experience with its network of Community Notice Boards and their management is that it takes considerable time, resources and cost to manage these boards to ensure that they don’t become unsightly and or unsafe when they are vandalised or damaged.

North Sydney Council would not be in favour of installing additional community notice boards or infrastructure to service commercial paper-based bill posters because of the cost and resources involved in maintaining and managing them.

Determining additional locations would also be problematic. If it were not in a main vehicular or pedestrian traffic thoroughfare, we believe that illegal posters would continue to be an issue, being placed onto CBD light poles for example, in order to get their desired exposure.

North Sydney Council is willing to explore an option in providing space on Councils proposed network of digital community notice boards, which are being proposed as part of North Sydney “*Smart City Strategy*”. A network of digital Community Notice boards is being proposed in an effort to remove paper-based posting on Councils Notice Boards. However, due to administration and maintenance costs, this would require a small fee (License Fee) to be payable to Council to recoup costs. The establishment of a network of digital notice boards across the North Sydney LGA in lieu of paper based community Notice boards and or bill posting would require further capital investment by Council and State Government cooperation.

Another option is for bill posters to hire commercial advertising space on existing bus shelters or other Council infrastructure where it is permissible to advertise, however, due to the low cost of bill posting production and roll out, it is highly likely that bill posting will remain an attractive cheap alternative until rectified through amended legislation and adequate enforcement for compliance to the Act.

Anecdotally, North Sydney Council has seen a reduction in the use of its Community Notice Boards over the last 10 years with the uptake of social media and internet web sites. Thus, reliance on community noticeboards has significantly reduced.

Recommendation for questions 6 and 7:

An 'opt in' scenario may be possible in utilising the numerous existing community notice boards, however the placement of additional space for free and lawful postings would not be supported because of costs, poor aesthetics, and lack of available locations which are appropriate (high pedestrian and traffic volumes) for effective commercial advertising.

We do not believe that the 'authorising offence' penalty option should be conditional upon Council accepting an 'opt in' scenario, as it doesn't really help or support Council effectively.

North Sydney Council is willing to explore an option of providing space on Councils future "Smart Cities Strategy and Action Plan" initiative, which is to roll out digital community notice boards, in an effort to remove paper-based bill posting. For Council to roll out an integrated digital community notice board network which could accommodate Bill Posting, significant capital investment is required. Council would request State government funding to assist in the roll out.

8 Are there any improvements that can be made with the current community clean up order scheme or with the powers provided to local Councils for graffiti removal?

Additional powers have already been given to Council Rangers to deal directly with bill posters or graffiti vandals, through the ability of issuing and on the spot Personal Infringement Notice (PIN).

Regarding s.12 of the Act (without consent of the owner or occupier) the Council is required to bear the cost of the graffiti or poster removal and carry out works from a public place. At times there is accessibility difficulties in removing graffiti or posters in view of public places, for example, on a parapet wall above a shop awning (see photo examples in Appendix 3: 236 Military Rd, Neutral Bay). There is a need for further amendments to the Act to allow Council to enforce the owner or occupier to remove all types of graffiti, and or posters at their cost, which is placed on private property that is **not easily accessible** by Council from a public place, which:

- is visible from a public road, park or other land the general public can use.
- higher than 2 meters in height, as it cannot be safely undertaken by a two-person crew without the aid of scaffolding or other specialised lifting equipment.
- if removal cannot be undertaken with limited traffic control equipment that can be reasonably carried out in the vehicle being used by a two-person crew.

The only exception to the above is that Council will pay for removal in difficult access areas if it is deemed offensive in any way, including political influences, where rapid removal is required.

In regards to s.12 (5) of the Act, Council would like to be able to remove any graffiti or posters without consent and **without** any liability for possible damage caused by Council in carrying out the removal works, if the graffiti is offensive to any public group or person in any way, including political influences. This will allow for rapid removal which is essential to act as an effective disincentive.

The Act also needs to be amended to allow Council to enforce and direct the removal of glass etching graffiti (which is costly and difficult to remove) on private property, visible from a public

place at the cost to the owner, property manager or occupier. Otherwise, if not compliant to this order in a timely manner after repeated requests, Council may choose to carry out the works without damage liability and have the powers to recoup costs from the private owner or property manager.

North Sydney Council already has an effective graffiti removal program in place, that operates in accordance with Part 4 of the Act. However, suggestions for improvements could also include:

1. Subsidising the cost to Council of the graffiti removal program through infringement revenue derived as a result of successful prosecutions under the Act;
2. Additional subsidies or grants to be made available to Councils to implement or trial new technologies, materials and ideas for graffiti / bill poster removal – For example, graffiti resistant coatings to known hotspot areas for illegal activity; applying special coatings to poles that prevent tape from adhering to for bill posting; drone cleaning at heights etc.
3. Subsidising Council to consider low cost digital bill poster advertising on Councils digital community notice boards, to minimise the need for paper bill posters – see previous comments.

