



# WARRINGAH COUNCIL GRAFFITI MANAGEMENT PLAN



Warringah  
Council



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## A Note on Terminology

For the purposes of this discussion paper, the following definitions apply to frequently used terms:

### *Graffiti*

The defacing of property with markings and / or graphics. Graffiti applied without the consent of the property owner is illegal.

### *Tagging*

The application to any surface of a stylised mark or signature representing the 'tag' of an individual or group. Tags are the most common form of graffiti, and are by far the most complained about by community members. They are almost exclusively illegal, applied quickly, and require little talent or imagination. They may be applied using marker pens, spray paint or other materials that leave a mark such as boot polish, or they may be etched into glass or perspex.

### *Piecing*

The application of a larger, more elaborate mural style work to a wall or other surface. Short for 'masterpieces', quality pieces require forethought, organisational and design skills, considerable time to complete, and experience and artistic flair to produce. Although illegal piecing is common in other areas – for example along railway lines – in Warringah legal piecing is the norm. Applied with owner's consent, legal pieces are found in the local area in commissioned mural sites owned by Council, government departments and businesses, and on legal walls. A variety of materials may be used but in relation to 'urban art' style graffiti, the most common medium is aerosol paint.

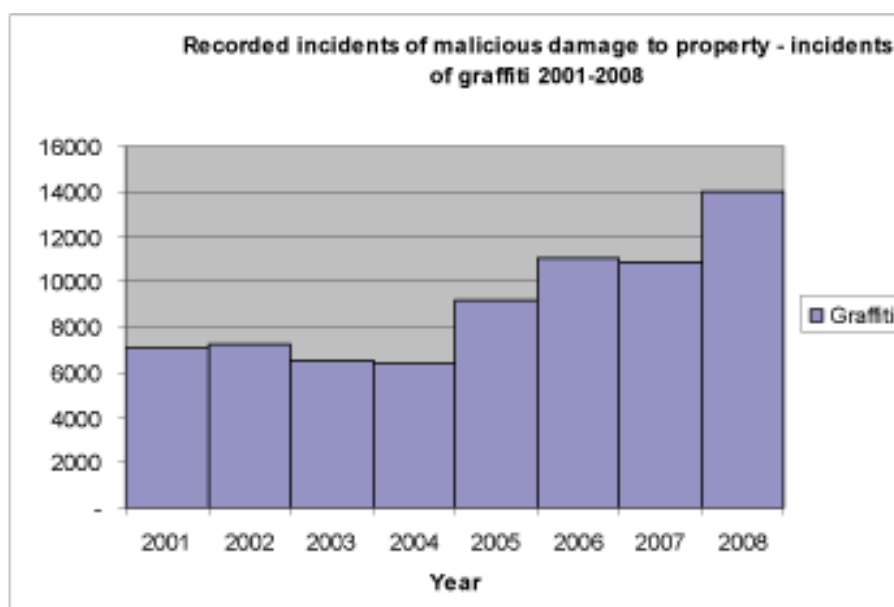
## Background

What to do about graffiti presents a challenge for Warringah and for most urban areas around the world. Council currently spends \$260,000 a year on graffiti removal and in other LGAs in Sydney it is significantly more. No reliable estimates are available on total costs at the state or national level: one 2002 estimate by the former Minister for Local Government, Harry Woods MP, put the total cost to the community of graffiti removal in NSW at up to \$100 million a year<sup>1</sup>.

Although statistics on graffiti's incidence are unreliable due to inconsistencies in reporting, there is evidence it has been increasing. State government sources give the following analysis:

*The table below shows the number of reported graffiti related malicious damage to property incidents per annum in NSW from 2001 to 2008. There were 7,060 incidents in 2001 and 14,001 incidents in 2008. The average annual number of incidents over this period was 9,021. The percentage of malicious damage incidents related to graffiti increased from 7.3% in 2001 to 12.8% in 2008, a 5.5 percentage point increase. .<sup>2</sup>*

**Figure 1: Graffiti reports, NSW 2001-2008**



Aside from the cost, illegal graffiti<sup>3</sup> is vandalism of public or private property, and as such is a matter of concern to many community members, the police and Council.

Given its cost to Council and the community, decisive measures are required to tackle illegal graffiti, and particularly the 'tagging' that proliferates in parts of Warringah and elsewhere. However, evidence from current literature, based on both local and international experience, clearly shows that tackling removal only will not stop the problem. To respond to graffiti comprehensively it is necessary to deal both with the symptoms

<sup>1</sup> Quoted in *Graffiti Management Model*, NSW Government 2009. It is not specified whether the quote refers to costs for government, households, business or all combined.

<sup>2</sup> Graffiti statistics, Lawlink NSW – [graffiti.nsw.gov.au/lawlink](http://graffiti.nsw.gov.au/lawlink)

<sup>3</sup> There are also legal forms of graffiti - for example the many 'urban art' style murals, applied *with owner's consent*, that are now prevalent internationally.

(reactive measures that occur after the event) and the causes (preventive / before the event).

Council therefore requires a policy approach that is clear about the outcomes to be achieved, is grounded in reality, and includes both reactive and preventive elements. To achieve this we need better analysis of the nature and extent of the problem, detailed insight into the characteristics, methods and motivations of graffitiists, active engagement with young people and the agencies that work with them, strong relationships with key stakeholders including police and the business community, and long-term commitment to an integrated and evidence-based response.

The following Management Plan analyses the current graffiti situation in Warringah and goes on to suggest ways in which Council might respond to the issue, with an expectation that once considered and agreed on, a formal policy position will be developed.

## **Graffiti Policy and State Legislation**

The legal status of graffiti in NSW is subject to the Graffiti Control Amendment Act 2009. The Act is an update of the 2008 Graffiti Control Act and associated 2009 Regulation, and consolidates a range of earlier graffiti laws across several different acts.

The new laws represent a move toward a more hard-line position on graffiti by the state government. Key provisions are summarised as follows – for a more detailed summary please refer to *Appendix A*<sup>4</sup>:

### **a) Penalties for graffitiists**

Under the new Act there are increased penalties for convicted graffiti offenders, with fines of up to \$2,200, or up to 12 months in prison. More serious offences are covered in sections of the Crimes Act, which provide for penalties of up to 5 years in prison for maliciously damaging property. Possessing a graffiti implement with the intent to damage or deface property can attract a fine up to \$1,100 or 6 months imprisonment.

The Act also makes it an offence for those under 18 to carry spray paint cans in public, with a maximum penalty of \$440 or up to 6 months imprisonment.

### **b) Restrictions on spray paint can sales and possession**

A key focus of the Act relates to the sale and possession of spray paint cans. Retailers now face fines of up to \$1,100 if they sell aerosol paint to those under 18. The Act also prohibits the unsecured display of the cans so as to prevent customer access without assistance. However there are some defences for retailers if they can demonstrate they reasonably believed that the cans were for a *defined lawful purpose*.

The Act authorises police officers to seize spray paint cans in the possession of a person in a public place if they suspect that the person is under 18, unless the

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<sup>4</sup> A full explanation of the legislation, and links to the acts themselves, are available on the state government's Lawlink website: [graffiti.nsw.gov.au/lawlink](http://graffiti.nsw.gov.au/lawlink)

person satisfies the officer that their possession of the can is for a *defined lawful purpose*. (What constitutes such a purpose is discussed below.)

c) 'Defined lawful purpose' in the Act

The Act's reference to a *defined lawful purpose* in relation to the sale to, or possession of, spray paint cans by minors, is defined as:

- *The lawful pursuit of an occupation, education or training*
- *Any artistic activity that does not constitute an offence against this act or any other law*
- *Any construction, renovation, restoration or maintenance activity that does not constitute an offence against this act or any other law*
- *Any other purpose authorised by the regulations.*

d) Implications of the Act on Council policy

The sections of the Act that could potentially have the biggest impact for local government are those relating to the possession of spray paint cans by minors. Under the Act a *defined lawful purpose* includes possession *at or in the immediate vicinity of the place where the spray paint can was being used or intended to be used* for that purpose. According to local police, it is this clause that creates ambiguity in terms of enforcement. It is permissible under the law for councils to allow graffiti to be applied in designated sites under their care and control (ie legal wall or commissioned mural sites), and many councils including Warringah, Liverpool, Marrickville, Sydney City and others have such sites. However the requirement that a minor found to be in possession of a spray paint can must be *at or in the immediate vicinity of the place where the spray paint can was being used or intended to be used* is essentially unenforceable according to local police.

The police say that some young people found to be in possession of spray cans, but not near a legal site, claim they are for use at one of Warringah's legal walls, and the police are reportedly accepting this defence. It appears the police are not prepared to pursue the requirement that the young people must be at or in the immediate vicinity of, in this case a legal wall, because clearly the young people must travel from home or another place with the spray cans in order to get to a wall. If apprehended at a distance from a wall, even though they are not *in the immediate vicinity* and hence technically in breach of that part of the Act, it is obvious that they must travel a distance to get to a wall to use it so the provision appears unenforceable. And so the ambiguity remains. (As far as we are able to ascertain, this provision remains untested in a court of law.)

The official police position – seemingly adopted as a policy directive on a state wide basis, so the discretion that can be applied by local area patrols is very limited - is that they oppose legal walls because they create this defence. The ambiguity at law is created by the contradictions inherent in the Act: However until the veracity of the new laws on possession in relation to proximity are tested or reviewed, it appears the police's scope to search and / or apprehend those they suspect of being minors in possession of spray paint cans is limited. Therefore, because of the ambiguity or, as some have argued, deficiency of the new laws, the police are calling for the removal of the walls.

This places pressure on councils – including Warringah – to overturn, due to inadequate state legislation, policy arrived at for sound reasons. If the removal of the walls in Warringah had the same effect as in other council areas, it risks passing on additional costs to Council – and hence to residents and ratepayers – because the young people currently using the heavily utilised walls would suddenly lose their only legally sanctioned means of producing their artworks and many would resort to illegal work. Evidence from Parramatta and elsewhere, reiterated by Council's graffiti removal contractor, suggests that such measures may result in a backlash resulting in more graffiti and increased costs. It is not known how long such a backlash would last.

Other research suggests that if the skilled artists that use legal wall sites leave an area due to the loss of legitimate sites, the graffiti that remains is of a lower quality and potentially becomes more entrenched.

Removing the walls would be supported by the police but it is highly unlikely that it would result in any net benefit in terms of reducing the incidence and cost of graffiti for Council and the community. Evidence in other jurisdictions suggests that even if the supply and possession of cans can be curtailed – itself an onerous task<sup>5</sup> requiring substantial and sustained police resources – graffitiists turn to other media including marker pens, boot polish or glass etching in order to apply graffiti.

In fact some researchers suggest that removing legal walls can actually make graffiti worse in an area, or can transfer the problem to another wall or another suburb. According to Dr Cameron McAuliffe from the University of Western Sydney, such removal *will lead to dispersal of older and more experienced writers, who take advantage of the network of walls, often extending across the whole of Sydney. As the good work moves away, the poor quality graffiti remains. Without the enforcement of standards and contact with more experienced writers and their work, the quality of graffiti in a local area may actually degrade.*

In addition there is no guarantee that removing the legal walls would result in additional can seizures or arrests by police given the time and resources required to detect and apprehend graffitiists and to proceed to prosecutions, given competing demands on limited resources. Even if the rate of can seizures increases, as stated above we could find no evidence that this reduces the incidence of graffiti in an area.

Other issues associated with the loss of legal walls include:

- It would take away any chance Council may have to engage with young people involved in graffiti. This equates to a lost opportunity to effect long-term behaviour change among this cohort that could potentially take a long time to redress.
- Some researchers have raised concerns about the arbitrary use of police powers in relation to the apprehension and searching of young people. Other than the targeting of known offenders, on what basis can police be expected to assess whether a young person or group of young people are intending to commit a crime? Some researchers argue that the legislation provides scope for police to unfairly target young people.

Leaving aside for the moment the above reservations about the police's position on can confiscation and the status of the legal walls, there may be a position for Council that could serve, at least in part, to appease the concerns of police about the walls

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<sup>5</sup> Research shows that minors can still readily access cans by getting them through the Internet or via friends who are over 18.

being used as an excuse, whilst retaining the walls for legitimate uses in accordance with evidence of their value (discussed in the later section *The question of legal walls*).

It is too early to arrive at a meaningful assessment of the overall impact of the new legislation. There is evidence however that, despite a growing prevalence of 'zero tolerance' based policy on the part of councils across NSW (much of which pre-dated the new legislation), such policy has had little impact in reducing graffiti or its costs across the state. In fact the evidence is that graffiti has actually *increased* despite the growing prevalence of punitive policy approaches by councils and the state government.

