



# ILLEGAL GRAFFITI POLICY

September 2006

## INTRODUCTION

The Maroondah Illegal Graffiti Policy 2006 has been developed with the purpose of articulating and formalising Maroondah City Council's position in respect to illegal graffiti and the activity of illegal graffiti in the City of Maroondah. The Policy is intended to provide direction and guidelines for working towards the reduction and prevention of illegal graffiti within the municipality.

A Background/Research Paper has been developed which complements this Policy and elaborates on issues relating to illegal graffiti, including research on the reasons for illegal graffiti, strategies for prevention and response to illegal graffiti, and the historical and current contexts of illegal graffiti within the City of Maroondah.

This Policy has been reviewed in August 2008 to ensure that it has consideration to and is consistent with the *Graffiti Prevention Act 2007* (Vic.).

### Definition of Illegal Graffiti

Maroondah City Council defines the term 'illegal graffiti' as *defacement by writing, spraying, scratching or other form of defacement to property either without the prior consent of the property owner, or with the consent of the property owner but of an offensive, obscene or racist nature. Illegal graffiti also includes all tags.*

Crime Prevention Victoria describes graffiti as *spraying, writing, scratching or slashing an identifying mark or symbol on someone else's property without their consent*<sup>1</sup>. Graffiti has also been defined as including *any unauthorised drawings, names, words or marks, such as tags, stencils, political, racist or obscene statements and aerosol art, on public buildings or infrastructure, transport (including railway rolling stock) and private property (building walls, fences and billboards)*<sup>2</sup>.

These definitions encapsulate the multiple dimensions associated with graffiti:

- There is an array of tools/materials for writing graffiti
- There are various forms of graffiti
- Graffiti can occur on a range of surfaces
- Graffiti can occur on both public and private property
- Graffiti is illegal when it occurs without the consent of the property owner (but may be deemed to be inappropriate even when it has the consent of the property owner)<sup>3</sup>
- An understanding of graffiti needs to take into account the social, built physical and environmental contexts

The diversity in the forms of contemporary graffiti creates the imperative for a holistic and multi-faceted approach to the prevention of illegal graffiti.

It is also important to distinguish between illegal graffiti and sanctioned community art<sup>4</sup>. As recognised in the Crime Prevention Victoria definition, illegal or unsanctioned graffiti takes place without the explicit consent of the property owner. However, aerosol or spray can art may sometimes be commissioned by property owners and, thus, constitutes a legal activity.

<sup>1</sup> Crime Prevention Victoria (2003), p. 1.

<sup>2</sup> SAI Global (2004), p. 6.

<sup>3</sup> Council encourages individuals and organisations to consult with Council prior to commissioning community art on private property to ensure that it will not contravene the provisions of Council's Local Laws relating to graffiti.

<sup>4</sup> Note: A planning permit may be required for commissioned community artwork that constitutes an Advertising Sign—refer to Clause 52.05 of the Maroondah Planning Scheme (Particular Provisions). For advice on planning permits, contact Council's Statutory Planning Unit. Council encourages individuals and organisations to consult with Council prior to commissioning community art on private property to ensure that it will not contravene the provisions of Council's Local Laws relating to graffiti.

Illegal graffiti is a community and government concern as it can detrimentally impose on community wellbeing and sense of safety, detract from the aesthetic aspects of the local area and can be costly to remove. The presence of illegal graffiti, particularly in graffiti 'hotspots' (sites where there are concentrations of illegal graffiti) is often perceived as a sign of neglect of the area and associated with violence and crime. Additionally, damage to private property from illegal graffiti contravenes the rights of property owners.

## **1. COUNCIL POSITION**

Council recognises that the presence of illegal graffiti is a community concern that has adverse costs to the social, environmental, built physical and economic fabric of the local community. It can create a negative perception of safety in the local community, thus impacting on the wellbeing and social cohesion of the community. Illegal graffiti can have negative effects on the streetscape and urban environment and detract from community pride of the local area. The considerable financial costs involved in removing graffiti also impose economic impacts on individuals, businesses, Council and the wider community.

Council will not tolerate illegal graffiti within the municipality and is committed to reducing and preventing illegal graffiti in public spaces and on public and private property. In particular, Council does not tolerate obscene, racist or offensive graffiti. However, Council recognises that community art can enrich the social fabric of the community and, therefore, supports the display of community art in public spaces within the principles outlined in this Policy.

