

**REPORT 7**  
 (1215/52/IM)

**SUBMISSION TO SUMMARY OFFENCES (TAGGING  
 AND GRAFFITI VANDALISM) AMENDMENT BILL 2008**

**1. Purpose of Report**

To seek the Committee’s agreement to the attached submission on the Summary Offences (Tagging and Graffiti Vandalism) Amendment Bill 2008 (the Bill).

**2. Executive Summary**

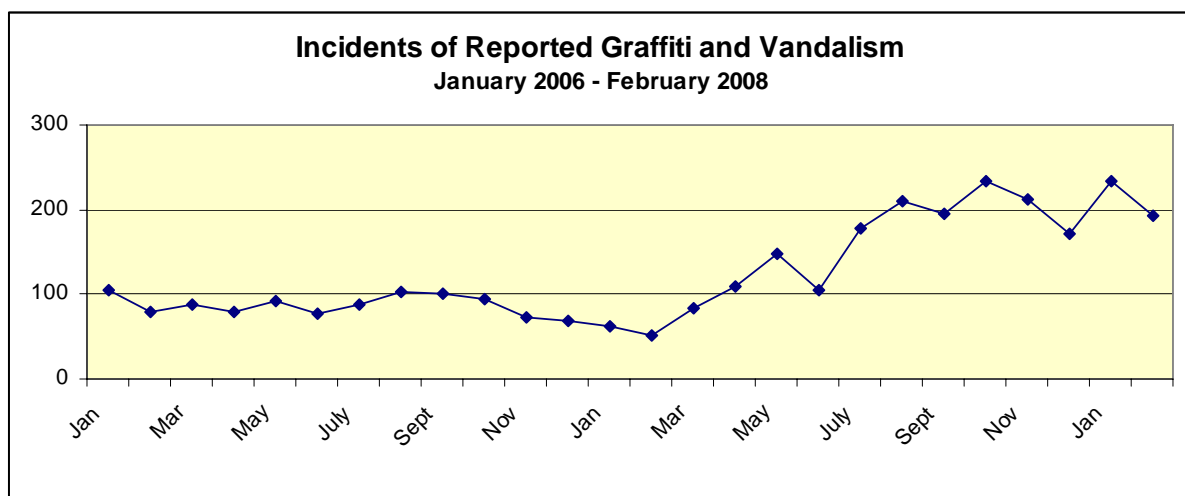
A submission on the Summary Offences (Tagging and Graffiti Vandalism) Amendment Bill 2008 (the Bill) has been prepared for the Committee’s consideration.

Tagging and graffiti vandalism is of concern because of the impacts on residents and communities including:

- feeling unsafe
- the inconvenience and costs of repairing graffiti damage
- degradation of the positive sense of place generally held by Wellingtonians.

Table 1 shows the number of calls to the Council about tagging and graffiti vandalism has risen by 68% (1048 to 1760) from 2006 to 2007.

*Table 1*



Wellington City Council strongly supports the Government taking a stand on what has become a significant social issue for Wellington residents and the rest of New Zealand.

The Council considers it appropriate that the Government supports the Police and local government in addressing the issue but is concerned that sufficient resourcing must be made available to improve the situation.

The Council considers that the current proposals fall short of providing a comprehensive solution and the proposed measures are not strong enough.

### **3. Recommendations**

It is recommended that the Committee:

1. *Receive the information.*
2. *Note that submissions on the Summary Offences (Tagging and Graffiti Vandalism) Amendment Bill 2008 close on 11 March 2008.*
3. *Agree that the submission on the above Bill, attached at Appendix 1, be forwarded to the Law and Order Select Committee.*
4. *Delegate to the Chief Executive and the Social Portfolio Leader the authority to make any amendments required as a result of Strategy and Policy Committee discussions.*

### **4. Background**

Graffiti vandalism is a serious problem that negatively affects the entire community. It has a considerable economic and social impact on our public spaces. Research suggests that graffiti vandalism can create the perception that 'tagged' areas are unsafe, and can contribute to the deterioration of the quality of life in certain neighbourhoods<sup>1</sup>.