As stated at the outset, current literature, and Council's own experience, highlights the need to respond to graffiti comprehensively by dealing both with the symptoms (reactive measures that occur after the event) and the causes (preventive measures / before the event). A key limitation of measures that are purely punitive in their approach is that they do nothing to intervene in the life cycle of graffiti and the behaviour patterns of those who do it. Except in the most serious and entrenched cases where diversionary measures have consistently failed, there is evidence that criminalising the perpetrators through exposure to the criminal justice system can actually make the problem worse. This is true both for the community that seeks to reduce the impact of graffiti and for individuals who must face the consequences of being inducted into a criminal sub-culture.

It is for these reasons that an approach for Council is recommended that balances tough measures aimed at reducing the impact of illegal graffiti with measures aimed at diverting and re-directing the energies of graffitiists and potential graffitiists into legitimate activities, and away from the criminal justice system.

## **Council's Current Approach**

Over the years Council has employed a range of approaches to graffiti in Warringah. Council's first Graffiti Policy and Strategy were adopted in April 1998. They included both reactive and preventive measures, and Warringah's approach at the time was recognised by the Premier's Department as a model of good practice. This was reiterated in subsequent studies by other organisations (such as the Blue Mountains Youth Services study alluded to elsewhere in this report).

Since 1999 Council has run a number of programs that have included both reactive and preventive measures. Council initially established an in-house rapid removal program targeting graffiti on Council properties, as well as a range of preventive, youth and community arts programs aimed at diverting graffitiists into other activities including specialised programs. These included aerosol art murals in prominent locations, legal walls in 'hotspot' sites throughout the area, and arts training courses at Council's youth centre in which young people involved with graffiti could learn and be mentored by experienced and respected tutors. These programs were suspended in 2009 due to resourcing issues, and pending the introduction of a new graffiti management plan and policy.

Following the introduction of new state legislation in 2008 that, among other measures, gave councils enhanced powers to remove graffiti on private property under certain circumstances, Council entered-into an agreement with a private contractor, Graffiti Clean Pty Ltd, to undertake the rapid removal program under a twelve month trial - since extended by Council (in early 2009) into an annual program. Under the new

arrangements, the program expanded to also incorporate removal from private property in cases where the property adjoins and is accessible from public land, as well as removal from the property of utility and transport bodies such as Telstra, the RTA, Sydney Water and AGL. Council's rapid removal program is supported by the police,

Following is a brief analysis of the current rapid removal program's progress to date.

### **Rapid removal program – Initial analysis**

#### **a) Overall trends**

The contractor is now almost 18 months into the program. Because it is still in its early days it is difficult to draw definitive conclusions on its success. Based on experience in other LGAs a common trend – that seems to have also occurred in Warringah - is that after an initial audit the removal process takes away much of the residual graffiti that has accumulated over the years. After the initial reduction (measured in 'graffiti incidents' or square metres of graffiti removed) the amount removed tends to level-out and an equilibrium is established whereby, in spite of monthly and yearly fluctuations, removal levels and costs tends to remain relatively static from year to year.

Warringah's contract is based on a set annual fee-for-service rather than on the quantity of graffiti removed. This seems a better option because it reduces the vested interest that some contractors may have in graffiti continuing to proliferate.

Year-to-date comparisons for last year and this year show some reductions in the amount removed when comparing the same months – probably reflecting the effect of the initial removal of residual graffiti mentioned above. In January 2009 796 'incidents' were removed compared with 608 during the same period this year. However, February of this year showed a marked increase over last year whilst the figures for March were almost identical. Again it is too early to pinpoint any sustained trends but year-to-date results indicate a fairly steady level of removal, suggesting that new tagging is appearing at roughly the same rate at which it is being removed. This seems fairly consistent with the general upward trend in graffiti reports across NSW alluded to in the introduction.

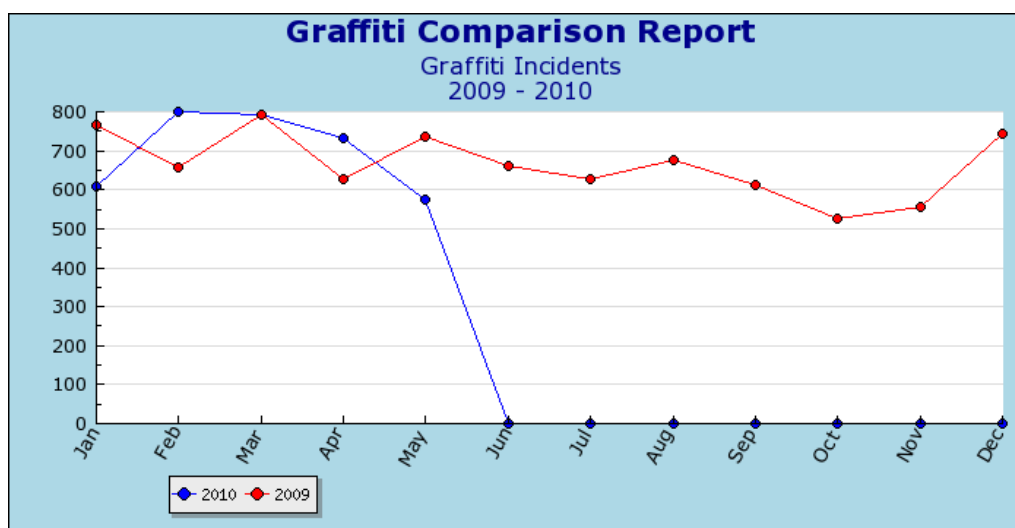
If rapid removal's success is to be judged on its effect in cutting the level of new graffiti (the vast majority of which is tagging), it could be expected that trends over time – say 2-3 years - would indicate a decline in the graffiti removed month-to-month coupled to an overall downward trend. However there are also other ways to gauge success – such as community support for cleaner public spaces - and these also need to be considered in evaluations alongside issues such as the continuing incidence of graffiti, reports to Council's graffiti hotline and to the police, and ongoing cost.

The following chart summarises instances of graffiti removal for last year and year-to-date for this year<sup>6</sup>:

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<sup>6</sup> Unless stated otherwise statistics and charts used in this report are sourced from the Australian Graffiti Register website. Council's graffiti removal contractors, as well as organisations providing graffiti removal services in other areas, provide data for the site.

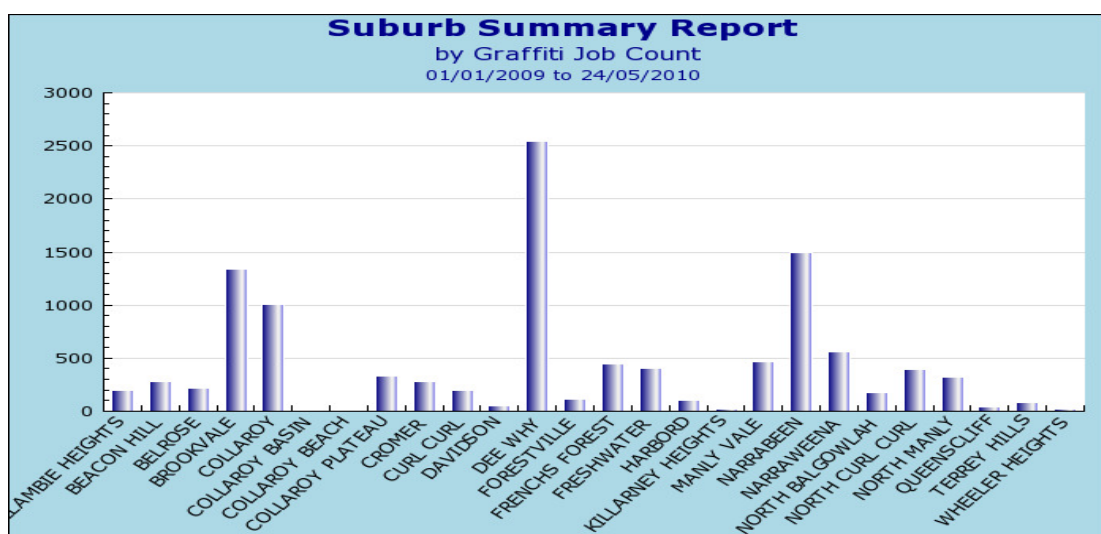
Figure 2 – Graffiti removal, Warringah Jan. 09 – May 10



#### b) Suburb analysis

The following chart summarises instances of graffiti removal by suburb since the program's launch.

Figure 3: Graffiti removal: Suburb summary Jan. 09 – May 10



Graffiti is most prevalent in Dee Why, Narrabeen and Brookvale. Dee Why and Narrabeen have higher population densities than much of Warringah and both are easily accessible by public transport as well as being on main roads. When viewed in conjunction with the following map<sup>7</sup> the correlation between population density, transport routes and the incidence of graffiti is even clearer. In other LGAs similar and often much higher concentrations are evident adjacent to railway lines.

<sup>7</sup> Warringah Community Atlas, Warringah Council website - [warringah.nsw.gov.au](http://warringah.nsw.gov.au)

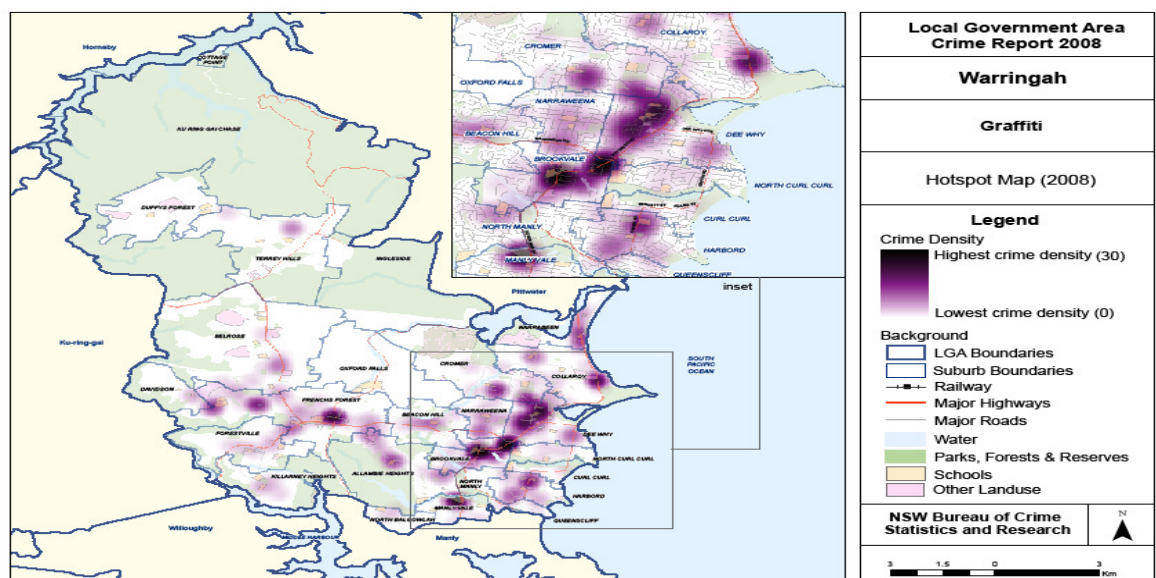
**Figure 4: Warringah population density, 2006 Census**

Population density, the Warringah Council area 2006  
Average number of people per hectare (includes Overseas Visitors)



The same spatial patterns are also apparent on the following map where, again the concentrations of graffiti in the more highly populated areas, areas on major transport routes and industrial areas can be seen. (In this case it should be noted that the map is based on reports of graffiti to police rather than on actual graffiti removed as per the contractor's summaries. Despite the different methods of collation, the corroboration between the two sets of data is clear.)

**Figure 5: Warringah crime statistics 2008 – Graffiti hotspots**



Although we need to learn much more about the profile of local graffitiists in order to effect behaviour change among them, anecdotally, according to local agencies there is a high proportion of young people from more affluent suburbs involved with doing graffiti in Warringah. One tutor – a professional photographer from an affluent Warringah family who himself has a record for graffiti – said he had first-hand

experience that many of the graffitists now active in Warringah are also from wealthier families and many also come from Mosman. According to the tutor, they can afford (expensive) aerosol paint, and have high mobility because of access to private cars and hence are able to travel outside their own area to 'write' graffiti.

Research shows that graffitists in general are quite a mobile group and will often travel long distances for opportunities to put their chosen form of graffiti in locations seen as desirable – eg in high visibility locations. In keeping with this mobility and the fact that graffiti transcends local government boundaries, policy is ideally implemented in collaboration with neighbouring councils, police and other local agencies. Even when differing policy objectives apply across boundaries, continuing dialogue with local and regional stakeholders remains an important component of a successful graffiti management plan.