## **2. POLICY PRINCIPLES**

The following guiding principles underpin the Maroondah Illegal Graffiti Policy:

- Illegal graffiti can have direct and indirect adverse impacts on the social, economic, and built and natural environmental dimensions of the community. This entails an integrated approach to graffiti reduction and prevention.
- Recognising that illegal graffiti can stem from a number of systemic and social issues, Council's overall goal and long-term commitment is to reduce the prevalence of illegal graffiti through a multi-faceted and strategic approach. Such an approach will incorporate seven core elements:
  - Removal
  - Enforcement
  - Prevention
  - Engagement
  - Education
  - Monitoring
  - Strategic initiatives
- A successful approach to reducing and preventing the problem of illegal graffiti requires appropriate measures that address both the factors contributing to the problem and the problem itself. Council will therefore consider projects and partnerships that involve people in the local area who commit, or are at risk of committing, illegal graffiti in the development and implementation of appropriate projects and programs.
- Graffiti management is a community responsibility and a partnership approach drawing on shared resources, capacities and commitment is integral to effective graffiti reduction and prevention. Positive outcomes in graffiti management can be best achieved through a partnership approach involving a wide range of stakeholders, including Council, State government departments, public services and agencies (such as public transport providers and utility companies), local business owners, community groups and the local community.
- Council understands that owners of property on which illegal graffiti occurs are victims of crime themselves. However, Council strongly regards the prompt and complete removal of

illegal graffiti, particularly in locations with public visibility, to be a critical component of effective illegal graffiti management. Council will therefore continue to work with the community to ensure that illegal graffiti is rapidly obliterated or removed.

- Council recognises and values the contribution of existing local, regional and statewide initiatives and will work to strategically complement and support these initiatives through a coordinated approach<sup>5</sup>.
- Council recognises the value of community art in enhancing a sense of 'place' and providing opportunities for local artists to exhibit their skills and creativity. Council therefore acknowledges that community art can deliver considerable benefits for the local community<sup>6</sup>.
- Ongoing monitoring and evaluation is essential to enhance understanding of the issues associated with graffiti management and to inform constructive policy review.
- Council graffiti management strategies must be effective and cost efficient, applying the best use of Council resources.

### 3. KEY POLICY STATEMENTS

#### 3.1. Removal

Clause 13 of the Maroondah City Council Local Law No. 5 (Public Safety and Amenity) stipulates the following:

##### *13. Graffiti*

*13.1. No person shall apply or spray illegal graffiti to any land, buildings, fences, walls, objects or the like.*

*13.2. The owner of any property on which there is any illegal graffiti, which is visible to the public, must remove or obliterate, or cause the removal or obliteration of, the graffiti promptly and keep the property free from graffiti at all times.*

*13.3. If the owner of the property cannot be found or identified, the occupier or mortgagee in possession of the property must comply with sub-clause 13.2.*

In addition to the provisions of clause 13 of Local Law No. 5, the following provisions will apply to the removal of illegal graffiti in the municipality:

- 3.1.1. Council owned property and buildings are to be free from illegal graffiti. Council will aim to remove all 'beat graffiti' and graffiti of an offensive, obscene or racist nature on Council property and buildings within two (2) working days of notification being received by the appropriate Council Officer (this excludes property and buildings that are covered by Part 3.1.3. of this Policy).
- 3.1.2. All other illegal graffiti, including tags, pieces and unauthorised commercial and political graffiti, on Council property and buildings will, where possible, be removed within seven (7) working days of the appropriate Council Officer receiving notification (this excludes property and buildings that are covered by Part 3.1.3. of this Policy).
- 3.1.3. Parts 3.1.1. and 3.1.2. of this Policy do not apply where a valid lease agreement for property and/or buildings owned by Council but leased to other organisations, individuals or entities specify that the lessee is responsible for removing illegal graffiti

<sup>5</sup> The Illegal Graffiti Policy 2006 Background/Research Paper provides further details of these initiatives.

<sup>6</sup> Council encourages individuals and organisations to consult with Council prior to commissioning community art on private property to ensure that it will not contravene the provisions of Council's Local Laws relating to graffiti.

from the property/buildings. In these cases, the property will be subject to the provisions specified in this Policy for 'private property and public assets'.