For the purposes of this report *graffiti vandalism* is taken to include illegal graffiti art, tagging and defacing (for example, scratching markings into windows).

#### **4.1 Graffiti in Wellington**

In Wellington, graffiti vandalism has been an identified concern for some time.

The data in Appendix 2, shows:

- no consistent pattern in reporting regarding graffiti vandalism from month to month

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<sup>1</sup> Mark Halsey, 'The Meaning of Graffiti and Municipal Administration', in *The Australian and New Zealand Journal of Criminology*, Volume 3, Number 2, 2002, pp165-186.

- a sharp rise in the monthly totals for the second half of 2007
- an overall increase of 68% (1048 to 1760) in total enquiries from 2006 to 2007<sup>2</sup>
- continued high levels for January and February, 2008
- bus stop shelters and Council street furniture are particularly popular targets for graffiti vandalism. (Council street furniture includes assets, such as seats, litter bins, cycle racks, non-Adshell bus shelters, poles (not street lighting), meter heads, bollards, traffic and pedestrian signal poles, and concrete walls.)

The Council established a *graffiti flying squad* in the 2007/08 Annual Plan to provide a graffiti removal service and education on how to discourage, report and remove graffiti. The service focuses primarily on protecting Council assets and is led by CitiOperations with delivery undertaken by the Graffiti Flying Squad, Parks and Gardens, Facilities Maintenance and the Excell central city cleaning service. The service level response standard for this is 24-hours. Some assistance is also available for cleaning up damage to private property in highly visible public places.

The Council currently commits an estimated \$600,000 annually to the management of graffiti vandalism to Council assets. Of this, \$250,000 is dedicated to funding the graffiti flying squad.

#### **4.2 Community Art**

Wellington City Council encourages engagement with local communities to develop ideas for improving public space to enhance their community. Community art can be a positive creative outlet and assist residents in developing a sense of ownership and pride and can discourage graffiti.

The graffiti flying squad also engages with local artists and community groups to develop murals, as a method of reducing the amount of illegal tagging and graffiti on private property and public spaces.

#### **4.3 Summary Offences (Tagging and Graffiti Vandalism) Amendment Bill 2008**

The aim of the Bill is to amend the Summary Offences Act 1981 in order to reduce vandalism and tagging through four measures.

##### **4.3.1 New offence of graffiti vandalism**

The Bill creates a new criminal offence, that of "graffiti vandalism, tagging, defacing etc". This applies to any writing, drawing, painting, spraying, or etching or otherwise marking any 'building, structure, road, tree, property, or thing' without lawful authority; and consent of the occupier or owner or other person in lawful control.

Offenders are liable to a community-based sentence and / or a fine not exceeding \$2,000.

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<sup>2</sup> The increase could be attributed to the establishment of the Flying Squad during this period.

#### **4.3.2 Sale of spraycans to people under 18 prohibited**

The Bill creates a new offence, that of selling a (paint) "spraycan" to a person under the age of 18 years of age.

Defence from prosecution is allowed for educators and education institutions where the spraycan is required for approved project work, and for salespeople where an "evidence of age document" is presented, and believed on reasonable grounds to be true.

Offenders can be fined up to \$1,500.

#### **4.3.3 Certain spraycans to be secured in shops**

The Bill requires that spraycans must be kept securely so that members of the public cannot gain access to them without the help of an employee.

Offenders can be fined up to \$1,500.

#### **4.3.4 Changes to sentencing options**

The Bill gives judges the option of giving a community-based sentence to provide an opportunity for offenders to "right their wrong" and clean graffiti vandalism and tagging from their local community. Charging offenders under this new offence also means that judges do not have a prison sentence option as was the case when charged with 'Wilful Damage' under the Summary Offences Act 1981.

## **5. Discussion**

Graffiti vandalism is a growing social issue in Wellington City and requires significant ongoing funding to manage.