The table that follows gives a simple comparison of the graffiti removal statistics for the Warringah suburbs showing those with the two highest and two lowest rates. The youth population is shown because this group is most often represented in graffiti statistics – not to suggest that they are the only group involved in graffiti. What is clear from these figures is that there is no direct link between the *proportion* of young people in an area and the incidence of graffiti there. The suburb with the lowest incidence of graffiti has a higher proportion of young people than the suburb with the highest incidence. However in terms of *absolute numbers*, there are significantly more young people in Dee Why (2,551 compared to 648 in Killarney Heights) and those in Dee Why live in a more high-density environment than those in Killarney Heights. Put simply, more people per square kilometre usually means more people involved in graffiti per square kilometre, particularly when ease of transport access is included in the equation.

**Figure 6: Graffiti characteristics by selected suburbs**

<b>Suburb</b>	<b>No. graffiti instances removed Jan. 2009 – Apr. 2010</b>	<b>Population (2006)</b>	<b>Instances per 10,000 people</b>	<b>Youth - % of population (2006)<sup>8</sup></b>
Dee Why	2,362	17,310	1,365	14.7
Narrabeen	1,423	6,815	2,088	10.3
Queenscliff	43	2,893	149	11.5
Killarney Hts	22	4,225	52	15.3

In terms of instances of graffiti removed, clearly Dee Why is the suburb with the highest number by a significant margin. The suburb with the next highest level, Narrabeen, recorded a considerably lower figure during the same period. However on a rate per head of population, Narrabeen shows a significantly higher level. The likely contributing factors are as follows:

- Narrabeen (part of which is in Pittwater) sits at the junction to a number of major transport routes, making it accessible from a number of different directions both by public transport and by road.
- There are several known 'graffiti crews' based in the Narrabeen area: much of the graffiti – both in Narrabeen and Warringah generally - may in fact be due

<sup>8</sup> Youth population based on the number aged 12-24.

to the activities of a series of relatively small but prolific groups. In Narrabeen's case much of the activity is centred on the relatively narrow strips to the east and north of Narrabeen Lagoon that crosses into the Pittwater LGA.

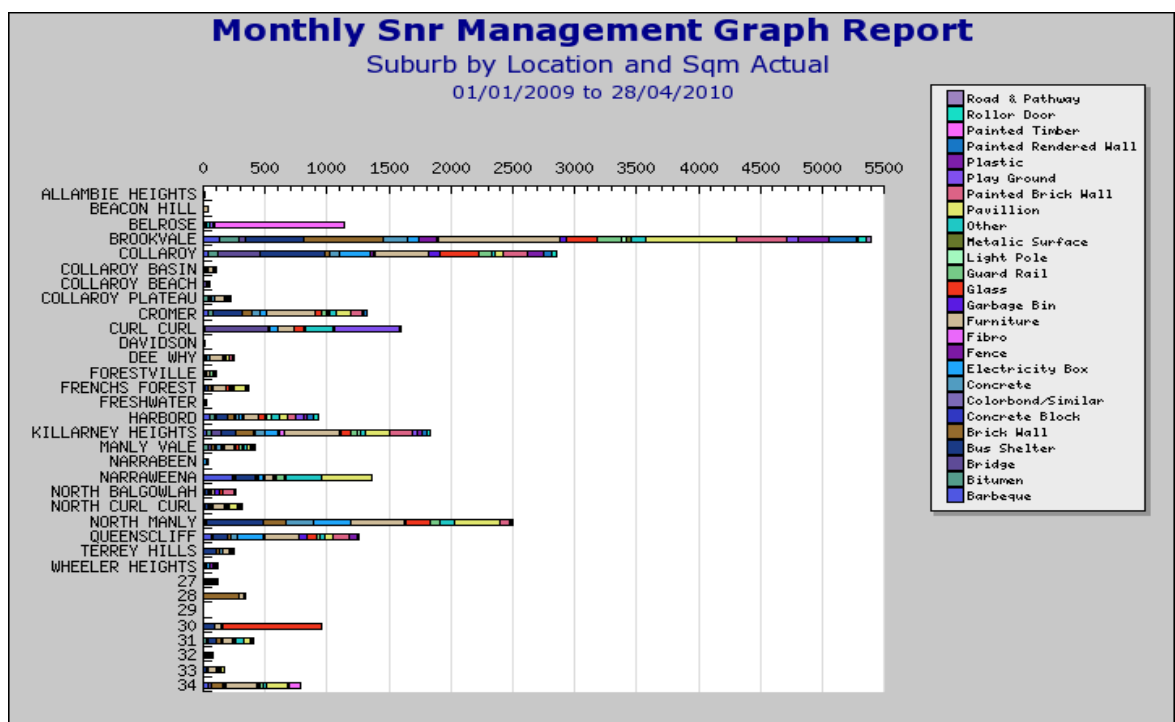
- The Narrabeen area has a relatively high population density in a relatively contained area.

Also in the cases both of Dee Why and Narrabeen, in addition to the graffiti that is applied by local residents, given that both suburbs are major traffic and public transport junctions it is likely that much of the graffiti is also the work of those from outside the area. Similarly with Brookvale: even though it has a relatively small residential population, it is readily accessible by public transport and by road, thus accounting for the proliferation there.

It is also clear from the table that, of the suburbs with the lowest rates, their relative isolation, smaller populations and / or distance from major transport routes contribute in a lower incidence of graffiti. Another factor is that neither suburb has many prominent sites upon which graffiti 'writers' can display their work. Public visibility is a strong motivator for many graffitiists; hence 'high profile' sites, though they carry more risk, are sought-after by many writers (hence the proliferation of graffiti along railway lines in other LGAs). *Appendix C* shows the areas of concentration of graffiti in relation to the locations of Warringah's legal walls. Again it seems clear from that summary that the obvious correlations relate to population density, transport routes and opportunity (see below regarding the latter point) rather than to legal wall locations.

Looking in more detail at the analysis suburb-by-suburb, it is worth noting that the results vary significantly given the method of calculation used. If we contrast the 'instances of graffiti removal' summary for each suburb shown in *Figure 3* with those for the same period based on the 'square metres treated' (shown below), a very different picture emerges.

**Figure 7: Square metres of graffiti removed by suburb**



Even though *Figures 3 and 6* show that more instances of graffiti occur in Dee Why than in any other suburb, as seen in *Figure 7*, Brookvale is by far the suburb with the most graffiti removed *measured in square metres*. This is due to the fact that Brookvale, being a largely industrial area, affords graffitiists with many more opportunities to 'write' whilst out of the public eye. Brookvale's industrial precincts are relatively deserted after hours and on weekends, and this lack of scrutiny and passive surveillance gives graffitiists time to work much larger areas, whereas mostly just individual tags are applied in other areas. Industrial areas also tend to feature more large walls – ideal 'canvases' for graffiti.

Depending on Council's ultimate position on graffiti, the Brookvale situation suggests that there may be significant opportunities for art projects in such graffiti prone areas (potentially on a commercial or semi-commercial basis) due to their proven record in Warringah of deterring tagging. There is clear evidence from the Council sponsored mural program that has been in place since 1999 that murals in such high visibility locations make them far less susceptible to tags. Hardware and General's timber yard in Winbourne Rd, Brookvale is a recent case in point: since commissioning an aerosol art mural in 2008 with Council's assistance, the site's frequently graffitied wall has remained free of graffiti. And a similar case applies to the many amenities blocks in Warringah that have had murals applied (some examples are shown later in this report). The one-off cost of establishing murals at these sites more than offsets the cost of constant paint-overs, which in many cases were occurring on a weekly basis.

A recent example of the cost effectiveness of mural art is the amenities block at Cromer Park which underwent a 'make-over' in the form of an urban art style mural early in 2009. Until that time it was common practice for the block to be painted-over due to tagging on almost a weekly basis. Depending on the scale of the work involved, this incurred an expense ranging from around \$900 to \$2,000 or more. The mural was applied at a cost of around \$6,000, and no tagging has occurred on the walls featuring the artworks since they were applied. Clearly the potential cost savings of such works are considerable.

In addition, such murals, planned as they are in close collaboration with those using the facilities – in this case sporting groups - add significantly to local identity and pride of place among the communities and / or at the places of business where they are introduced.

## **Graffiti Culture and the Profile of Local Graffitiists**

Aside from anecdotes, it is difficult to make assumptions about who local graffitiists are. We know that they come from all socio-economic backgrounds, from many suburbs both within and beyond Warringah's boundaries, but their methods and motivations vary widely. Much of the current literature on graffiti suggests that, because its profile and that of the people who do it varies markedly from LGA to LGA and even within LGAs, dealing with its symptoms necessitates understanding its causes.

The symptoms of illegal graffiti are defaced buildings, walls, bus shelters and other public and private infrastructure and, ultimately if left unchecked, a sense of neglect, squalor and disorder in the built environment. To intervene in the cycle of causation requires an understanding of the motivations and modus operandi of graffitiists (discussed in some

detail in the Attorney General's Department report mentioned elsewhere<sup>9</sup>). It also requires policymakers to understand the diversity within 'graffiti culture'. On the one hand there are writers or 'piecers' who undertake elaborate, multi-coloured, time consuming, artistically challenging murals (pieces) and – for the most part – *legal* artwork. They see themselves as artists, having committed long-term to learning their craft and many go on to careers in the visual arts. On the other hand are 'taggers' whose work requires little in the way of artistic skill, forethought, time or even intellect. Although there is overlap, the literature – and local knowledge on the part of youth agencies - indicates that piecers and taggers tend to be quite different groups and therefore require differing policy responses. Most 'piecers' start out as 'taggers': the key is to get taggers to aspire to be piecers, and to create opportunities for them to then undertake 'piecing' and other art forms in legitimate ways whilst coming under the mentorship and influence of respected artists in the field.

Using such a rationale, the more legal / legitimate avenues are provided for piecing – including legal walls, tuition sessions and murals – the less is the incentive and challenge to tag.

Policy that takes a reactive, punitive or even 'zero tolerance' based approach (discussed in the next section), potentially foregoes the opportunity to effect behaviour change with graffitists because it actively disengages from them and can only react to graffiti after the event. By failing to distinguish between the differing motivations of graffitists, between art and vandalism, between legal murals and illegal tagging – in effect between 'good' and 'bad' graffiti - we are characterising all graffitists as vandals and criminals *even when the works they are doing are both artistically challenging and legal*. Under such a model the only basis for engagement with graffitists is through conflict: this serves only to reinforce the anti-authoritarian ethos and 'cat and mouse' mentality that characterises the costly and, ultimately futile, to-ing and fro-ing between graffitists and authority.

Branding *all graffiti* vandalism, and therefore all graffitists as vandals – as does the NSW Government's community information promoting its Graffiti Control Act 2008 – serves only to reinforce the notion that such people are 'against community values' and hence 'not part of the community'. In fact it could be argued that a lack of connection with community is exactly what taggers in particular wish to convey. Yet the irony is that it is only through developing a sense of community that empathy, responsibility and a feeling of connection to others emerges. And it is only once such a connection is made that behaviour change can really take place. Declaring graffitists to be 'not a part of the community' also tends to become a self-fulfilling prophecy: the more disconnected from community they feel the less they feel any sense of compunction about defacing others' property. When the message from authority is 'we are against you' the response is invariably 'likewise'!

Ultimately taking a hard-line position against all graffiti becomes a very blunt instrument and represents potentially a lost opportunity. With a more balanced and targeted approach, sanctions, penalties and tough action can be levelled as an unambiguous message against tagging. However if teamed with mentoring and education within the 'graffiti community', plus the embracing of a cultural development approach to encourage and reward quality artwork, some form of internal discipline within the culture seems to begin to emerge – as with the 'Street University' at Liverpool and other examples outlined in a later section.

Dealing with tagging and other illegal graffiti through rapid removal and other measures, combined with increasing opportunities for legitimate 'piecing' reinforces the distinction

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<sup>9</sup> *Graffiti Vandalism: The motivations and modus operandi of persons who do graffiti*, NSW Department of Justice and Attorney General, 2009

between 'good' and 'bad' graffiti. Crucially, it also creates opportunities, through education programs and mentoring opportunities overseen by 'senior artists' to introduce notions of 'codes of conduct' and 'boundaries' (eg sites that are 'off limits') and an aspiration to higher levels of artistic expression on the part of those who wish to move beyond tagging. If there are real opportunities for such expression to occur, such as through the completion of high profile, high quality murals, then a 'pathway out of tagging' can be presented to many young people as an alternative to criminality and social exclusion.