Please see our previous comments regarding community 'Clean-up order schemes', with our concerns in respect to work health and safety and property damage.

Recommendation:

The Council be given additional powers to recover costs from the removal of graffiti that is in hard to get places. There is a need for further amendments to the Act to allow Council to enforce the owner or occupier to remove all types of graffiti, and or posters at their cost, which is placed on private property that is **not easily accessible** by Council from a public place, which:

- is visible from a public road, park or other land the general public can use.
- higher than 2 meters in height, as it cannot be safely undertaken by a two-person crew without the aid of scaffolding or other specialised lifting equipment.
- if removal cannot be undertaken with limited traffic control equipment that can be reasonably carried out in the vehicle being used by a two-person crew.

The only exception to the above is that Council will pay for removal in difficult access areas if it is deemed offensive in any way, including political influences, where rapid removal is required.

In regards to s.12 (5) of the Act, Council would like to be able to remove any graffiti or posters without consent and **without** any liability for possible damage caused by Council in carrying out the removal works, if the graffiti is offensive to any public group or person in any way, including political influences. This will allow for rapid removal which is essential to act as an effective disincentive.

Conclusion

North Sydney Council deploys an effective rapid graffiti removal program from all property types, absorbing all costs for graffiti which is visible from public places and is easily accessible. It seems however, that this is the only mechanism we have for discouragement and more support is needed from amendments to the *Graffiti Control Act 2008*.

In conclusion, North Sydney Council is supportive of the NSW State Government's review of the Act, and welcomes change to help Council combat this anti-social behaviour which is a large cost impost on Council as well as being resource intensive to manage. We are thankful for the opportunity to provide feedback on this Discussion Paper and the current operation of the Act.

Before removal



After removal



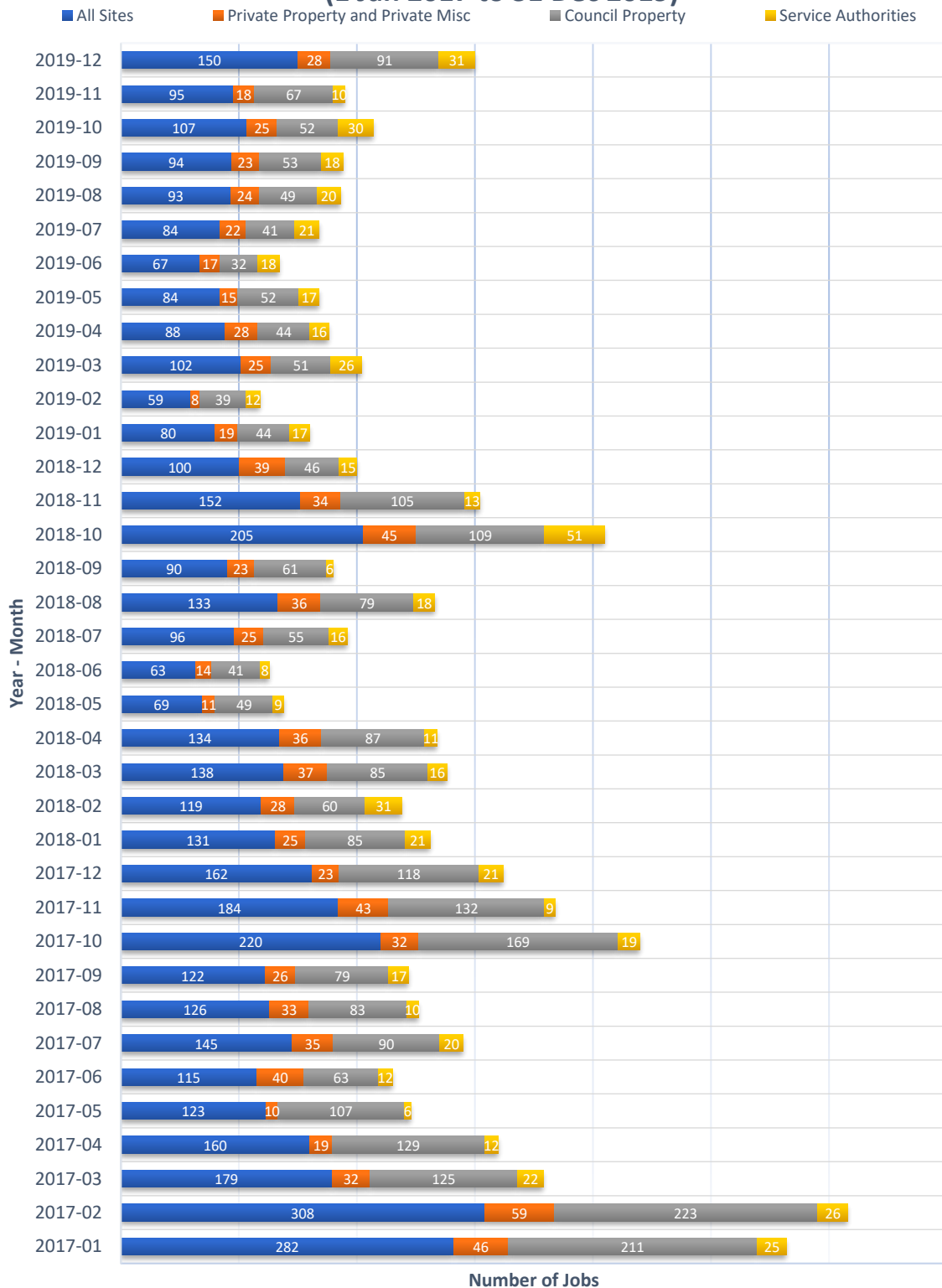
Slippery Dip, W H Brothers Park, Cremorne – North Sydney Council