- 3.1.4. Where possible, within five (5) working days of Council being notified of the presence of illegal graffiti on public assets or private property, Council will report the illegal graffiti to the owner(s) of the identified assets/property.
- 3.1.5. Owners of public assets (including infrastructure) or private property<sup>7</sup> will be required to remove any illegal graffiti that is visible to the public from their asset/property within 14 working days of receiving notification from Council of the presence of the graffiti.
- 3.1.6. Council will continue to work with and offer advice and assistance (eg paint vouchers) to local business owners and private property owners to remove illegal graffiti within the required timeframe specified in this Policy.
- 3.1.7. The Corrections Victoria and Ringwood Magistrates Court Diversion Programs, in which offenders paint out graffiti, have been highly effective and, subject to periodic monitoring and review, Council will continue involvement in both of these programs.
- 3.1.8. Council will continue to encourage members of the community to report incidents of illegal graffiti in the municipality.

## **3.2. Enforcement**

- 3.2.1. Council will continue to work with Victoria Police to develop and review ways of identifying, apprehending and/or prosecuting graffiti offenders.
- 3.2.2. Council will support Victoria Police, as appropriate, in the planning, implementation and evaluation of surveillance or other measures to deter, identify, apprehend and/or prosecute graffiti offenders. Council will also support Victoria Police, as appropriate, in initiatives and programs aimed at reducing and preventing illegal graffiti in the local and regional areas.
- 3.2.3. As stated in Parts 3.1.4. and 3.1.5. of this Policy, Council will notify the property owner in writing of reported illegal graffiti on the property. The property owner will then have 14 working days to remove the graffiti. If the property owner fails to do so, then Council can<sup>8</sup>:
  - (a) issue a Notice to Comply under clause 14 of Local Law 4. Failure to comply with a Notice to Comply is a separate offence which can lead to a separate fine (\$200) or prosecution in addition to ongoing action in relation to the graffiti;
  - (b) issue a fine under clause 18 of Local Law 4 (\$200). Payment of the fine does not mean the graffiti does not have to be removed – it simply means the person fined has 'cured' the offence for which the fine was imposed. If the graffiti is not removed after the fine is paid, then a fresh offence is committed;
  - (c) prosecute the property owner in Court, which can lead to a conviction and fine of up to \$2,000<sup>9</sup>. The Court may also order that the court costs of the prosecution, which can be significant, be paid as well; or
  - (d) remove the graffiti, or have contractors remove it<sup>10</sup>, and then recover the costs of removal from the property owner under section 225 of the *Local Government Act 1989*.

<sup>7</sup> If the owner cannot be found or contacted, the occupier or mortgagee in possession of the property becomes responsible for removing the illegal graffiti. The term 'property owner' is used in this Policy as a generic term to mean all those who could be responsible for removing illegal graffiti.

<sup>8</sup> These are not mutually exclusive options meaning that a single instance of failure to comply with Council's graffiti Local Law, depending on the circumstances, could result in a fine, which could potentially lead to a prosecution and also result in Council removing the graffiti and recovering the costs from the property owner.

<sup>9</sup> As a breach of Council's Local Laws is a criminal matter, a conviction will result in the property owner incurring a criminal record.

<sup>10</sup> This will be in line with the relevant requirements specified in the *Graffiti Prevention Act 2007*.

- 3.2.4. Council's current enforcement policy is to work with property owners to ensure prompt removal of illegal graffiti, whilst still requiring compliance with Council's Local Laws. Council will consider the individual circumstances of each case, but as a general guideline, an ongoing failure to comply with a direction from Council to remove illegal graffiti will result in a Notice to Comply, followed by a fine and, eventually, a criminal prosecution.
- 3.2.5. It is not Council policy for Council itself to routinely paint out graffiti on private property. Council recognises its enforcement approach potentially criminalises those who are themselves victims of (illegal graffiti) crime. Council believes the approach outlined in this Policy optimises the reduction of illegal graffiti and that the elimination of illegal graffiti remains a shared responsibility involving both the community and Council. A paint out policy, as described above, would also incur significant costs and resource implications for Council and raises the issue of whether Council funds should be allocated to protecting private property in such a manner, particularly where the costs of recovering such funds often makes recovery impractical. However, the above is subject to Council's discretion.