As alluded to earlier, there are numerous examples of young people moving on to careers in the arts via such programs. Also, when carefully managed, high levels of public support can be achieved for prominent mural sites – see for example:

- Bondi beachfront (managed by Waverley Council)
- The Mays Lane Art Project in Marrickville - [mays.org.au](http://mays.org.au)
- CityLights Projects in Melbourne - [citylights-projects.blogspot](http://citylights-projects.blogspot)

and Warringah's own success with its murals on bus stops, amenities blocks and as joint projects with business. All these projects have dramatically reduced tagging at the chosen sites. They have also achieved other objectives that have been beneficial to the local economy: in the case of Bondi and CityLights in Melbourne in particular, such programs have proven a strong stimulus for national and international tourism, while the Mays Lane project has stimulated business activity in the vicinity. Warringah's program has significantly cut maintenance costs at the mural sites, some of which had to be re-painted on a weekly basis. Such examples present a strong case for the retention and / or expansion of 'engagement programs' that encompass both prevention and cultural development. In each case, economic development has also been a direct spin-off – both through supporting business activity in the vicinity and through dramatic reductions in maintenance costs.<sup>10</sup>

The boost to self-esteem that aspiring artists get from having their work prominently displayed and, importantly, lauded by the wider community, has the potential to assist in providing graffitiists with a pathway out of graffiti over time. Through the forging and fostering of links with community agencies, education institutions and business, these pathways can include further learning and career development. Under such a model, the long-term lure of illegal graffiti can be reduced.

Ultimately it is unrealistic to suggest that we can 'get rid' of graffiti: I have found no cases where this has occurred, using zero tolerance or any other approach. According to Iveson:

*There simply is no such thing as a graffiti-proof city – or at least, the only possible graffiti-proof city is also a totalitarian city without an open and accessible public realm. Given that graffiti simply will not be eradicated, we ought to be mature enough as a society to accept policy measures which have the more modest goal of shifting graffiti writing practice towards those forms and locations of graffiti that are better liked (or at least more tolerable to more people). (Iveson, 2010)*

To minimise graffiti's occurrence and cost to Council and the community requires an integrated and holistic approach that focuses on prevention / harm minimisation as well as removal. In short, dealing with both cause *and* effect, not just effect.

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<sup>10</sup> Taking the amenities block at Cromer Park as an example, the equivalent cost of a weekly paint-out would be in the vicinity of \$2,000. A one-off mural project for around \$4,000 has already saved many times that figure after less than six months.

## Evaluating the Success of Graffiti Policy

Ironically, despite graffiti's worldwide prevalence and astonishing longevity, solid evidence about how to reduce its negative impact is in short supply. Much of the current literature says that with graffiti policy success is very hard to define and evaluate. Few councils have rigorous or consistent evaluation regimes, so data about the efficacy of programs is scarce and there is an abundance of conflicting and anecdotal claims.

Even among organisations that have made some attempts at evaluation often sufficient time is not set aside to allow the various approaches to be thoroughly tested. For many councils there has been a propensity to change approaches based on extraneous factors such as budget cuts, transferral of graffiti management between departments, a lack of consistent internal policy (eg between waste services and community or cultural services areas), or policy change based on political factors without a sound evidence-based rationale. Commenting on ever-changing graffiti policy and a perceived change in the forms of graffiti found in the public domain in response, Dr Karl Iveson, Senior Lecturer in Geography, University of Sydney states that *reliable quantitative evidence . . . simply does not exist*.<sup>11</sup>

In an effort to source such data on graffiti policy as there is, and to gauge the effectiveness of various approaches to graffiti management, the Mountains Youth Services Team (a partner with Blue Mountains City Council and other organisations in the development of a Blue Mountains Graffiti Management Plan) undertook an extensive literature review, covering both Australian and overseas policy. The study included a series of local government case studies, including of Warringah's approach based on its 1998 policy (which was, incidentally, touted as a generally balanced and successful model). The study states:

*The overriding limitation is the lack of measurable outcomes on which to evaluate the success of program elements. The outcomes are usually assessed against cost reduction, and the number of graffiti sites as determined by audits. There are few formal evaluation reports available: according to graffiti officers in many jurisdictions, formal evaluations are not done. It is very hard to assess the success of prevention based strategies, and the evaluations are generally based on anecdotal feedback*"<sup>12</sup>

Given the shortage of objective data on the effectiveness of various approaches, and the difficulties of measuring the success of preventive programs in particular given the fact that they require long-term commitment, Council would establish itself as a policy leader if it were able to implement a sound, evidence-based, balanced and holistic approach to graffiti program management and evaluation. Given that there is significant interest in graffiti policy in local government and academia alike with many organisations looking for sound, realistic policy, there would be opportunities for longitudinal studies to be undertaken that would assist Council, and other organisations, to achieve a more sound basis for future graffiti policy and programs. External funding could potentially be available for such a study.

Especially from the perspective of behaviour modification, evidence is needed about what 'works' most effectively with graffiti. Social marketing around issues such as smoking have markedly changed behaviours in the long-term, and there is potential for such

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<sup>11</sup> *War is over (if you want it): rethinking the graffiti problem*, Dr Kurt Iveson, University of Sydney, 2010

<sup>12</sup> *Youth Focused Graffiti Reduction Study, A Literature Review for the Mountains Youth Services Team, Final Report*, Michelle Black, 2009

approaches to influence graffiti culture at the 'individual behaviour' level so as to both deter young people from trying it, and to dissuade those already involved from continuing in it.

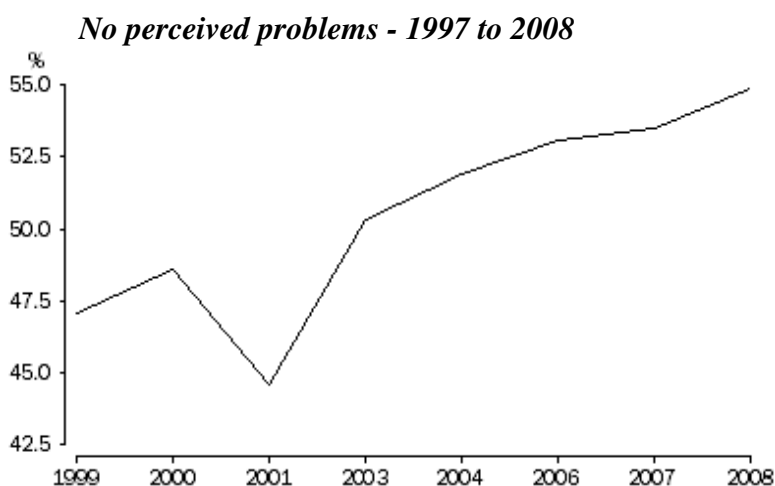
## The Current Policy Debate

Over the last few years there has been a pronounced shift in graffiti policy on the part of state and local government in particular. The NSW Graffiti Control Act (2008) exemplifies this shift towards a more hard-line position, and this has been accompanied by a similar shift on the part of some NSW councils, with some now embracing 'zero tolerance' graffiti policies, or variations on that theme. Yet, ironically, such policy changes do not appear to reflect a similar shift in public opinion.

In 2008, a NSW survey<sup>13</sup> gave the following results on perceptions of crime / public nuisance. Its findings were similar to those from earlier state and national surveys:

**Figure 8: Public perceptions of crime and public nuisance, NSW – 1997 to 2008**

*55% of persons did not think there were any crime or public nuisance problems in their neighbourhood. This was similar to the 2007 figure (53%). Between 1999 and 2008, the percentage of persons who did not perceive any problems from crime or public nuisance in their neighbourhoods has risen from 47% to 55%.*



*The most commonly identified problems were vandalism/graffiti/damage to property (26%) and dangerous/noisy driving (25%), followed by housebreaking/burglaries/theft from homes (21%), louts/youth gangs (20%) and drunkenness (20%).*

Given that the 'vandalism' category includes but is not limited to graffiti, at least 74% of those surveyed did not see graffiti it as a significant problem. In addition,, over half of respondents felt there is no crime or public nuisance problem in their neighbourhood. This hardly constitutes a groundswell of public opinion calling for action on graffiti. Yet councils seem ever more ready to embrace hard-line policy approaches at considerable cost to residents and ratepayers, and despite little evidence of sustained success.

Discussions with graffiti officers at councils throughout NSW suggest that a political agenda, more than solid evidence or community demand, largely seems to be driving this shift in policy. Legislative change, accompanied by state-wide pressure by police commands and intensive lobbying by organisations such as Keep Australia Beautiful, has

<sup>13</sup> Crime and Safety Survey, NSW, Australian Bureau of Statistics, 2008

led to many councils abandoning 'cultural development' based policy and shifting towards a more punitive, authoritarian approach.

To date, approaches to graffiti adopted by local government in Australia, and by its equivalents overseas, have tended to fall in to three main categories. Although descriptions vary and there are overlaps, the emphasis of each approach is summarised as follows<sup>14</sup>:

**Figure 9: Key characteristics of different approaches to graffiti policy**

Zero Tolerance Strategies	Reactive Strategies	Prevention Strategies
➤ Support of law enforcement agencies	➤ Rewards and other means for community involvement	➤ Youth programs and facilities for diverting young people creativity
➤ Tough penalties and prosecution of offenders, including jailing offenders	➤ Rapid Removal Teams	➤ Early intervention education programs in schools
➤ Crime Prevention through environmental design (CPTED) and surveillance	➤ Graffiti Hotline	➤ Designated spaces for Legal graffiti art including murals, graffiti walls etc
➤ Banning the sale of graffiti implements for minors	➤ Juvenile offender clean up graffiti programs	➤ Media campaigns

*Adapted from Graffiti approaches by Gockel and Robertson, Qld Local Government and Qld Rail*

Although some councils now claim to have 'zero tolerance' strategies / policies, in practice its highly resource-intensive nature, and the need for it to be accompanied by extremely zealous policing means that, in reality only some elements of it can be rigorously adhered to. Police in our own and other jurisdictions frankly admit to having far more pressing matters to attend to in most patrols. Furthermore, key elements of the enforcement of such an approach, such as policing resources, arrest and prosecution rates and the monitoring of sales of aerosol paint (banned for under 18s in NSW as a result of the Graffiti Control Act (2008)) are beyond local government's direct control. (Such measures appear to have had no impact on aerosol paint sales, and there is also evidence that they may have contributed to more graffiti attacks with marker pens or other difficult-to-remove substances. Also there appears to have been a significant escalation in etching since the paint can restrictions were introduced.)

The following section examines the key elements of 'zero tolerance' policies – or variations on that theme – being implemented by some councils.

## **The Rationale for Zero Tolerance Based Policy**

*The New Oxford Companion to Law* in part defines zero tolerance as follows:

*'Zero tolerance' describes an intolerant attitude towards rule-breaking and a policy of strict enforcement against transgression. The idea is that maximal enforcement of minor infractions deters serious offending by 'nipping it in the bud'.*

*The term can be traced back to the US 'war on drugs', when, in 1988, Customs Commissioner, William Von Raab, described as 'zero tolerance' his policy of seizing vehicles, boats, or planes if a 'speck of any controlled substance' were found on board . . .*

<sup>14</sup> Black, Op cit

In the case of graffiti, the implication of such policy – bearing in mind the caveats outlined above as to how far it can realistically be enforced in an LGA – are that it seeks to remove all traces of graffiti and the ‘graffiti culture’ with which it is associated. By taking an intolerant line to all forms of graffiti, its proponents argue, the sub-culture associated with graffiti will eventually disappear or be ‘defeated’, taking the war analogy to its obvious conclusion.

In Sydney the most vocal advocates of zero tolerance graffiti policy, at least officially, include Parramatta City and Bankstown City councils. A brief analysis of these councils’ policies follows. It is based on information gleaned through discussions with staff at those councils, from reviewing available documents from the councils’ websites, from a broad-based literature review and from discussions with academics and with other organisations with an interest in graffiti policy in these areas and others.

a) Parramatta

At a meeting in March 2009 a number of proposals were put to Council that were aimed at reducing the impact of graffiti in the LGA. Until the new regime was introduced Parramatta’s model included both reactive elements such as a graffiti hotline and rapid removal, together with harm minimisation, capacity building and cultural development elements such as aerosol art murals, legal walls and youth engagement programs.

An options paper was put to Council ‘following consultation with key stakeholders’: those listed in the report apart from councillors and staff were representatives from the NSW Attorney General’s Department, NSW Police Force and a range of State Government agencies. ‘Key stakeholders’ notably did not include youth agencies, young people or cultural development organisations. The staff recommendations called for an expanded range of both preventive and reactive measures to be introduced. However Council opted instead for an exclusively zero tolerance approach, and the program<sup>15</sup> came into effect in 2009.