(Texta that penetrates plastic over time is extremely difficult to remove – this site was attempted three times with different cleaning products, after receiving advice from three Graffiti experts!)

Appendix 2

North Sydney Councils Graffiti Removal Statistics from 2017-2020

**Figure 1: Monthly Graffiti Removal Jobs by Property Group
(1 Jan 2017 to 31 Dec 2019)**



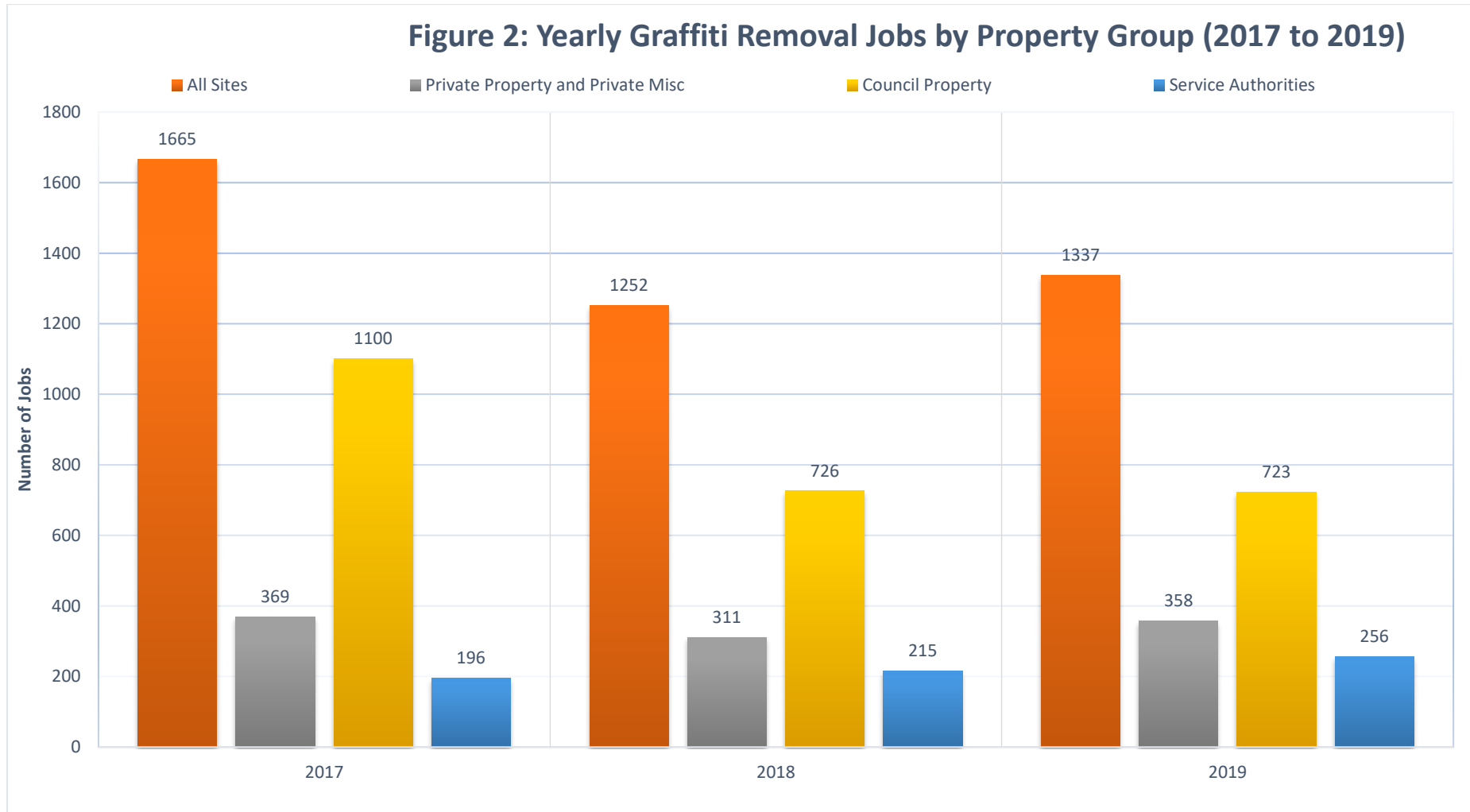
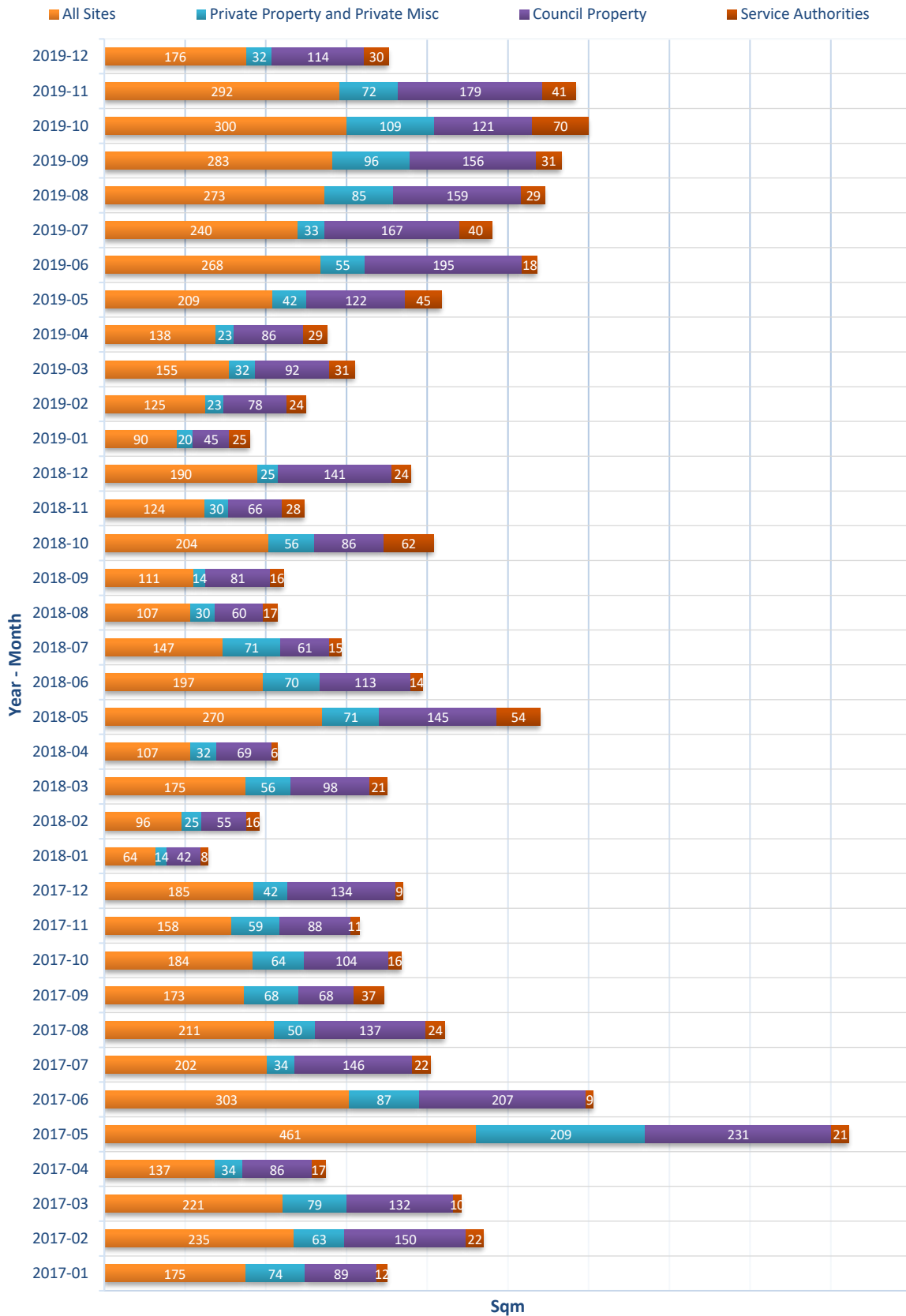
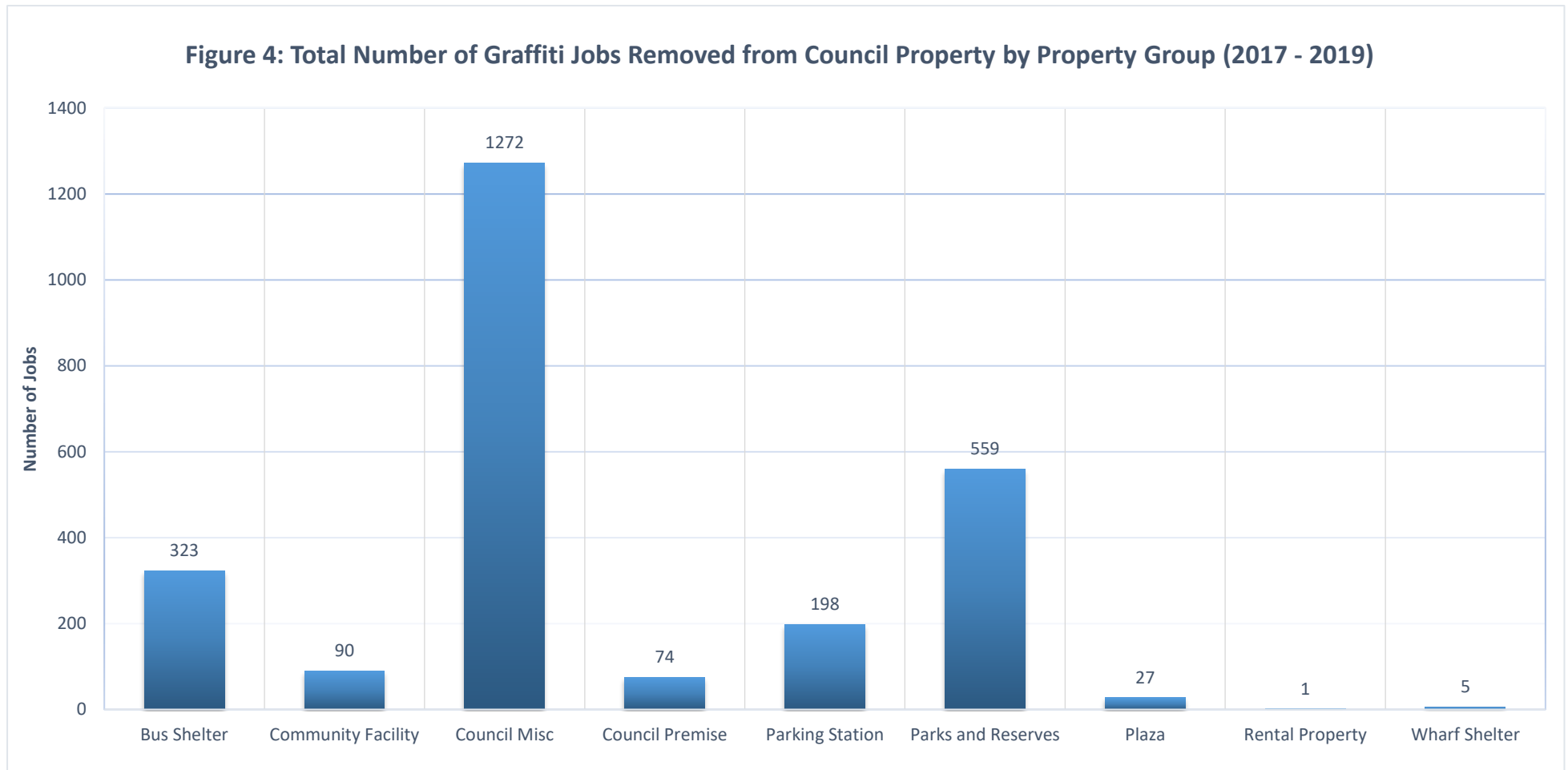


