

First print



New South Wales

Local Government Amendment (Graffiti) Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Local Government Act 1993* (*the Principal Act*) to enable a local council to carry out certain graffiti removal work on land without the agreement of the owner or occupier of that land if the graffiti concerned is visible and accessible from a public place.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Local Government Act 1993* set out in Schedule 1.

Schedule 1 [3] inserts proposed Division 4 into Part 3 of Chapter 6 of the Principal Act. The proposed Division contains a new section (proposed section 67B) that provides that a local council may, without the agreement of the owner or occupier of any land, carry out graffiti removal work to property on that land if the graffiti concerned is visible from a public place. The graffiti removal work may only be carried out from a public place. The local council is to bear the cost of graffiti removal work and must pay compensation for any damage caused in carrying out the graffiti removal work. **Schedule 1 [3]** also moves certain provisions of the current section 67A (graffiti removal work carried out with the agreement of the owner or occupier of land) relating to the register of graffiti removal work into a new section (proposed section 67C).

Schedule 1 [1], [2] and [4]–[8] make consequential amendments.



New South Wales

Local Government Amendment (Graffiti) Bill 2002

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Local Government Act 1993 No 30	2
Schedule 1 Amendments	3



New South Wales

Local Government Amendment (Graffiti) Bill 2002

No , 2002

A Bill for

An Act to amend the *Local Government Act 1993* in relation to the powers of local councils with respect to the removal of graffiti.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Local Government Amendment (Graffiti) Act 2002</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5 6
3 Amendment of Local Government Act 1993 No 30	7
The <i>Local Government Act 1993</i> is amended as set out in Schedule 1.	8

Schedule 1 Amendments

1

(Section 3)

2

[1] Section 12 What information is publicly available?

3

Omit from section 12 (1):

4

- the register of graffiti removal work kept in accordance with section 67A.

5

6

Insert instead:

7

- the register of graffiti removal work kept in accordance with section 67C.

8

9

[2] Section 67 Private works

10

Insert “or 67B” after “section 67A” in section 67 (6).

11

[3] Chapter 6, Part 3, Division 4

12

Omit section 67A. Insert instead:

13

Division 4 Graffiti removal work

14

67A Graffiti removal work—by agreement with owner or occupier

15

A council may, by agreement with the owner or occupier of any private land, carry out graffiti removal work on the land.

16

17

67B Graffiti removal work—without agreement of owner or occupier

18

- (1) A council may, without the agreement of the owner or occupier of any land, carry out graffiti removal work to property on that land if the graffiti concerned is visible from a public place.

19

20

21

- (2) The graffiti removal work referred to in subsection (1) may only be carried out from a public place.

22

23

- (3) The council concerned is to bear the cost of graffiti removal work referred to in subsection (1).

24

25

(4) If a council carries out graffiti removal work in accordance with this section, the council must, within a reasonable period, give the owner or occupier of the land concerned written notice that the work has occurred.	1 2 3 4
(5) A council must pay compensation for any damage caused by the council in carrying out graffiti removal work in accordance with this section.	5 6 7
Note. Section 730 provides for the resolution of claims for compensation relating to damage under this section in cases of dispute between the person claiming the compensation and the council.	8 9 10
67C Register of graffiti removal work	11
(1) The council must keep a register of graffiti removal work carried out in accordance with section 67A or 67B.	12 13
(2) The register is to specify in respect of each incidence of graffiti removal work carried out:	14 15
(a) the owner or occupier of the premises on which the graffiti was situated, and	16 17
(b) the nature of the work carried out, and	18
(c) the actual cost, or an estimate of the cost at current market rates, of carrying out the work, and	19 20
(d) in the case of graffiti removal work carried out in accordance with section 67A—the actual amount charged by the council for carrying out the work.	21 22 23
[4] Section 356 Can a council financially assist others?	24
Omit “on private land” from section 356 (4).	25
Insert instead “work”.	26
[5] Section 356, note	27
Omit the note to section 356. Insert instead:	28
Note. Sections 67A and 67B of the Act deal with graffiti removal work.	29
[6] Section 730 Compensation	30
Insert “67B (5),” before “128 or 198” in section 730 (1).	31

[7] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts	1
	2
Insert at the end of clause 1 (1):	3
<i>Local Government Amendment (Graffiti) Act 2002</i>	4
[8] Schedule 8	5
Insert at the end of the Schedule with appropriate Part and clause numbers:	6
 Part Provision consequent on enactment of Local Government Amendment (Graffiti) Act 2002	7
	8
Register of graffiti removal work	9
(1) In this clause, <i>amending Act</i> means the <i>Local Government Amendment (Graffiti) Act 2002</i> .	10
	11
(2) A register of graffiti removal work kept in accordance with section 67A of the Act as in force immediately before the commencement of the amending Act is taken to be a register of graffiti removal work kept in accordance with section 67C of the Act as in force after that commencement.	12
	13
	14
	15
	16