The draft submission, attached as Appendix 1, strongly supports the intent of the Bill and the Government taking a stand on the issue of graffiti vandalism. The draft submission raises a number of key points for consideration:

- The approaches taken should be evidence based so that there is confidence that they will have the desired impact and address the underlying causes of the behaviours. Alternative or additional measures to those proposed, may also be identified.
- Adequate resourcing must be provided to improve the situation. Clarity is needed regarding where resourcing and delivery responsibilities lie for implementation.
- The potential for older people to supply products to potential offenders under the age of 18 needs to be addressed.
- Unintended adverse impacts of restricting supply, such as the economic impacts on retailers, should be considered.

- New legislation should provide guidance for managing offenders charged with multiple offences and for responding to recidivist offenders, especially those over 18 years of age.
- The response timeframe for submissions is very short. An extended period for consultation would enable a broader range of options to be considered.

## **6. Conclusion**

A submission on the Law and Order Select Committee on the Summary Offences (Tagging and Graffiti Vandalism) Amendment Bill 2008 (the Bill) has been prepared for the Committees approval.

*Contact Officers: Ken Bowater, Senior Policy Advisor  
Wayne Murphy, Senior Policy Advisor*

## **Supporting Information**

**1) Strategic Fit / Strategic Outcome**

*The submission supports Council's cultural priorities for offering a safe living environment.*

**2) LTCCP/Annual Plan reference and long term financial impact**

*The Bill does not have a financial impact on the Council. If successful, graffiti counter-measures could be reduced, resulting in savings to Council.*

**3) Treaty of Waitangi considerations**

*This report has no Treaty implications.*

**4) Decision-Making**

*This is not a significant decision.*

**5) Consultation**

**a) General Consultation**

*Council is not required under legislation to consult on this matter. The attached submission does reflect residents' concerns as expressed through the Residents Satisfaction Survey and requests for help with tagging and graffiti made through the Contact Centre.*

**b) Consultation with Maori**

*No targeted consultation has been undertaken for this report.*

**6) Legal Implications**

*No legal advice has been received for this report.*

**7) Consistency with existing policy**

*The recommends in the attached submission are consistent with Council policies for the management of graffiti vandalism, and for the support of community art.*

## **Appendix 1: Draft submission**

File ref:

11 March 2008

Clerk of the Committee  
Law and Order Committee  
Select Committee Office  
Parliament Buildings  
WELLINGTON

### **Submission To Summary Offences (Tagging And Graffiti Vandalism) Amendment Bill 2008**

This submission is from the Wellington City Council.

#### **Introduction**

Tagging and Graffiti Vandalism is of concern because of the impacts on residents and communities including:

- feeling unsafe
- the inconvenience and cost of removing graffiti
- degradation of the positive sense of place generally held by Wellingtonians.

The number of calls to the Council about graffiti vandalism has risen dramatically by 68% from 2006 to 2007.

#### **General view**

Wellington City Council supports moves that will improve Wellington residents' quality of life and reduce the cost of maintenance and cleaning for residents and the Council.

Wellington City Council strongly supports the Government taking a stand on what has become a significant social issue for Wellington residents and the rest of New Zealand. The Council considers it appropriate that Government provides support to the Police and local government to address the issue and ensure that sufficient resources are provided for effective countermeasures.

The Council considers that the current proposals fall short of providing a comprehensive solution and the proposed measures are not strong enough.

**The Council is concerned that the Bill is being progressed at a pace which precludes sufficient time for research or consultation.**

## Specific comments

### **New offence of graffiti vandalism**

Addressing low-level crime has been shown to reduce the incidence of more serious crime. For instance, active community policing to target 'disorder' has been shown to reduce more serious violent offending.

Acts of tagging and graffiti vandalism are currently treated as relatively low-level offences against the wilful damage provisions in the Summary Offences Act 1981, so, creating a new offence is unnecessary. Wellington City Council believes increasing enforcement effort is likely to be more beneficial than creating a new offence.

The Council would have been interested to see the broader consideration of other methods to meet the challenge of tagging and graffiti vandalism. For example, targeting street tidiness and cleaning has been shown to reduce the incidence of vandalism. There may also be potential to leverage off a strong hiphop culture, for example, where participants are more likely to take pride in art that they have created in controlled areas.

