

**THE CITY OF CASEY INTRODUCES
THE FIRST GRAFFITI LOCAL LAW IN AUSTRALIA**

Wayne Smith, Deputy Mayor
and
Ken Lee, Community Safety Special Projects Officer
City of Casey

*Paper presented at the
Graffiti and Disorder Conference
convened by the Australian Institute of Criminology
in conjunction with the Australian Local Government Association
and held in Brisbane, 18-19 August 2003*

Abstract

The cost of graffiti to the Australian community is estimated at \$200 million per annum. However, taking into account impacts on the environment and social factors such as perceptions of community safety, community image and civic pride, the cost is clearly much greater.

Like most local government areas, the issue of graffiti is continually raised by the City of Casey community. In response to these concerns, the City of Casey has initiated a comprehensive Graffiti Management Program to eradicate graffiti from the municipality on public, private, commercial and industrial property and to minimise recurrence through innovative education activities and enforcement.

In the absence of any state legislation, the City of Casey recently took the unprecedented step of making a local law in relation to graffiti. This law is expected to help the City of Casey and Police bring vandals to account and creates offences in regard to graffiti and the sale, storage and possession of aerosol spray paints.

This local law, which became effective on 1 March 2003, is the first of its kind in Australia and extends Casey's successful approach to its graffiti management program.

City of Casey: Context

The City of Casey is located approximately 35kms south-east of Melbourne and is Victoria's fastest-growing municipality and third fastest in Australia, behind Brisbane and Gold Coast City Councils. Casey is currently experiencing unprecedented growth with up to 80 families moving in every week - that's two homes completed for every hour of the working week!

Some facts and figures:

- Population is approximately 204,000.
- Expected future population is 320,000, making it as big as Canberra is today.
- Approximately 3,000 people a quarter move into Casey.
- Approximately 40,000 young people aged 10-14 years live in Casey

Graffiti Audit

An audit of graffiti in the City of Casey carried out in 2002 revealed approximately 57,500 square metres of existing graffiti. Almost half of this total was on Council or Council shared assets like fences with the remainder on residential, commercial and industrial property.

Introduction of a New Integrated Management Program

Following a review of its existing graffiti program, Council implemented a new graffiti management program. This program features three components: Eradication, Education and Enforcement and was introduced in 2002.

Expenditure for the entire program in 2002/2003 was \$460,000 and for the current year 2003/2004 \$360,000 has been allocated.

The Eradication program provides for removal on Council assets, residential, commercial and industrial properties at no direct cost to the property owner where the graffiti can be viewed from a Council or Public Authority Road or Highway and is within 50 metres of that road.

The ongoing Education program focuses on school years five and eight and was delivered to 64 schools and in excess of 5,500 students participated in the program. The education program focused on highlighting the health and social impact of graffiti on individuals and the community. Educational resources were supplied to all participants.

The Enforcement program focuses on the implementation of a new Local Law as well as the maintenance of a digital image database of all tags including location and cost of removal and works in partnerships with Council Local Law officers, Victoria Police and Transit Police.

The Process for Making the Local Law

In 2002, following advice from its lawyers, the City of Casey sought to introduce a Local Law specifically aimed at reducing and preventing graffiti and preserving the visual amenity of the municipal district.

The Council had previously advocated the Federal and State governments to create legislation of the same type as the Local Law to have State or Australia wide implications.

In August 2002, in accordance with the provisions of the Local Government Act 1989, Council advertised its intention via public notice and Government Gazette, to make the Graffiti Local Law and invited written submissions. Council also wrote to the 56 retail outlets which had been identified as likely to be affected by the proposed legislation.

A total of 10 written submissions were received. Eight submissions were received opposing the making of the law, in particular, the section relating to the restriction on public access to aerosol spray containers. Six of these submissions were from aerosol spray paint manufacturers and the remaining two were from automotive dealers. The remaining two submissions in support of the making of the Local Law were from local residents.