Figure 3: Monthly Graffiti Area (Sqm) Removed by Property Group (1 Jan 2017 to 31 Dec 2019)

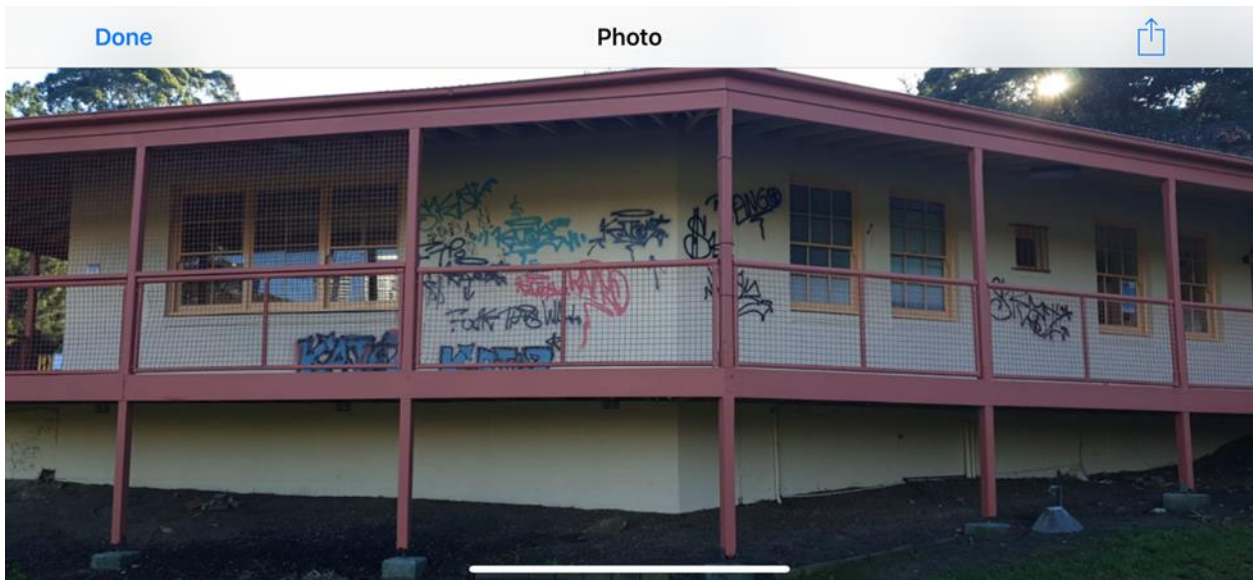




Note: Council Miscellaneous Property Group is made up of: Bins, all street furniture, seating benches, posts, light poles, signs etc.

Appendix 3

Images of typical graffiti in North Sydney and the effectiveness of Councils Graffiti Removal Program



Before and after photos of typical instance of Graffiti in North Sydney on Council Facilities – Forsyth Park Community Centre, Neutral Bay.



Before and after photos of typical instance of Graffiti in North Sydney on Council Facilities – Men's shed in Smoothey Park, Wollstonecraft.



Before and after photos of typical graffiti in North Sydney on *Private Property* – North Sydney Council removes graffiti from Private Property “*Free of Charge*” to ensure the visual amenity of Councils Public domain is always kept to a high standard to Community expectations– Property on 25 Eureka Street, Waverton.



Before and after photos of typical instance of Graffiti in North Sydney *in Bushland* – Rock face at Primrose Park, Cremorne.



Before and after photos of typical instance of Graffiti in North Sydney in *Councils Parks and Reserves* – Ridge Street Look-out, North Sydney.



Before and after photos of typical instance of Graffiti in North Sydney on Private Property in difficult to access places. Council needs Property owners consent to access and remove graffiti in these types of instances - instances (shop on 236 Military Road, Neutral Bay).



Before and after photos of typical instance of Graffiti in North Sydney on Private Property in difficult to access places. Council needs Property owners consent to access and remove graffiti in these types of instances - (shop on 242 Military Road, Neutral Bay).

Glass Etching Removal (virtually impossible to remove):



Before and after photos of typical instance of “Glass etching” in North Sydney on *Council Infrastructure* – Councils Footbridge over the Pacific Highway – North Sydney Centre. (Note how the etched glass could not be removed completely).

Difficult to remove Stainless Steel Surface:



Before and after photos of typical instance of “hard to remove graffiti” in North Sydney on *Council Infrastructure*– Etched into Stainless Steel - Exeloo public toilets at Bradfield Park (South), Milsons Point.



Before and after photos of typical graffiti in North Sydney on *Utility Company Infrastructure* – North Sydney Council removes graffiti from utility Company Infrastructure “*Free of Charge*” to ensure the visual amenity of Councils Public domain is always kept to a high standard to Community expectations - Substation Energy Australia at Crows Nest Community Centre.



Before and after photos of typical graffiti in North Sydney on *Utility Company Infrastructure* – North Sydney Council removes graffiti from utility Company Infrastructure “*Free of Charge*” to ensure the visual amenity of Councils Public domain is always kept to a high standard to Community expectations - Australia Post at Alfred Street, North Sydney.

Appendix 4

Typical Compliments Council receives

From: Whites Dental Care <admin@whitesdentalcare.com.au>
Sent: Thursday, 15 August 2019 1:18 PM
To: Erna Yudhianingsih <Erna.Yudhianingsih@northsydney.nsw.gov.au>
Subject: RE: North Sydney Council: Graffiti removal from private property at 158 Ben Boyd Road, Neutral Bay

Thank you so very much Erna,

We appreciate the Councils' help in this regard.