Among other measures introduced, Council demolished its eight legal walls that had been in place since 2004. According to Dr Cameron McAuliffe from the University of Western Sydney (UWS): “The demolitions bring the harm minimisation program to a close and signal the determination of the council to pursue a zero tolerance position on graffiti”.<sup>16</sup> Council’s zero tolerance policy even extended as far as youth agencies being told they would be ineligible for Council funding if they displayed ‘graffiti style lettering’ in their promotional material. This is consistent with a zero tolerance style approach as it seeks to remove all traces of graffiti and its associated culture in the LGA. Early indications are that graffiti levels in the LGA have not dropped.

As with Bankstown, it appears the entire program budget has been put into Council’s rapid removal program. The current annual budget is around \$440,000. There was also an additional \$100,000 expenditure in the first year for the purchase of equipment for the in-house program. Unlike Warringah’s program, Parramatta’s only removes graffiti from public areas, not private property or that of utility and transport providers. Proposals are being considered to expand the program to also include private property, which would involve considerably higher costs.

As for the removal of legal walls and its effect on graffiti: Staff report that there has been no significant shift in instances of removal and no noticeable change in levels of

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<sup>15</sup> No actual policy appears to exist at this point.

<sup>16</sup> <http://ccr.uws.edu.au/writingways>

tagging either up or down. There hasn't to date though been a thorough study on localities where the walls have been removed.

These findings are echoed by Dr McAuliffe<sup>17</sup>. His website *Writing Ways* - [uws.edu.au/writingways](http://uws.edu.au/writingways) – has been established to examine the effectiveness of legal walls and other measures for dealing with graffiti.

An interesting and perhaps illustrative incident documented on Writing Ways was the removal of one of the walls at Sturt Park, Dundas. It appears that young people were neither consulted nor informed of Council's intention to remove the walls. A group of users were confronted by police while attempting to 'write' on the wall, and advised that their activity was now illegal. They later returned and left the following message:



#### b) Bankstown

Bankstown's zero tolerance policy dates from 2004-05. As is the case with other councils pursuing such policies, it appears that community / cultural services areas of those councils have been quite deliberately excluded from involvement. In Bankstown's case the policy is managed within the waste services area.

Bankstown's policy stems from a proliferation of graffiti associated with the area's two major railway lines. State Rail had instituted a more stringent approach to graffiti management including rapid removal and a greater emphasis on detection and surveillance. This appears to have transferred the problem – in Bankstown's case it led to a marked increase in graffiti attacks in areas adjacent to train stations rather than within the railway system itself. Bankstown's zero tolerance policy was instituted largely in response to this increase.

According to the Blue Mountains study mentioned earlier, in 2000 Bankstown City Council was spending over \$600,000 per annum on graffiti removal and ranked

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<sup>17</sup> Dr McAuliffe is a Postdoctoral Research Fellow at the Centre for Cultural Research, University of Western Sydney.

second highest in the state for reported graffiti crime. Council abandoned its earlier program of engagement with graffitiists which included legal walls and murals, claiming they were encouraging graffiti. It reportedly found however that the walls' subsequent removal re-directed graffiti tagging to other walls and private property. Currently there are no legal walls and no known aerosol art murals in Bankstown.

A key plank of Bankstown's approach is rapid removal: Council directly employs two full-time removal crews who only remove graffiti from Council property. The policy appears to have led to a significant reduction in removal costs in its initial phase: however since then – although no official statistics are kept - expenditure seems to have stabilised at around \$500,000 per annum.

In addition – possibly in keeping with a 'transference' trend' - very high levels of tagging are reported in Bankstown's neighbouring LGAs also serviced by the railway lines; in particular Fairfield and Revesby. Council staff also report that, in keeping with the State Government's new legislation making it illegal for those under 18 to purchase aerosol paint, in Bankstown there has been a significant increase in tagging with marker pens and other materials, and in etching, the latter especially on the glass at the area's bus stops. It was also stated that graffiti has been particularly prevalent at the area's skateboard parks and that these areas are significant and continuing targets.

Bankstown's policy is due to be updated shortly.

## **NSW Crime Statistics**

Based on the two examples given and on other research, it appears that a fundamental flaw in zero tolerance graffiti policies lies in their supposed aim to remove all trace of graffiti and its associated culture from an area – based on the notion that none of the criminal behaviour being targeted will be 'tolerated'. As stated at the outset, the notion that banning graffiti in all its forms will result in its demise is demonstrably unrealistic.

Although some limited success is reported from the rollout of rapid removal programs, which is reiterated in the Blue Mountains study, especially for those councils embracing zero tolerance and reactive strategies only, there appears to be an underlying assumption – though in these cases clear policy positions are rarely elaborated - that graffitiists will either be caught and prosecuted and that this will end their involvement, or that they will just 'give up' because of frustration at having their 'work' continually removed, thus eroding any chance for the public exposure they seek. However the continuing incidence of tagging in zero tolerance LGAs, the emergence of new forms of graffiti such as etching, marker pens and other 'impossible to remove' concoctions as alternatives to spray cans (discussed in the Attorney General's study<sup>18</sup> and cited as a significant problem in LGAs including Bankstown), the emergence of new target sites such as bus stops and skateboard parks, and evidence of transference of graffiti activity to other LGAs all call in to question the effectiveness of such policy. And this is before the question of cost is taken into account.

The consistent theme that emerges when one looks at graffiti crime statistics both for individual LGAs, and for Sydney or NSW as a whole, is that in spite of the State Government's 'get tough' policies and a plethora of similar approaches by councils, there has been no downward trend in graffiti's proliferation. In fact, according to the State

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<sup>18</sup> *Graffiti Vandalism – The motivations and modus operandi of persons who do graffiti*, Crime Prevention Division, NSW Department of Justice and Attorney General, 2009

Government's own statistics outlined in the introduction, it has actually increased. As with the 'war on drugs', where proponents of zero tolerance often claim that the failure of such policies to facilitate a reduction in drug use requires a redoubling of effort and greater spending, so too with graffiti. The failure of tougher policies has tended to result not only in more money being spent on removal and other reactive approaches, but also more pressure on councils to take-on the cost of removal on private property, business premises and on the property of utilities and transport bodies, including those that are the responsibility of the State Government, leading to significant cost shifting to residents and ratepayers.

As the following summary shows, although graffiti statistics (based on reports to police) fluctuate year-to-year, there is no evidence of a downward trend despite rapid removal programs now being widespread among councils.

**Figure 10: NSW crime statistics over time – Reported graffiti 2005-2009<sup>19</sup>**

**Number and rate per 100,000 population of recorded incidents of graffiti\* as occurring in Sydney Local Government Area (LGA) and NSW**

	Oct 2005 - Sep 2006			Oct 2006 - Sep 2007			Oct 2007 - Sep 2008			Oct 2008 - Sep 2009		
Location	No.	Population	Rate per 100,000	No.	Population	Rate per 100,000	No.	Population	Rate per 100,000	No.	Population	Rate per 100,000
Sydney LGAs	260	159854	162.6	340	165596	205.3	432	170173	253.9	397	173444	228.9
NSW	10456	6,756,457	154.8	10855	6,816,087	159.3	13235	6,904,942	191.7	12653	7,014,887	180.4

When the high cost of continuing rapid removal is added to the equation, particularly given the lack of evidence on its effectiveness in sustaining a trend towards reducing or eliminating graffiti, the question needs to be asked as to whether such programs *alone*, with their focus on removing graffiti after the event, are a sustainable use of public money, especially if no preventive activities are also funded.

Even where evidence exists that rapid removal reduces the levels of graffiti in a defined area over time (and even in these cases results are inconclusive), there is no evidence to suggest that the total amount of graffiti being applied in the public domain is declining. As the following table demonstrates, the level of graffiti in all LGAs fluctuates considerably from year to year, irrespective of whether the council concerned embraces zero tolerance or a more liberal policy.

The table compares rates of reported graffiti<sup>20</sup> in a cross-section of Sydney LGAs. As discussed above, Bankstown and Parramatta follow a zero tolerance approach, whilst both Marrickville and Waverley focus more on preventive and cultural development approaches that include large scale mural projects and/or legal walls. Warringah has elements of both with an extensive rapid removal program teamed with some community arts elements such as legal walls, some aspects of which (eg arts tuition) are presently suspended pending the adoption of a new policy. All councils concerned have some form of rapid removal program though its forms vary between LGAs. What seems clear from the figures is that:

- There is no clear correlation between the introduction of zero tolerance policy (2005 in Bankstown and 2009 in Parramatta) and sustained reductions in graffiti
- There is no clear correlation between rapid removal programs and sustained reductions in graffiti generally, though there does appear to be a reduction in the

<sup>19</sup> Source: NSW Bureau of Crime Statistics & Research

<sup>20</sup> It should be noted that 'reported graffiti' is not a definitive indicator of the level of graffiti in an area because public willingness to report it (to police) may vary due to a wide range of factors.

LGA concerned in the initial phase of such programs (Bankstown 05-06, Warringah 07-08, Parramatta 08-09)

- There is no clear correlation between community arts / preventive / diversionary programs and reductions in graffiti – although the measurement of the amount of graffiti that may have been applied were these programs not offered presents an interesting challenge<sup>21</sup>
- It is not possible to deduce from the figures the effectiveness of these (or any) programs in stemming the escalation of graffiti.

**Figure 11: NSW Recorded Crime Statistics Oct 2005 to Sept 2009**

*Source: NSW Bureau of Crime Statistics and Research*

**Number and rate per 100,000 population of recorded incidents of graffiti for selected Local Government Areas**

LGA of incident	Oct 2005 - Sep 2006			Oct 2006 - Sep 2007			Oct 2007 - Sep 2008			Oct 2008 - Sep 2009		
	No.	Population	Rate per 100,000	No.	Population	Rate per 100,000	No.	Population	Rate per 100,000	No.	Population	Rate per 100,000
<b>Bankstown</b>	246	174,405	141	180	176,857	102	232	180,145	129	163	182,980	89
<b>Liverpool</b>	150	168,584	89	224	170,915	131	214	173,672	123	211	177,682	119
<b>Marrickville</b>	223	75,220	296	254	75,546	336	154	76,494	201	217	77,480	280
<b>Parramatta</b>	271	151,438	179	176	153,891	114	224	157,892	142	203	162,625	125
<b>Warringah</b>	365	138,048	264	486	139,163	349	287	140,948	204	309	142,309	217
<b>Waverley</b>	155	63,846	243	120	64,684	186	125	65,771	190	93	67,146	139

Removing graffiti after the event using rapid removal or other methods may prove a disincentive to some graffitiists, but for others it has been shown to:

- Add to the challenge and hence the excitement (the cat and mouse effect) and/or
- Create a new blank canvas to deface and / or
- Encourage taggers to turn to other implements, other targets or other methods such as working in groups with some members acting as look-outs, or turning to etching rather than using marker pens or spray paint<sup>22</sup>.

The Blue Mountains study states:

*The proliferation of zero tolerance strategies reflect tougher anti graffiti legislations such as the NSW 2008 Graffiti Act. Some commentators have assessed these strategies as not working in their own right, some even claiming they cause more problems (Iveson 2007). According to Iveson (2007) while these approaches show localized success, they have failed overall to solve the problem by eradicating or reducing graffiti. In other words, it might be possible to reduce the incidence of particular kinds of graffiti in particular locations using existing approaches. But this has not resulted in an overall reduction of graffiti. Rather, existing approaches have only resulted in changing forms of graffiti, and changing locations of graffiti. NSW Police statistics show that graffiti incidents have stabilized or risen over the years (Iveson 2007). While this is partially due to increased reporting mechanisms, Iveson maintains that it also reflects a rise in graffiti (Iveson 2007) . . .*

<sup>21</sup> It is likely that a combination of quantitative and qualitative measures would be needed for such a determination due to the capricious and underground nature of graffiti and the resulting difficulties of definitively linking cause and effect – eg whether rapid removal or a diversionary program led to reduced graffiti in a particular area at a particular time.