Adoption of the Local Law

At the City of Casey Council Meeting on 17 December 2002, Council resolved by unanimous vote:

1. *“That the City of Casey in accordance with Part 5 of the Local Government Act 1989 having considered all submissions received from persons who may be affected by the making of Casey Community Graffiti Prevention and Control of Aerosol Spray Paint Local Law Number Three makes the Local Law known as the Casey Community Graffiti Prevention and Control of Aerosol Spray Paint Local Law Number Three and that the Local Law will come into operation at the beginning of the day of 1 March 2003.*
- 2 *That the City of Casey reasons that the instances of aerosol spray paint graffiti will be reduced by the introduction of this Local Law.*
- 3 *That the Chief Executive Officer be authorised to:*
 - (a) *Give notice of the making of the Local Law in the Victoria Government Gazette, and*
 - (b) *Give public notice of the making of the Local Law.*
 - (c) *Send a copy of the Local Law to the Minister for Local Government.*
- 4 *That Council notify in writing all persons having made written submissions to Council in relation to the proposed Local Law of Council’s decision and the reasons for the decision.”*

Aspects of the Local Law

The purpose of the Local Law is stated as follows:

- (a) Preserving the visual amenity of the municipal district;
- (b) Protecting against behaviour which causes detriment to the amenity and environment of the municipal district;
- (c) Controlling activities which may interfere with the comfort and enjoyment of other persons;
- (d) Controlling damaged property caused by the application of graffiti;
- (e) Protecting Council, community and other assets;
- (f) Controlling the sale and transfer of aerosol spray paint containers;
- (g) Providing for the peace, good order and good government of the municipal district.

The main provisions of the local law:

The main offences relate to:

- Defacing Property;
- Possession of aerosol spray containers;
- Prohibiting sale and supply to persons under 18; and
- Restricting public access to aerosol spray paint containers.

The Law also provides for:

- (a) The issue of Notices to Comply;
- (b) Specifies penalties for non compliance;
- (c) The issue of infringement notices; and
- (d) Impounding property used or possessed in breach of the Local Law.

Compliance Issues for Aerosol Spray Paint Suppliers

The Local Law requires persons who operate a business from which aerosol spray paint containers are sold, supplied or stored, to comply with two provisions:

- Not to sell or supply the product to persons under 18;
- Not to store or display the product in an area accessible to the public.

It is Council's policy to work with retailers to support the new Local Law by voluntary compliance rather than confrontation and prosecution. In support of this policy, the City of Casey appointed a liaison officer to visit retailers and discuss the requirements of the Local Law and compliance options.

In most cases, the retail outlets already had in place a company policy of refusing to sell aerosol spray paints to persons under 18 years.

The new Local Law formalised this arrangement and meant that retailers now have an absolute duty to ensure that the products are not supplied to persons under 18, and that, where necessary, they should ask for proof of age.

An information pack, including notices and brochures was distributed to all known aerosol spray paint retailers in February 2003. Many retailers welcomed these notices as they formalised their existing policy of not selling the product to persons under 18. Many of the retailers commented that they felt the notices made it easier for their staff to refuse a sale, by referring to the notice which highlighted that it was against to law to sell the products to them.

From the 1 March, 2003, the City of Casey took an uncompromising stand on anyone who sold or supplied aerosol spray paint to persons under 18. Whilst to date there has been no reported offences, Council policy is to investigate and where appropriate, prosecute every incident of this nature.

The storage and display of aerosol spray paint containers in an area which is not accessible to the public proved to be an issue that some retailers needed help and guidance with.

Council recognised that this was new legislation and that retailers may require time to work through the logistics of complying with the new restrictions. Council worked closely with retailers on this issue, to ensure a timely and appropriate outcome in compliance with the provisions of the Local Law.

To date, over 74 retail outlets have been visited as part of the education and compliance program. The three most popular methods of securing aerosol spray containers are:

- Behind locked cages or display cabinets;
- Behind the Point of Sale;
- Empty aerosol cans on the display shelves.

Enforcement - Notices to Comply/Directions

An authorised officer, which includes Council's Community Protection Officers, may serve a Notice to Comply on any person who breaches this Local Law instructing them to remedy a situation. In the event that a notice to comply is not complied with an authorised officer may undertake any works required to be carried out to ensure compliance and recover costs.

A person must remedy any breach of this Local Law in accordance with any requirements of a Notice to Comply.