### **3.3. Prevention**

- 3.3.1. Council will seek to encourage developers and builders to apply the principles of the Safer Design Guidelines for Victoria to the design of all buildings, streetscapes and public assets and infrastructure.
- 3.3.2. Council will consider the Safer Design Guidelines in urban design, including the design of Council buildings, facilities, streetscapes and public spaces.
- 3.3.3. Council will continue to provide advice to local residents and business owners about appropriate and effective environmental design, building design and anti-graffiti deterrents. These include anti-graffiti coatings, plantings, fencing material, lighting and means of enhancing informal surveillance.

### **3.4. Engagement**

- 3.4.1. Council will continue to support the involvement of all sectors and members of the community in the planning, production and maintenance of community art in the municipality.
- 3.4.2. Council will work with local traders, property owners, graffitiists and the broader section of the local community to identify appropriate and legitimate sites for the display of community art and will engage these stakeholders in discussions about suitable content and forms of public artwork.
- 3.4.3. Council will continue to actively engage the local community in activities that provide legitimate alternatives to illegal graffiti and that enhance social and/or economic potentials and social connectivity.

### **3.5. Education**

- 3.5.1. Council will actively promote the Maroondah Illegal Graffiti Policy and associated strategies to local residents, business owners, schools and institutions/agencies, and will provide regular feedback to the community about the effectiveness of implemented strategies in the management of illegal graffiti in the municipality.
- 3.5.2. Council will seek to promote understanding within the local community of graffiti removal and prevention strategies, the importance of promptly reporting incidents of illegal graffiti and graffiti activity, and ways of reporting illegal graffiti incidents.
- 3.5.3. In partnership with key stakeholders, such as educational institutions and the local media, Council aims to increase understanding in the broader community about the social and environmental impacts and economic costs of illegal graffiti. Council will

also support the promotion of the impacts of illegal graffiti on the community/individual to those that are responsible for illegal graffiti. This also includes the short, medium and long term impacts to the person or persons carrying out the illegal graffiti.

### **3.6. Monitoring**

- 3.6.1. Council will continue to work with key stakeholders (eg Victoria Police) and the community to identify graffiti hotspots for future targeted actions to reduce the incidence of site-specific illegal graffiti.
- 3.6.2. The reduction of illegal graffiti at certain sites is not necessarily indicative of a reduction of the overall problem as graffiti may merely be transferred to another location. Council will ensure the potential for problem transfer is taken into consideration in monitoring and evaluation methods.
- 3.6.3. Council will keep abreast of best practice models of graffiti management and research in the issue of illegal graffiti.
- 3.6.4. In reviewing the Illegal Graffiti Policy and associated programs and actions, Council will have regard to international, national, state and local best practice models; relevant federal and state legislation; local evidence and trends; and evaluations of the effectiveness of implemented strategies and programs. Council will also continue to seek input from the local community and key stakeholders for the purposes of policy review, development of strategies, and evaluation and monitoring methods.

### **3.7. Strategic Initiatives**

- 3.7.1. Council will ensure that it has an integrated and coordinated approach in the implementation of this Policy.
- 3.7.2. Council will participate in the establishment of a graffiti regional working group involving key stakeholders. The purpose of this group will be to both identify and implement appropriate strategic initiatives on the regional and local levels.
- 3.7.3. Council will coordinate local partnership and collaborative approaches, involving a broad and diverse range of key stakeholders, to enhance the integration of strategies to manage illegal graffiti in Maroondah.
- 3.7.4. Council will support and work in a coordinated way with appropriate existing and future local initiatives to reduce and prevent the occurrence of illegal graffiti in the municipality.
- 3.7.5. Council will consider opportunities to advocate for statewide mechanisms, strategies and legislation that support local level efforts to manage illegal graffiti.

## **4. DEVELOPMENT OF THE MAROONDAH ILLEGAL GRAFFITI POLICY 2006**

This Policy was developed through a triangulated approach involving:

- **Literature Review** – Points of relevance from existing research, theories and policies were drawn together to develop a comprehensive understanding of the social phenomenon of graffiti, potential strategies and their effectiveness, and the legislative and strategic context of illegal graffiti in Victoria.
- **Analysis of Local Data and Evidence** – Qualitative and quantitative data on the prevalence of illegal graffiti in the City of Maroondah and the efficacy of past and current initiatives in the municipality to manage the problem, together with analysis of articles and letters published in local newspapers, contributed to the development of a comprehensive understanding of the issue at the local level.