<sup>22</sup> *Graffiti Vandalism – The motivations and modus operandi of persons who do graffiti*, Crime Prevention Division, NSW Department of Justice and Attorney General, 2009

*. . . A council that takes a zero tolerance approach of graffiti eradication is likely to be disappointed in the long run, with no council having eradicated graffiti (consistent with Iveson's thesis). Other councils seek to minimize graffiti (eg Warringah), and are more successful in this regard. It is still an expensive exercise, as removal contractors are a substantial cost, and only a few councils reported substantive cost reductions to date. In fact many have increased spending eg Geelong, Warringah, Sydney, while removal programs are established and refined.*

*Others claim that eradication of graffiti is not possible, as there are continually changing forms of graffiti. Instead, policy makers should combat these forms as they arise, perhaps through more cost effective removal measures, or painting walls with washable paint. In existing zero tolerance models, hotspots are identified and measures such as surveillance and rapid removal and graffiti proofing surfaces used, and success (has) been reported in removing graffiti in these hotspots. However Iveson suggests that graffiti is mobile – and that writers move from one location to another. When this occurs, it is often argued to apply even tougher approaches. So when failures are acknowledged they are attributed to incomplete application of current approaches rather than seen as a limitation of these approaches. Iveson concludes that the approaches are doomed to failure as they are premised on false assumptions about the nature of graffiti writing (Iveson 2007)."*

Another factor that requires further investigation at the local level is the drivers for site selection among graffitiists. Why are certain sites chosen above others? What is a graffiti writer looking for in choosing a 'blank canvas'? Having better information on these questions could help Council provide information to assist residents and businesses in deterring graffiti from their premises.

The second part of the definition of zero tolerance from *The New Oxford Companion to Law* states:

*'Zero tolerance policing' is the best-known usage of the term. The New York 'miracle' in which homicides fell by two-thirds (from 2,245 to 767) between 1990 and 1997 was claimed by police officers to be achieved by aggressive enforcement of minor offences. The extent to which the crime drop can, in fact, be attributed to 'zero tolerance' is questionable, but the link has become firmly established in public consciousness. Critics contend that 'zero tolerance' is flawed in principle because it undermines the virtues of discretion and tolerance, and flawed in practice because it criminalizes minor wrongdoing and encourages overzealous policing.*

*Despite ambivalence, 'zero tolerance' is invoked as the solution to crime, failing schools, underperforming hospitals, late bill payment, and poor punctuation! This slippery phrase, born of authoritarian populism, is more a declaration of tough determination than a coherent approach to law enforcement.*

## **Elements of Effective Policy**

A feature of graffiti policy that is common to councils following policies across the entire spectrum is that almost all take an active stance against tagging and other illegal graffiti. From the available evidence, this is important because:

- It helps to reduce the impression of disorder and decay in the urban environment
- It can prove a disincentive to some graffitiists

- It is seen as worthwhile by community members from a 'pride of place' perspective and often results in reduced complaints and reports of graffiti
- It shows perpetrators that there will be adverse consequences when they are caught
- It gives clear direction to graffitiists about unacceptable forms and puts them on notice that sanctions against such behaviour will be enforced if the behaviour does not change
- It supports police efforts to reduce its incidence and can mobilise community engagement in reporting and removing graffiti
- It begins to introduce a code of conduct into graffiti culture that includes a self-regulatory element. The ultimate goal is to discourage tagging but, in the interim, it reinforces concepts including tagging 'no-go zones' such as memorials, private homes and private cars
- It can clearly differentiate tagging from urban art: *Tagging is toy<sup>23</sup>, Art is smart!*

In the two cases discussed in this report and in others outlined in the research studies I have drawn upon, it seems fairly clear that a balanced approach that incorporates both punitive / reactive and preventive / cultural development measures appears to be the only comprehensive way to deal with both the symptoms and the causes of graffiti. As with all programs requiring long term commitment, such as early intervention programs, success is never instant nor is it easy to demonstrate. As stated earlier, behavioural change is very difficult to measure: if preventive measures succeed in dissuading potential offenders from doing graffiti in the first place for example, it is difficult to demonstrate that a program was responsible for preventing a behaviour that never in fact eventuated.

## A Cultural Development Approach

Council's Cultural Plan (adopted August 2007) recognises the value of public art programs in building community. In addition to recommending a review of Council's Graffiti Management Plan, Strategy 15 – *To build a sense of community pride* recommends the following as a High Priority action:

A50

*Use creative practice (eg murals) as a preventative method for vandalism and graffiti on Council and other public infrastructure.*

According to much of the literature, a key limitation of purely reactive and zero tolerance approaches to graffiti is their failure to distinguish between what might be termed 'good' and 'bad' graffiti. To label all graffiti 'graffiti vandalism' as the NSW Graffiti Control Act does, disregards the fact that much graffiti in the public domain is in fact legal artwork in the form of murals (or 'pieces') applied, with owner's consent, at commissioned mural sites and legal walls throughout NSW.

The clearly stated agenda in such cases is not just to rid the LGA in question of tagging, but to obliterate all signs of graffiti culture that is seen as perpetuating the graffiti problem. The net result of such an approach in many LGAs has been to declare works such as the following 'banned':

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<sup>23</sup> Amateur, childish or uncool.



Miller Street Art Gallery, Liverpool



Millers Reserve, Manly Vale



Cromer Park



Beacon Hill Oval



Beacon Hill Oval



Beacon Hill Oval



Passmore Reserve, Manly Vale



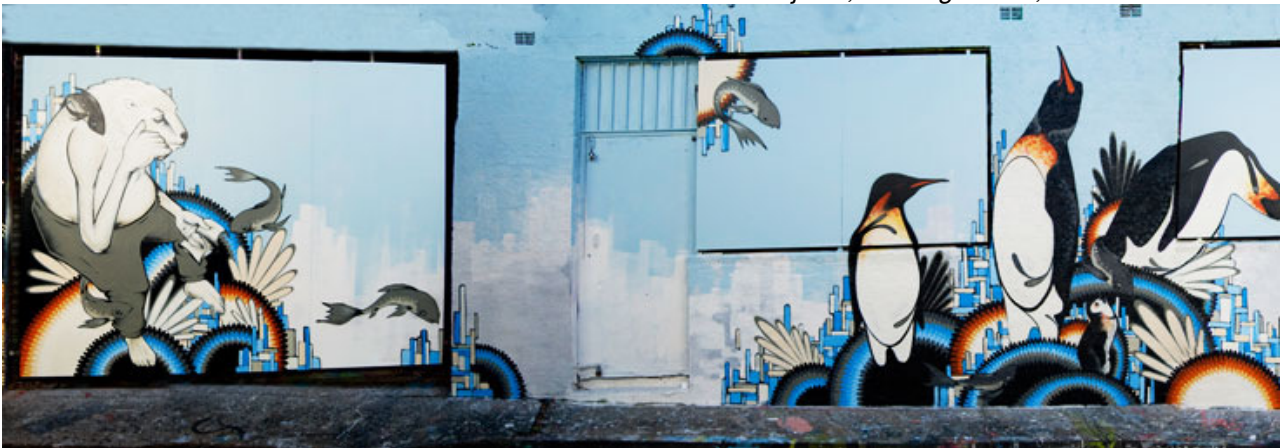
Miller St Art Gallery, Liverpool



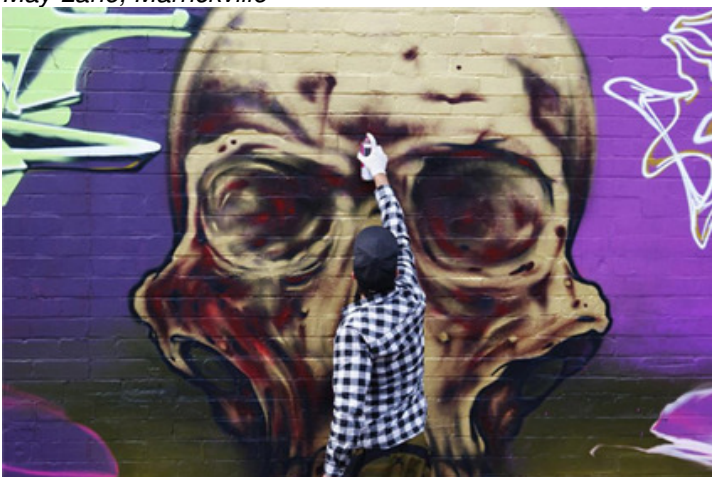
*Bakers Lane, Sydenham*



*Stepping Stones Indigenous Art Project, City Lights Projects, Rutledge Lane, Melbourne*



*May Lane, Marrickville*



*'PUDL' – Inner city legal wall, Sydney*



*Works by the internationally renowned Banksy*

The distinction between such artworks or 'pieces' – which require considerable artistic skill, an eye for colour, design flair and many years of training to master, and the tagging that proliferates throughout Sydney, which requires no talent, is obvious. Many councils have recognised the distinction between the need to foster cultural development through nurturing the visual arts, and the need to reduce property crime by taking a hard line against illegal graffiti, including tagging and other emerging forms such as etching (which are becoming increasingly prolific).

Many councils have seen value in transforming drab alleyways and public walls in to vibrant, inviting and ever-changing public spaces. Embracing cultural development through the visual arts, as per the examples shown above and the projects outlined below, has produced many flow-on benefits both for the communities and the artists involved. In many cases young people who started out as taggers and who risked being marginalised and inducted into a criminal sub-culture and the associated cycle of offending, prison and recidivism instead received training, nurturing, recognition and reward for talent and some have since gone on to nationally or even internationally recognised careers in the visual arts. The aerosol art tutor who has overseen many projects for Council is but one example. Even more prominent is Banksy from the UK, featured above, whose works are now extremely valuable. In 2008, a London wall bearing one of his stencils reputedly sold on eBay for \$472,528. His works on paper sell at auction for hundreds of thousands of dollars<sup>24</sup>.

Most of the recognised urban / street artists, such as Banksy, started out as taggers but aspired to be something more and, through the influence of senior artists, youth workers and others, moved beyond tagging to piecing. Many taggers have such an aspiration, but

<sup>24</sup> [banksy.co.uk](http://banksy.co.uk) Recently a Melbourne City Council clean-up crew inadvertently painted over one of Banksy's pieces - <http://www.theage.com.au/entertainment/art-and-design/city-does-give-a-rats-for-banksys-wipedout-art-20100427-tq3c.html>

without legal opportunities to learn and develop their craft their only option is to 'piece' illegally or to continue tagging. This highlights another stark difference between cultural development and zero tolerance policy: under the latter the only choice presented is criminality or abstinence. For the vast majority of graffitiists this is simply not a choice they are prepared to make. What they need is the opportunity for a pathway out.

Those without artistic aspirations continue tagging till such time as they are caught and prosecuted, or (according to the literature and discussions with graffiti officers, police and art tutors) 'grow out of it' - as most do. The policy challenge is to minimise the impact of the work of taggers before they become entrenched in the lifestyle, with its attendant anti-authoritarian appeal and the attraction of underground fame. As such, successful graffiti policy seems to combine on the one hand sanctions, penalties and other disincentives including rapid removal for tagging, and on the other tutoring and mentoring for aspiring artists, and incentives and opportunities for quality legal art pieces.

Creating an organisational context within which graffiti policy can be managed in a coordinated manner, incorporating cultural development, diversion and education, and rapid removal / enforcement will be a critical element in creating a viable framework for a sustainable long-term approach to graffiti management in Warringah.

## **Examples of Cultural Development Based Graffiti Policy**

In cases where councils have recognised the value of urban art and used it as a catalyst to transform drab and uninviting public spaces, there have been numerous examples of flow-on benefits such as:

- The nurturing of international tourism (as has been the case with the Bondi beachfront, Melbourne (CityLights Project))
- The development of a flourishing artist community and a boom to local business (May Lane Marrickville).

Some examples of successful cultural development projects employing urban / aerosol art include:

a) May Lane – [mays.org.au](http://mays.org.au)

Supported by Marrickville Council, *May Lane Art Project* is an outdoor gallery space located in St Peters in Sydney's inner west. The exhibition space consists of five panels that are hung in window spaces along the side of a building in May Lane. Each month several artists are invited to use the entire space as their canvas, or to focus on the panels which are then kept each month as part of a larger documentation project.

b) CityLights Projects - [citylights-projects.blogspot.com](http://citylights-projects.blogspot.com)

Citylights is an independent public art project utilising permanent lightbox exhibition sites. It produces ephemeral events focusing on collaboration, street art, and emerging artists. Citylights started in 1996 and has exhibited work by more than 400 artists. Sites in Hosier Lane and Centre Place, Melbourne City are famous as outdoor galleries, added to daily by countless artists, and hailed as the No.1 cultural attraction in Australia by Lonely Planet in 2007.

Another interesting distinguishing feature of Melbourne City Council's graffiti management program is its recognition of the distinction between art and tagging. Its 'Do Art Not Tags' policy can be found here:

<http://www.melbourne.vic.gov.au/ForResidents/StreetCleaningandGraffiti/GraffitiStreetArt/Pages/Doartnottags.aspx>

c) *Miller Street Art Gallery* / Casula Power station legal walls

These projects administered by Liverpool City Council have been instrumental in transforming run-down urban precincts into colourful art precincts that have achieved international recognition. The *Miller Street Art Gallery* is interesting in that it has been established under a community health, rather than a crime prevention model. This project has successfully transformed a neglected and decaying area, in a disadvantaged neighbourhood, into a multi-faceted arts hub featuring not just aerosol art but mosaics, sculpture and other public art forms.

d) Bondi Beachfront, Sydney

The aerosol art murals on the Bondi beachfront are world famous and a significant tourist drawcard in an area that seeks to encourage tourism. In addition to a number of commissioned murals, artists can apply to have a work included in this iconic space.