Notices to Comply were served on two retail outlets that, despite council's best efforts, refused to voluntarily restrict public access to their display of aerosol spray paints.

These notices, which were issued and served in accordance with legal advice, required the person named therein 'To remedy the breach within seven days from the date of the notice'.

Persons who fail to comply with the notice before the due date:

- Will be guilty of an offence and liable to a penalty of \$2,000; and/or
- If there is a continuing breach, the penalty shall be \$500 for each day on which the breach continues; and/or
- Any items possessed in contravention of the Local Law may be seized and impounded; and/or
- An authorised officer may undertake any works required to be carried out to ensure compliance and recover any costs incurred; and/or
- Prosecution may be undertaken against the person who the notice has been served upon.

As an alternative to prosecution an authorised officer may serve an infringement notice.

- The penalty for infringement notices is five penalty units;
- Payments for infringement notices are to be paid to Council in a manner prescribed on the notice;
- Should an infringement notice not be paid within 28 days of the notice being issued, the notice may be withdrawn and the matter prosecuted in court

In the case of the two retail outlets who were issued with Notices to Comply, both of these premises subsequently implemented the provisions of the local law and avoided the prospect a criminal prosecution, fine and impounding of their goods.

Results of the Retail Compliance Program

Following Council’s retail education and compliance initiative the following results have been achieved:

Retail Voluntary Compliance	97%
Retail Non Voluntary Compliance	3%
Notices to Comply Issued	2
Result 100% retail compliance	No prosecutions

Results of the City of Casey Graffiti Management Program

This chart shows the amount of Graffiti removed during the first year of the program.

In total almost 49,000 square metres have been removed.

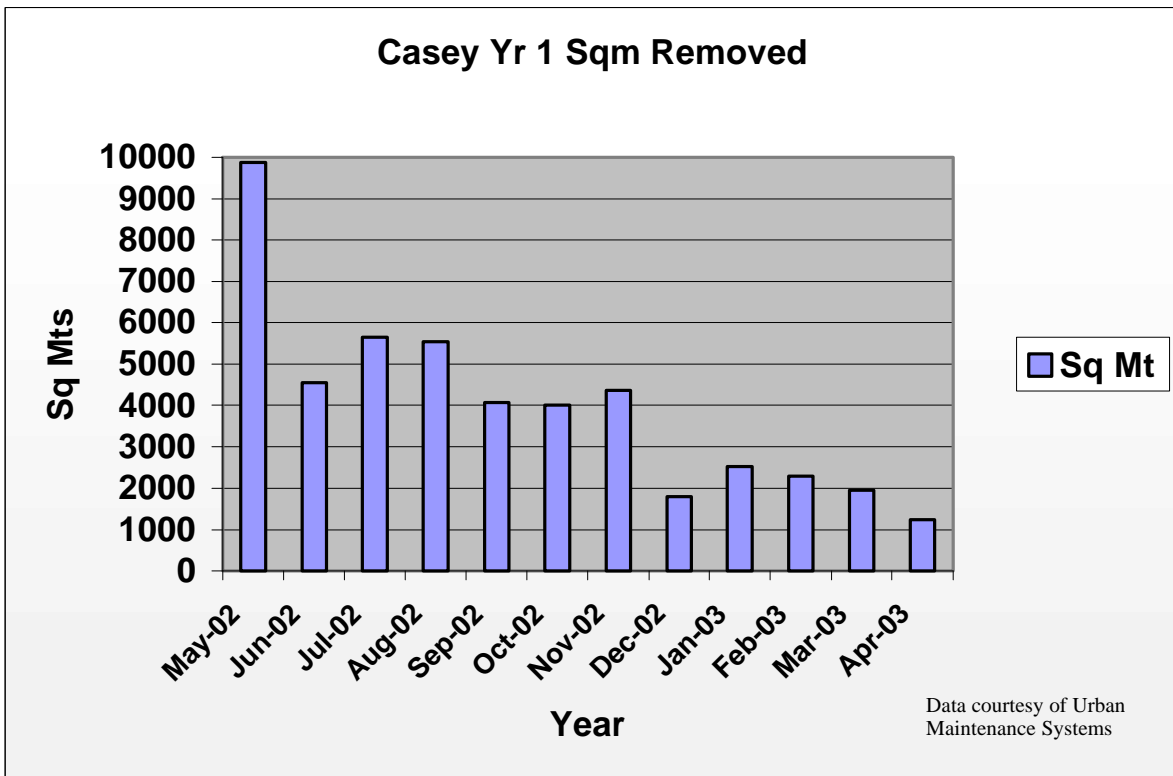


Figure 1: Trend Graph Year 1

This chart shows the predicted removal of graffiti during the second year of the program.