It has proven an ongoing battle for our surgery. On this occasion more than we could clean off unaided.

So as you can imagine, we are very grateful!

Many Thanks,

Kai Tepania | Front-End Coordinator

Whites dentalcare 

ADDRESS: 158 Ben Boyd Road, Neutral Bay 2089, NSW

PHONE: (02) 9908 7889

EMAIL: admin@whitesdentalcare.com.au | **WEB:** www.whitesdentalcare.com.au

From: Erna Yudhianingsih [<mailto:Erna.Yudhianingsih@northsydney.nsw.gov.au>]
Sent: Thursday, 15 August 2019 12:40 PM
To: Whites Dental Care
Subject: North Sydney Council: Graffiti removal from private property at 158 Ben Boyd Road, Neutral Bay

Dear Kai,

I trust this email finds you well.

Thank you for letting us know about the unfortunate graffiti on your property at 158 Ben Boyd Road, Neutral Bay – graffiti on the side wall of the property.

I have forwarded this task to our graffiti removal contractor, its registered under job id# 5047. Normally removals will take three working days. I will update you with the outcomes once its completed.

Please also take this email as an acknowledgement that we have received the graffiti removal agreement for the aforementioned property, and it will be updated on our database for our record.

Should there any future graffiti found in your property, please feel free to inform me, I am more than happy to help.

Kind regards,

-----Original Message-----

From: Tanya Adamski <ms.tadamski@gmail.com>

Sent: Friday, 1 November 2019 7:21 PM

To: Erna Yudhianingsih <Erna.Yudhianingsih@northsydney.nsw.gov.au>

Subject: Re: North Sydney Council: Graffiti removal on Australia Postal Box at Falcon St -- Bardsley Garden

Thank you Erna, for your speedy response and attention to this matter. Much appreciated and I commend you on your great customer service!

Regards,
Tanya

Sent from my iPhone

On 1 Nov 2019, at 12:36 pm, Erna Yudhianingsih <Erna.Yudhianingsih@northsydney.nsw.gov.au> wrote:

Dear Ms. Adamski,

I hope this email finds you well.

Thank you for letting us know about the unfortunate graffiti on the Australia Post box, on Falcon Street in front of your property at Bardsley Garden, North Sydney.

I have forwarded this task to our graffiti removal contractor dated 1 November 2019, its registered under job id# 5429. Normally it will take three working days for completion.

Please let me know, if I can be of any further assistance.

Kind regards,

-

From: Tony Cohen <tony.cohen1@outlook.com>
Sent: Friday, 6 September 2019 11:17 AM
To: Erna Yudhianingsih <Erna.Yudhianingsih@northsydney.nsw.gov.au>
Subject: Re: North Sydney Council: Graffiti removal on various locations in Cremorne

Erna,

What a great service ie quick response, professional work and good communication. Much appreciated. This type of vandalism unfortunately remains an ongoing issue but removal at least makes area look better and hopefully acts as a deterrent for re offending in the same area.
Regards

Tony Cohen

M | [+61 400 349 417](tel:+61400349417)

On 6 Sep 2019, at 09:54, Erna Yudhianingsih <Erna.Yudhianingsih@northsydney.nsw.gov.au> wrote:

Dear Mr. Cohen,

I hope this email finds you well.

A quick email to update, the unfortunate graffiti on various locations in Cremorne area, has now been removed – Please see attached photo before and after removal.

Please let me know, if I can be of any further assistance.

Kind regards,

From: Catherine Elversson <CElversson@australianunity.com.au>
Sent: Thursday, 8 August 2019 11:40 AM
To: Erna Yudhianingsih <Erna.Yudhianingsih@northsydney.nsw.gov.au>
Subject: RE: North Sydney Council: Graffiti removal on private property at 46 Lord Street, North Sydney

Dear Erna,

Thank you very much for your email.
That's great. I really appreciate your work and the care provided by the Council.

Kind Regards,
Catherine Elversson | Senior Lawyer
Australian Unity Trustees Legal Services



Australian Unity Limited
Level 6, 88 Phillip Street, Sydney NSW 2000

T + 61 2 9256 8737

M +61 427 870 976

E cerversson@australianunity.com.au

W www.australianunity.com.au

From: Erna Yudhianingsih [<mailto:Erna.Yudhianingsih@northsydney.nsw.gov.au>]
Sent: Wednesday, 7 August 2019 3:23 PM
To: Catherine Elversson
Subject: North Sydney Council: Graffiti removal on private property at 46 Lord Street, North Sydney

Dear Ms. Elversson,

I trust this email finds you well.