## The Question of Legal Walls

Part of the introduction of hard-line graffiti policies by councils has often included the removal of the legal walls that had operated previously. This has often come at the request of the police – who claim the walls provide an excuse for young people to carry aerosol art cans which are still legal if used for a legitimate purpose such as to paint at a legal wall. Organisations such as Keep Australia Beautiful have also been actively involved in lobbying councils to remove walls based on the claim they attract and validate graffiti and have not stopped tagging.

Curiously, according to local police the new graffiti legislation bans under 18s from carrying aerosol cans except in the immediate vicinity of a legal wall. However, apparently this provision in the legislation is yet to be tested so the police have not attempted to enforce it. It could be argued that there is a case for the police to have this provision tested in the courts before asking councils to remove walls: if part of the fault lies in the framing of the legislation then that needs to be tested. If the removal of legal walls results in a backlash by artists who, till that time had been legally practising their craft, it will again be residents and ratepayers who will have to bear the costs if there is an increase in graffiti.

Some of the calls to remove legal walls appear to be based on a misconception or even distorted claims about their role.<sup>25</sup> It is often claimed that legal walls have not reduced tagging; however this is not the main purpose of such walls. In fact most legal wall sites were chosen *because they were located in an area where tagging already proliferated*. This was certainly the case with Warringah's five wall sites. To claim that the walls have *caused* tagging in the areas in which they are located ignores this fact. Quite apart from this, the site audit showing Warringah's graffiti hotspots undertaken as part of the rapid removal program has not shown a link between higher tagging rates near legal walls. Rather the pattern is that tagging proliferates along major transport routes, in areas of

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<sup>25</sup> This is not necessarily the case with the police whose calls are specifically related to the enforcement of laws regarding the carrying of aerosol paint cans by minors.

higher population density and in industrial areas. (See *Appendix B* for a summary of graffiti hotspots in relation to legal wall locations.)

According to much of the literature, a key benefit of legal walls is to provide an opportunity for those who wish to progress beyond tagging, or have already done so, to undertake, in a safe environment, more elaborate and challenging artworks and to develop their artistic skills at the same time. Most graffitists start out as taggers and many remain so. However many also aspire to become accomplished artists and to emulate the senior writers they admire.

Problems arise because, even though there are clear distinctions between 'taggers' and 'piecers', there is also an overlap between the two groups and some aspiring artists may be involved in tagging. This tends to occur until such time as the more challenging artistic elements start to dominate their work, until there are sufficient opportunities to do legal pieces, they simply grow out of tagging or stop doing it because of legal threats or negative impacts on career and other opportunities.

A zero tolerance approach cannot deal with this anomaly: just as zero tolerance based drug policy with its 'all or nothing' approach cannot countenance any level of drug use and therefore opposes harm minimisation, so too zero tolerance graffiti policy cannot tolerate any form of graffiti, be it piecing, tagging or any combination.

An approach to graffiti that incorporates harm minimisation principles supports the notion that the more those involved in tagging can be offered opportunities and incentives to move beyond it and to achieve skills and recognition through legal artwork, the less will be their incentive, motivation, need, and indeed time to tag.

An approach that embraces harm minimisation and cultural development gives taggers a pathway out of tagging by creating opportunities to learn from senior artists and to develop creative and career skills and to achieve peer and community recognition. An exclusively punitive approach, on the other hand, can only offer a pathway of social exclusion, marginalisation and criminality.

A final point about a harm minimisation / cultural development approach is that it enables councils to work with youth and cultural agencies to facilitate behaviour change via social marketing and other techniques. This is why it is supported by youth and community agencies and, presumably why they tend not be consulted when zero tolerance policy is introduced. By engaging with young people involved with graffiti, organisations, including the police, are able to influence their choices and make use of the social mores that exist within graffiti culture. Giving those young people who are aspiring artists the opportunity to learn technique from respected artists who have moved beyond tagging, and who are able to explain why, gives young people at risk a chance to change their behaviour.

This is not to condone tagging in any way. In fact it is through working with young people who are involved in graffiti that community expectations and the penalties for offending may be effectively communicated and reinforced.

*Appendix A* provides a summarised analysis of the efficacy of legal walls based on the research of Dr Cameron McAuliffe and others.

## **Conclusion**

Council has before it a rare opportunity to exercise leadership - both as a local community leader charged with representing the interests of the entire community, and among councils in NSW and Australia as a broker and advocate of innovative, effective, balanced and progressive social policy.

Although with graffiti there are numerous shades of grey between a purely community / cultural development approach and a zero tolerance approach, in terms of emphasis there is a fairly stark choice between a balanced and holistic approach that deals both with graffiti's causes and effects on the one hand or, on the other, a simplistic, authoritarian approach that shows little evidence of proving effective, and which has proven costly to those councils following that line. Each carries its own costs and risks but ultimately, if Council wishes to truly have an impact on graffiti in Warringah, it cannot afford to deal those involved with it – and those who can influence them – out of the equation.

## Executive Summary

### Background

The cost of graffiti removal to councils and to the community presents a strong case for a tough stance against 'tagging' and other illegal graffiti. However such reactive measures, if applied in isolation, have not stemmed the growth in graffiti and – according to some commentators – may even have made the problem worse.

In recent years the debate about graffiti has ranged between community and cultural development based approaches on the one hand, 'zero tolerance' on the other, and numerous variations in emphasis between. At this point the state government is championing a more hard-line position, embodied in the NSW Graffiti Control Act 2008. Pressure to 'get tough' on graffiti is also being applied by some sections of the community and media, police commands and organisations such as Keep Australia Beautiful. Some councils are responding by adopting zero tolerance graffiti policies, or variations on that theme.

In order to deal with graffiti comprehensively, there is no alternative than to tackle both its symptoms, through reactive measures, and its causes, through preventive measures. To apply only reactive measures, as some councils are now doing, not only results in high and ongoing costs: it also represents a lost opportunity to engage with youth and to foster early intervention and prevention, cultural development, capacity building and urban renewal.

Council now has an opportunity to become a leader in graffiti policy and to develop and implement a range of realistic, evidence-based, innovative, balanced, *long-term* strategies on graffiti – something very few councils have been able to achieve. The alternative is to merely follow what others have done and enact policy that may have the appearance of toughness, but in reality is a very blunt instrument for dealing with a complex and multi-faceted problem.

Sound policy is firmly grounded in reality, and accepts that graffiti is a fact of life and will not be eliminated – even in a single LGA. It recognises that tagging and other graffiti applied in public and private space is unlawful and a costly violation of the rights of others, and needs to be treated accordingly via rapid removal and enforcement based measures. It also recognises however that dealing with graffiti 'after the event' is only responding to the symptoms. Prevention presents a much more pervasive challenge and one whose success can not be gauged solely in quantitative or financial terms. Results require long-term commitment to effect behaviour change with current – and potential future – graffitiists, and many of them will be beyond Council's span of influence given that not all of them will be from Warringah. Prevention requires detailed knowledge about the specific characteristics, behaviour, motivations and methods of graffitiists, which can vary enormously from LGA to LGA and even suburb to suburb.

Reactive policy such as 'zero tolerance' by its very nature precludes engagement with graffiti target groups, except in an authoritarian context. To effect long-term change, Council needs to work within graffiti culture: this requires understanding the culture. Such understanding can only develop via an approach that embraces cultural development and community based diversionary programs. Elements of hard-line policy are necessary to deal with graffiti's aftermath but their significant limitation, if imposed in isolation, is that they serve only to perpetuate the combative cat-and-mouse game that has always characterised graffiti culture and its anti-authoritarian ethos.

## Recommended actions

Ultimately, despite the difficulties of defining and measuring success, if we wish to reduce the incidence and impact of graffiti in Warringah over time there is a balance of measures that will require consistent application and continuing evaluation. *Appendix D* summarises the key elements of such a balance of approaches.

Based on Council's own experience, advice from councils, other organisations and specialist researchers, and reviewing current literature, the following would be the recommended key elements of an effective graffiti policy and management plan for Council. Once reviewed within Council and feedback is received from the community each action would be further refined and responsibility for planning, budgeting and implementation agreed on.

### **REACTIVE / PUNITIVE ELEMENTS**

#### **1. Graffiti reporting and removal**

- a) Maintain, and if necessary expand, current measures to remove tags and other illegal graffiti as quickly as possible from council, private and government property. This includes Council's graffiti hotline and the rapid removal program.
- b) Increase efforts to encourage business, utility providers and community members to remove graffiti as quickly as possible from their own properties.

#### **2. Working with police and other agencies**

- c) Support police action to detect and deal with offenders through the legal system and implement measures to redirect, deter and / or prosecute offenders.
- d) Collaborate with the police to improve and streamline the process by which graffiti incidents are reported and recorded so as to encourage community members to report graffiti, and to minimise 'double counting' where graffiti is reported both to the police and to the Council hotline.
- e) Continue to collaborate with the police, councils and other agencies to improve coordination of local and regional action on graffiti issues

#### **3. Urban design to deter graffiti**

- f) Investigate opportunities to implement *Crime Prevention Through Environmental Design* (CPTED) principles in relation to new development and susceptible existing development. This could be achieved by:
  - *Establishing an in-house advisory process that would work in conjunction with development assessments, and / or*
  - *Referring development assessment applicants and other interested parties to specialist agencies who can advise on ways of 'designing out' opportunities for graffitiing of new or existing buildings.*
- g) Engage the business community and other stakeholders (such as the RTA and utility providers) to work in partnership with Council in applying CPTED principles to key sites throughout the LGA. This includes sites on major transport routes and other key locations, so as to minimise opportunities for

large-scale exposure for illegal graffiti whilst capitalising on opportunities to promote high-quality legal murals.

## **PREVENTIVE / CULTURAL DEVELOPMENT ELEMENTS**

### **4. Working with graffitiists and community agencies**

- h) Council youth services to work with young people, community agencies, the police and others to enhance collective knowledge on the specific motivations, characteristics and methods of graffitiists in each area. Use such knowledge as the basis of cultural development, diversionary and community based social marketing programs targeting graffitiists and potential graffitiists.
- i) Engage with graffitiists – firstly to communicate to them the negative impacts of their practices, its cost to the community and the sanctions and penalties that will apply if they're caught. Secondly, to reinforce a behaviour code within graffiti culture, communicated by respected 'senior' artists, that forbids tagging on certain sites such as memorials, private homes and cars and that ultimately seeks to divert graffitiists from illegal activity.
- j) Investigate innovative methods of engaging with young people who write graffiti through social media and other means so as to actively involve them in fostering a culture that embraces legal urban art but that exerts peer pressure to reduce tagging and other illegal forms of graffiti.
- k) Draw clear distinctions between artwork and tagging and apply appropriate inducements and sanctions to each.

### **5. Artistic development and education**

- l) Provide opportunities for artists to develop and display their skills in appropriate legal sites.
- m) Work with educational institutions and business to develop mentoring programs to foster creative, entrepreneurial and career opportunities for talented artists.
- n) Examine the feasibility of graffiti prevention education programs within local schools.
- o) Implement pilot youth programs that seek to engage with socially isolated and / or hard-to-reach young people.

### **6. Legal walls**

- p) Work with police, young people and other agencies to alter the arrangements applying to Council's five legal graffiti walls, from 'open access' to 'managed spaces'. This includes restricting their use to set (daylight) hours, and devising and implementing a code of conduct that applies to their use. Part of this would be that aerosol paint cans may only be carried by minors for use at the walls during set hours, and that possession outside these hours contravenes Council guidelines and places them at risk of police action.
- q) In collaboration with graffiti writers, community agencies, researchers, police and others, establish a graffiti wall trial program to test the effectiveness of a range of approaches to managing the walls. Issues covered would include, but not be limited to:

- gauging the effectiveness of the walls in re-directing graffiti writers from tagging into legal artworks
- assessing fluctuations in graffiti levels if a wall is removed or relocated
- the level of Council maintenance required – eg whether to paint-over the walls periodically or leave them to be painted over by graffiti writers
- waste reduction at wall sites, especially in relation to the recycling of paint cans and minimising litter around the walls
- identifying and fostering opportunities for talented artists who work at the walls.

## ***EVALUATION AND FURTHER DEVELOPMENT***

- r) Establish partnerships with universities and other research bodies to develop and implement a comprehensive set of tools for defining and measuring success for each element of the program. In addition to empirical data this would embrace innovative, experimental and creative approaches and include both quantitative and qualitative measures.