The Council sees the proposed approach as being focussed on the results of a deep-seated socio-cultural problem rather than the causes. The Council would also be interested in information about approaches that target:

- the behaviour of particular age groups, such as young children who draw on walls at home
- the needs of particular communities
- recidivist offending.

### ***Recommendations***

The development of new legislation should;

- allow an adequate consultation period for consideration
- consider a broader range of options to address the underlying causes of the behaviour
- provide guidance for managing offenders charged with multiple offences and for responding to recidivist offenders.
- demonstrate how the proposed approach will have the desired effect

### **Sale of spraycans to people under 18 prohibited**

The use of fake identity cards, particularly student identity cards, is a current issue for staff in some bars in Wellington. The Council considers it important that the Committee considers what can be done to manage the potential risk to salespeople from the use of fake evidence of age documents. A register of purchasers would be one possible approach but this would take significant time for each shop to maintain.

Further, given that salespeople may be relatively young, the Council is concerned about the potential for intimidation of shop assistants.

Wellington City Council has recently tried an approach, adapted from experience in Brisbane, which focuses on 'Sensible Selling'; providing education for sales people to assist them in declining to sell under pressure.

A loop-hole appears to exist where a legitimate purchase is made for the purpose of on-selling or gifting to a person under 18 years of age. Also, mail order and online purchasing appears to have not been considered.

### ***Recommendations***

The development of new legislation should

- Give further consideration to what supports may be required to ensure the safety and protection of salespeople.
- Amend the wording to include 'for the purpose of supplying to a person under 18 years'.

### **Certain spraycans to be secured in shops**

Such sales control is likely to be relatively easy for big outlets, but difficult for smaller stores where the impact of additional compliance costs for staffing, training and storage facilities may be significantly higher. This may result in some outlets ceasing to sell the controlled products. The proposals also fail to restrict the use of other 'tools of the trade', such as felt pens. It would be of interest to know whether the banning of spray cans was considered.

### ***Recommendation***

The development of new legislation should consider the potential for adverse effects of supply restrictions.

### **Changes to sentencing options**

Wellington City Council would be interested to see evidence of a necessary causal link between community service and an offender's future behaviour.

Most tagging and graffiti vandalism offenders are under 18 years old and are diverted to the Youth Court where judges already have community service as a sentencing option. This calls into question the need for the proposed new offence.

The Council considers a maximum penalty of \$2,000 and / or a period of community service, without an option of imprisonment, to be appropriate to the

level of offence. However, the Council considers that as offenders are often unable to pay even small fines, they won't be able to pay a \$2,000 fine.

The Council would like legislation to provide clear guidance for judges for appropriate penalties for multiple offences and for recidivist offenders, especially those over 18 years of age.

The Council considers it important that it is made clear where responsibilities lie for enforcement. The Council is not in the business of being an enforcement agency, nor is it a provider of community-service sentences. The Council's 'graffiti flying squad' is not trained or resourced to supervise the 'community service' work of offenders.

If graffiti vandalism is an indicator of long-term offending, as has been reported, then processes for the collection and storage of evidence should be established to support the long-term management of offender behaviour.

Section 14 of the Summary Offences Act 1981, relating to the possession of tools for committing burglary, seems an inappropriate location for the insertion of the proposed section 14(A) which relates to spraycans.

### ***Recommendations***

The development of new legislation should

- Provide guidance for managing offenders charged with multiple offences and for responding to recidivist offenders, especially those over 18 years of age.
- Locate or undertake research to demonstrate that the proposed approach will actually have the desired impact, and to identify alternative or additional measures to those proposed that can be taken.
- Make it clear where resourcing and delivery responsibilities lie for implementation.
- Provide guidance for the establishment of processes for the collection and storage of evidence.
- Create a new section for the clause that was to be section 14(A) relating to spraycans.

### **Conclusion**

Wellington City Council agrees that tagging and graffiti vandalism is an issue needing to be addressed. The expected impact of the proposed changes to the Summary Offences Act should be assessed along with other methods to discourage tagging and graffiti vandalism. The Council has raised a number of points for consideration by the Committee.

Yours sincerely

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**Mayor**

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