Thank you for letting us know about the unfortunate graffiti on your property at 46 Lord Street, North Sydney – graffiti on white brick wall at rear of the property. I have forwarded this task to our contractor, its registered under job id# 4973, and graffiti has now been removed – Please see photo before and after removals.
Please also take this email as an acknowledgement that we have received the graffiti removal agreement for the aforementioned property, and it will be updated on our database for our record.

Should there any future graffiti found in your property, please feel free to inform me, I am more than happy to help.

Kind regards,

From: Jeremy Ryan <Jeremy.Ryan@bright-duggan.com.au>
Sent: Friday, 29 November 2019 11:30 AM
To: Erna Yudhianingsih <Erna.Yudhianingsih@northsydney.nsw.gov.au>
Subject: RE: North Sydney Council: Graffiti removal on private property at 324 Military Road, Cremorne

Thank you for your assistance in this case and all graffiti issues this year.

Regards,

JEREMY RYAN

Strata Manager

☎ 02 9902 7100

✉ jeremy.ryan@bright-duggan.com.au

🌐 www.bright-duggan.com.au

bright & duggan 
australia's strata leader



From: Erna Yudhianingsih <Erna.Yudhianingsih@northsydney.nsw.gov.au>
Sent: Friday, 29 November 2019 11:28 AM
To: Jeremy Ryan <Jeremy.Ryan@bright-duggan.com.au>
Subject: RE: North Sydney Council: Graffiti removal on private property at 324 Military Road, Cremorne

Good morning Jeremy,

I hope this email finds you well.

A quick email to inform you, the unfortunate graffiti on the property at 324-330 Military Road, Neutral Bay (on Military side), has now been removed – Please see attached photo before and after removals.

Please let me know if I can assist you further in this matter, I am happy to help.

Kind regards,

From: Kanna Konishi <KKonishi@stratapartners.com.au>
Sent: Friday, 29 November 2019 12:42 PM
To: Erna Yudhianingsih <Erna.Yudhianingsih@northsydney.nsw.gov.au>
Subject: RE: North Sydney Council: Graffiti removal from private property at 154-158 Military Road, Neutral Bay

Thank you Denna! That was extremely quick!

Kind regards,

Kanna Konishi for
Steve O'Brien & Chee Lum
Strata Partners
Level 1, 283 Penshurst Street, Willoughby NSW 2068
PO Box 3046, Willoughby North NSW 2068
Telephone: 02 9417-2366
Fax: 02 9417-7196
kkonishi@stratapartners.com.au



From: Erna Yudhianingsih <Erna.Yudhianingsih@northsydney.nsw.gov.au>
Sent: Friday, 29 November 2019 12:40 PM
To: Kanna Konishi <KKonishi@stratapartners.com.au>
Subject: RE: North Sydney Council: Graffiti removal from private property at 154-158 Military Road, Neutral Bay

Good afternoon Ms. Konishi,

A quick email to update you, the unfortunate graffiti you reported on your property at 154-158 Military Road, Neutral Bay, has now been removed – Please see attached photo before and after removal.

Please let me know, if I can be of any further assistance.

Kind regards,

Appendix 5

Letter from Minister for Local Government



From: NSW Gov No Reply
Sent: Wed, 13 Nov 2019 17:52:38 +1100
To: council
Subject: Graffiti Control Act: Discussion Paper Consultation



The Honourable Shelley Hancock MP
 Minister for Local Government

Dear Clr Gibson

We are writing to invite you to participate in the NSW Government's review of the *Graffiti Control Act 2008* (the Act).

Tackling graffiti and illegal bill posting are an important part of the Government's commitment to preventing and reducing the level of crime across the State. Graffiti and bill posting are crimes that have significant financial costs as well as broader social, health and environmental impacts, including making people feel unsafe.

The Department of Communities and Justice (DCJ) has prepared a discussion paper that provides an opportunity for feedback on the current operation of the Act. Key focus areas in the discussion paper include:

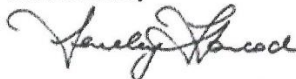
- whether the current offences adequately capture the right behaviours;
- whether penalties for offences remain appropriate;
- any issues with mandatory clean up requirements in community service orders;
- whether liability for bill posters should be extended to those that authorise or otherwise benefit from illegal bill posting;
- whether councils should need to provide more areas for legal bill posting; and
- improvements to the community clean up scheme or council's graffiti removal powers.

Attached is the discussion paper. It is also available on the DCJ [website](#).

As local government plays an important role in graffiti prevention and control, we would like to specifically invite your feedback by **Sunday, 15 December 2019**.

For more information about the review, please email policy@justice.nsw.gov.au.

Yours sincerely



The Hon. Shelley Hancock MP
 Minister for Local Government

The Hon. Mark Speakman SC MP
 Attorney General