## Appendix A

### ***Graffiti policy and state legislation***

#### **Overview of current graffiti law**

The legal status of graffiti in NSW is subject to the Graffiti Control Amendment Act 2009. The Act is an update of the 2008 Graffiti Control Act and associated 2009 Regulation. The new legislation consolidates a range of earlier graffiti laws across several different acts. It represents a more hard line position on graffiti by the State Government. Key provisions are summarised as follows:

#### **i) Penalties for graffitists**

There are increased penalties for convicted graffiti offenders. The penalties for damaging or defacing property by means of a graffiti implement include fines of up to \$2,200, or up to 12 months in prison (covered in Section 4). More serious offences are covered in sections of the Crimes Act 1900, which provide for penalties of up to 5 years in prison for maliciously damaging property. Possessing a graffiti implement with the intent to damage or deface property can attract a fine up to \$1,100 or 6 months imprisonment (Section 5).

Section 8B makes it an offence for persons under 18 to carry spray paint cans in public spaces. The maximum penalty is a \$440 fine or 6 months imprisonment.

New penalties for bill posting are also prescribed, and the Act expands the definition of graffiti implements to include spray cans, marker pens and other implements 'designed or modified to produce a mark'.

#### **ii) Restrictions on spray paint can sales and possession**

A key focus of the Act relates to the sale and possession of spray paint cans. Section 7 makes it an offence to sell such cans to those under 18, and provides for fines of up to \$1,100 for breaches by retailers. Section 8 prohibits the unsecured display by retailers of the cans so as to prevent customer access without assistance, and again provides for fines up to \$1,100 for breaches.

However Section 8A outlines some defences for retailers in relation to spray can paint sales to minors. These are that:

- i. they believed on reasonable grounds that the recipient intended to use the spray paint can for a defined lawful purpose (see below), or*
- ii. the supply occurred in a public place and the person believed on reasonable grounds that the recipient intended to use the spray paint can at or in the immediate vicinity of the place where the supply occurred for another defined lawful purpose, or*
- iii. the supply occurred in a private place and the person believed on reasonable grounds that the recipient intended to use the spray paint can at or in the immediate vicinity of the place where the supply occurred for an activity that does not constitute an offence against this Act or any other law.*

Under Section 9 a police officer may seize a spray paint can in the possession of a person in a public place if the officer suspects on reasonable grounds that the person is under the age of 18, unless the person satisfies the officer that their possession of the *spray paint is for a defined lawful purpose* that does not constitute an offence under the Act.

The Act's reference to a *defined lawful purpose* is important in terms of its implications for local government graffiti policy. In relation to the sale to or possession of spray paint cans by minors this is defined as:

- a) *the lawful pursuit of an occupation, education or training, or*
- b) *any artistic activity that does not constitute an offence against this Act or any other law, or*
- c) *any construction, renovation, restoration or maintenance activity that does not constitute an offence against this Act or any other law, or*
- d) *any other purpose authorised by the regulations.*

The next section examines the implications of the laws regarding the confiscation of spray cans by police in relation to Warringah's present and proposed graffiti management plan.

Briefly, other key provisions of the new laws are as follows:

- i. Under Section 11 of The Regulation penalty notices for offences relating to the sale or display of spray paint cans may be issued by:
  - Investigators within the meaning of *The Fair Trading Act 1987*
  - Employees of a local council who are authorised persons for the purposes of section 679 of *The Local Government Act 1993*.

The fact sheet produced by the Attorney General's Department *Legislation related to graffiti vandalism* (available via the state government's Lawlink website – [graffiti.nsw.gov.au/lawlink](http://graffiti.nsw.gov.au/lawlink)) summarises the key provisions in the Act and associated Regulation.

## Appendix B

### ***The efficacy of legal walls***

**Dr Cameron McAuliffe**

*Postdoctoral Research Fellow*

*Centre for Cultural Research*

*University of Western Sydney*

I am currently looking at the viability of legal graffiti programs. I haven't come across any research yet that actually measures any decline in quality or quantity of graffiti due to the implementation of legal programs. The commercial contractors used by councils often collect data on removal - number of instances and location, if not information about the quality. They may be able to provide kind of evidence (although they have vested interests that may cloud any of their internal research).

In terms of the more qualitative data, there are compelling reasons for supporting legal wall programs.

- Legal programs attract experienced writers to a location. Some of these more experienced writers have shown a willingness to support the development of less experienced writers. Thus the legal walls become sites where the quality of graffiti improves through practice and mentoring, as well as through peer pressure as minimum stylistic standards become a part of the way particular legal walls work.
- Conversely, the removal of a legal program and/or legal wall will lead to dispersal of older and more experienced writers, who take advantage of their network of walls, often extending across the whole of Sydney. As the good work moves away, the poor quality graffiti remains. Without the enforcement of standards and contact with more experienced writers and their work, the quality of graffiti in a local area may actually degrade.
- Legal walls concentrate graffiti activity in particular locations. As one graffiti writer put it, "You only have so much paint. If I don't do it here, I'll use it somewhere else." As a harm minimisation strategy, legal walls reduce the extent of graffiti. Again, I do not have numbers for the extent of this reduction.
- Regarding the issues of dispersal and reduction, one historical example may suffice. The push to remove graffiti from the rail corridor, in places like New York and Sydney in the 1980s, successfully displaced graffiti through criminalisation but failed to eradicate graffiti. The writers moved from the trains to the walls of buildings (see Iveson, K. (2007) *Publics and the City*. Blackwell Publishing: Ch 5.). Despite claims that rapid removal discourages writers, my own research has found that writers merely deploy their resources to other sites in the city.
- Legal walls offer a place for young people to do graffiti in safety. Parents drop their kids at legal walls because they know they are safer here and less likely to face harassment by the police.
- Legal walls operate during daylight hours allowing young people to socialise around the walls and allowing the wider public to see and have contact with the people who do graffiti, helping to dispel fears through contact.
- Legal walls present an opportunity to do legal graffiti, and for writers to consider paths to more legitimate creative outputs, and even careers in the creative sector. My research has identified many graffiti writers who wholly or partially support themselves doing commercial work that has led either directly or indirectly from their work as graffiti writers. I have found that accessibility to legal wall programs can facilitate changes in behaviour of individuals involved in graffiti; that using legal walls does facilitate graffiti writers 'going legit' and arresting the slide into more serious crime.

Regarding the need for evidence that legal walls work, it is somewhat disingenuous to say, "we put up a legal wall and it did not stop graffiti." Of course legal walls are no silver bullet. Legal walls are one part of a range of 'solutions' that include sanctions for unlawful behaviour as well as points of engagement, such as legal programs, that allow both diversion from illegal activity as well as break down the notion that all graffiti writers are vandals (and, indeed, that all graffiti writers are motivated by the same things).

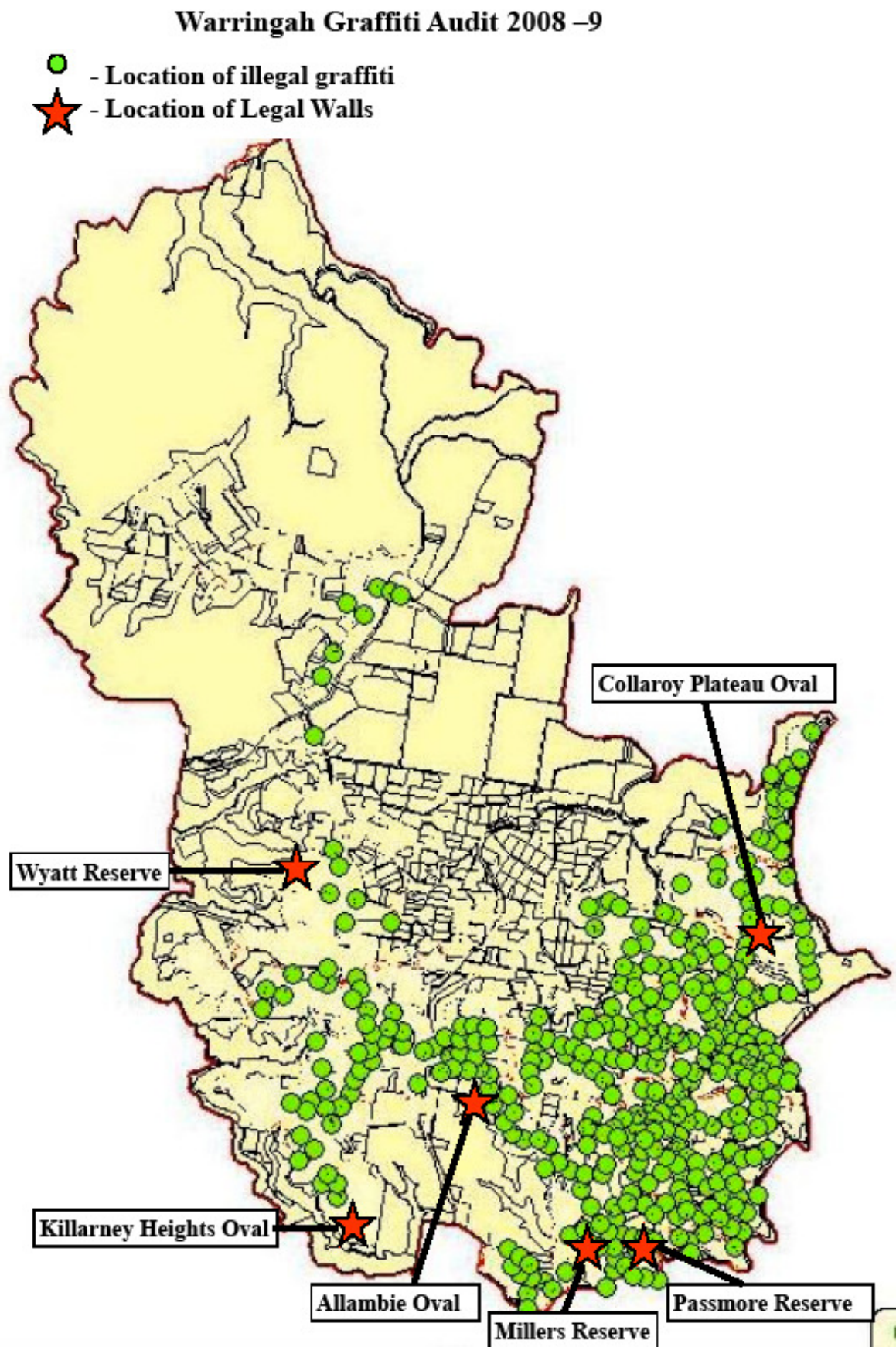
My own research on legal walls is ongoing and I am about to publish some papers (single-authored and with my academic collaborator, Kurt Iveson) that show that legal walls are key sites in working through the different perspectives on graffiti. Beyond producing evidence to show that 'legal walls don't work', my research has shown that providing legal opportunities allows people who desire to move away from illegal activity safe places to develop their skills. Importantly, legal walls provide sites for people who are looking to progress to professional roles in the creative sector using graffiti as a stepping stone.

Additionally, legal walls help break down the relationship between respect and risk in graffiti subcultures, allowing people to measure the value of their work more through its quality and skill, rather than because it was done under the presence of surveillance with the imminent threat of capture. Legal walls challenge the preconceived ideas of what graffiti is and should be, for the authorities that seek to eradicate it, and for graffiti writers themselves. These are sites of engagement where complex problems can be worked through. I call them sites of respect because they challenge competing ideas about respect for community/property/laws and respect inside the graffiti subculture, which tends to be premised on breaking these same laws.

There is also an argument for recognising legal walls as not just a crime prevention program, but as a part of emerging and ongoing efforts to develop cultures of public art in Sydney. Many councils have developed Cultural Plans and associated Public Art Policies in recent years, yet we continue to fail to recognise that much of our graffiti exists as public art, and that the people who do public art commissions for councils are sometimes the very same people who learnt their skills as graffiti writers and use legal walls, where they still exist, around the city.

I guess the final point to make concerns the constant refrain about the escalating costs of graffiti. Programs that engage with graffiti writers, such as legal wall programs, cost far less than paying contractors to remove all instances of graffiti within 24 hours of it being reported. Police resources are stretched by zero tolerance policies, when engagement programs are a more effective, efficient and appropriate use of these limited resources. What has really happened is that the war on graffiti has escalated, and the 'costs' of graffiti really reflect the increased political will to spend money on its removal. There is no mythical 'clean city' at the end of this anti-graffiti tirade, and I am afraid a lot more money will be spent on ineffective zero tolerance programs before this 'war' is over.

## Appendix C



## A Continuum of Approaches to Graffiti