It includes any remaining ‘pockets’ of graffiti from the original audit, together for predictions of future graffiti.

Note, actual figures are shown for May and June.

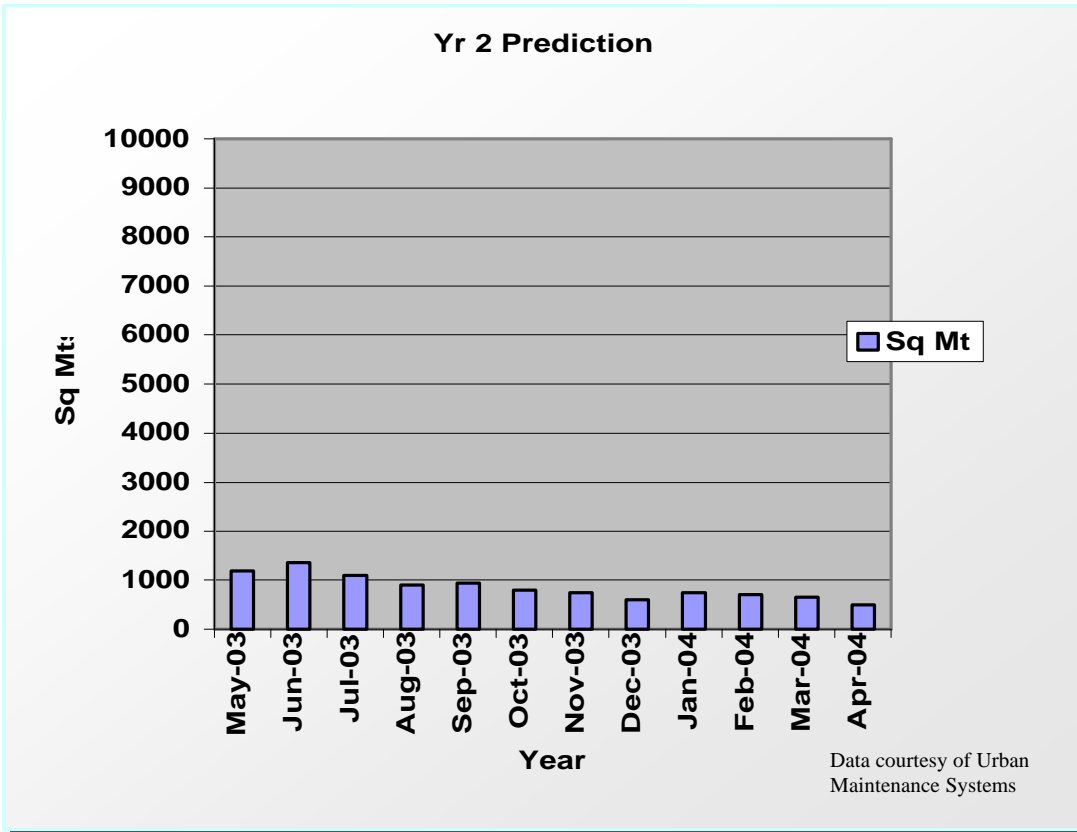


Figure 2: Prediction Graph Year 2

The Way Forward

The results of the Victorian Local Government Annual Customer Satisfaction Survey 2003 revealed City of Casey’s most significant improvement from last year was “*Appearance of Public Areas*”.

Chief Executive Officer, Mike Tyler said “This is another extremely pleasing result which I am sure has been positively influenced by the introduction of Casey’s Graffiti Management Program.”

For more information on the City of Casey Graffiti Management Program or copies of the Graffiti Local Law, please visit the City of Casey website: www.casey.vic.gov.au or contact: the City of Casey on (03) 9705 5200.