- **Reference to Key Council Documents** – Existing Council plans and policies provided a clearer understanding of the values, vision, strengths and issues of concern to the Maroondah community.
- **Cross-Council Steering Group** – A cross-Council steering group, comprised of Council officers from a breadth of departments, was convened to guide the development of this Policy and contribute ideas and information relevant to their fields of expertise.
- **Consultation with Key Stakeholders** – Council conducted a half-day consultation session with key stakeholders (Victoria Police, Trader Representatives, VicRoads, Connex and Crime Prevention Victoria) to discuss the issues associated with illegal graffiti in Maroondah, to identify past and current local initiatives, and to examine appropriate ways of managing the problem in the local area.
- **Public Consultation** – The draft version of this Policy was placed on public exhibition for a period of four weeks from 10<sup>th</sup> July 2006 to 11<sup>th</sup> August 2006 and community members were invited, through public notices placed in the local newspapers, to provide comment on the draft. These comments were incorporated in the final policy.

## 5. LINKAGES TO RELEVANT COUNCIL DOCUMENTS

The following key Council documents contain important associations to the Illegal Graffiti Policy and should be cross-referenced as appropriate.

- Maroondah 2025: A Community Planning Together
- Maroondah Council Plan
- Health, Safety & Wellbeing Plan
- Maroondah Municipal Strategic Statement
- Maroondah Planning Scheme (specifically Clause 52.05 in the Particular Provisions)
- Maroondah City Council Local Laws

## 6. REVIEW OF POLICY

This Policy will be reviewed and evaluated every four years and within 6 months of any significant legislative change.

The Community Planning and Development Unit is responsible for the review and coordination of the Maroondah Illegal Graffiti Policy. The implementation of particular aspects of the Policy is the responsibility of the relevant department in Council.

<b>Policy Endorsed</b>	4 September 2006
<b>Policy Reviewed</b>	11 August 2008
<b>Policy to Be Reviewed</b>	August 2012

## 7. DEFINITION OF TERMS

<b>Beat Graffiti</b>	Graffiti of a soliciting nature in 'beats' (public places, often toilets or parklands, where men may gather to meet others for social or sexual reasons)
<b>Community Art</b>	Artwork that may incorporate or consist wholly of styles and methods used in illegal graffiti, but that usually involves community groups, individuals and/or local artists in its development and creation. Community art enhances the visual amenity of the area and is legal in that it has the prior explicit consent of the property owner, is not offensive to the community and does not detract from the amenity of the area. Such artwork may include graffiti-style artwork created with spray paints but must not be obscene, racist, offensive, inspire hatred or be inappropriate.
<b>Graffiti Hotspots</b>	Locations or sites with particularly high concentrations of illegal graffiti and which are frequently targeted by illegal graffitiists
<b>Illegal Graffiti</b>	Defacement by writing, spraying, scratching or other form of defacement to property (including buildings, infrastructure, fencing or other assets), either without the prior consent of the property owner, or with the consent of the property owner but of an offensive, obscene or racist nature as determined by Council. Illegal graffiti includes all tags.
<b>Owner</b>	<p>In this Policy, refers to the owner of a public asset/infrastructure or private property.</p> <ul style="list-style-type: none"><li>▪ In the case of private property, this term applies to the occupier or mortgagee in possession of the property where the owner of the property cannot be found or contacted.</li><li>▪ In the case of public assets/infrastructure, this term includes Council, utility companies and public services companies such as VicRoads and Connex Melbourne.</li><li>▪ In the case of Council owned buildings and property that are leased to other organisations, individuals or entities, this term refers to the lessee of the property/buildings where the valid lease agreement explicitly states that the lessee is responsible for the removal of graffiti from the buildings/property.</li></ul>
<b>Piece</b>	Short for 'masterpiece' or often referred to as 'murals'. This term refers to a painting that is usually a highly stylised and colourful version of a tag or crew name.
<b>Public Assets/ Infrastructure</b>	Includes public roads, buildings, footpaths, street furniture, artwork, bridges, pedestrian underpasses and overpasses, bus shelters, parks and gardens, noise walls, drains and culverts and any other structure in place for public benefit or use.
<b>Tag</b>	Words or numbers, usually a writer's signature, written in marker or spray paint and often of a condensed calligraphic form