



Griffith Journal  
of Law & Human Dignity

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# GRIFFITH JOURNAL OF LAW & HUMAN DIGNITY

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# THE WRITING IS ON THE WALL: AN ASSET-BASED APPROACH TO STREET ART

JARROD LINKSTON WHEATLEY \*

*This paper is written from the perspective of Street Art Murals Australia ('SAMA'), a social enterprise which takes an asset-based and community development approach to street art. SAMA fosters a creative outlet for youth and encourages community involvement through the development of legal avenues of street art. SAMA also recognises the importance of a vibrant street art culture to a more inclusive society, urban renewal and beautification, and creative economies. The current legal and regulatory measures concerning street art, taken by local and state governments in Australia, could be replaced with an approach which recognises the benefits of a self-regulating street art culture and community public art intervention. Society has much to gain by placing street art in the public art domain rather than relying purely on punitive measures. Young street artists deserve to be able to express their artistic and creative freedom in public spaces.*

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## I INTRODUCTION: WHAT IS SAMA?

Street Art Murals Australia ('SAMA') is a social enterprise. We act as a link between talented street artists and the wider community, with the broad aim of building a more inclusive society. SAMA offers three services: murals, education programs, and graffiti management consultancy. We believe in the legitimacy of street art, and see it as benefiting the whole community. SAMA has grown out of *Blue Mountains Street Art Collaborative*, working with young people in the Blue Mountains of New South Wales. Through the development of legal avenues for aerosol art, SAMA validates the place of young people in our society, increases professional work opportunities for street artists, and breaks down barriers between often marginalised young people and the dominant community.

## II THE LEGAL CONTEXT IN WHICH SAMA OPERATES

Creating legally sound street art in Australia is generally difficult. A complex maze of laws and regulations make legal public aerosol art almost completely inaccessible to young people. Imagine for a moment you are a talented 17 year old street artist living in New South Wales and you want to paint legally. The first issues you are likely to encounter are around the purchase and transportation of aerosol cans. Under section 8 of the *Graffiti Control Act 2008* (NSW), it is illegal for people to sell you cans unless they believe, on reasonable grounds, that you have a defined lawful purpose to use them. Similarly, you cannot have them in your possession on public land unless you have a lawful purpose. The burden of proof for the latter lies with you, making any activity not organised by an adult exceedingly difficult. If you manage to convince a local business

owner or resident to consent to having their wall painted, which is no small task, it is highly likely that the artwork also needs to be approved by local council if it is visible from public land. This usually means submitting a Development Application, which entails a considerable amount of waiting time, money and ability to understand how to document and fulfil the legal requirements. This step often proves too difficult for emerging and established aerosol artists alike.

Given the lack of legal opportunities, choosing to paint illegally can have very severe consequences. In New South Wales ('NSW') if a young person is caught painting or possessing a graffiti implement, they are sent directly to the court system. Under the *Graffiti Control Act 2008* (NSW) police no longer have the option of issuing a warning, caution or youth conference as they previously could under the *Young Offenders Act 1997* (NSW). The court can hand down punishments including fines, community service orders, driving license orders and incarceration.<sup>1</sup>

This narrative serves as an example of how our society responds to graffiti and street art. The juxtaposition between our response to young people painting illegally, and our response to youth physical violence (which is still dealt with under the *Young Offenders Act 1997* (NSW)) is culturally illuminating. Graffiti, as a visible property crime, is dealt with in a disproportionately severe manner.

What is the result of this draconian approach to graffiti and street art? It costs taxpayers vast amounts of money. It has been estimated that graffiti costs the NSW Government 100 million dollars a year.<sup>2</sup> Taxpayers would be right to ask what the return on this annual investment has been. Firstly, the harsh legal response increases the criminalisation and marginalisation of young people. Secondly, the 'long and futile war on graffiti' has not been won.<sup>3</sup> While there has been a slight decline in incidents reported

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<sup>1</sup> New South Wales Government - Justice, *Graffiti and the Law* (9 January 2015) <[http://www.crimeprevention.nsw.gov.au/Pages/cpd/protectcommunity/graffitivandalism/the\\_laws\\_relatating\\_to\\_graffiti.aspx](http://www.crimeprevention.nsw.gov.au/Pages/cpd/protectcommunity/graffitivandalism/the_laws_relatating_to_graffiti.aspx)>.

<sup>2</sup> Rachel Callinan, 'Dealing with Graffiti in New South Wales' (Briefing Paper No 8/02, Parliamentary Library, Parliament of New South Wales, 2002) 9.

<sup>3</sup> Kurt Iveson, 'War is Over (If You Want It): Rethinking the Graffiti Problem' (2009) 46(4) *Australian Planner* 24.

to the police,<sup>4</sup> it can be argued that fewer reports to police may only indicate more community acceptance of graffiti rather than a meaningful reduction in quantity.

Finally, this approach reduces the quality of the graffiti and street art we see. Due to surveillance, artists may not have the time to create complex pieces of art. Nor do they have the incentive, as they know it is likely to be quickly removed regardless of its quality. Artists continue to paint, but with more simple “tags” and “throw-ups”, resulting in less complex art for young graffiti artists to aspire to.<sup>5</sup> This peer motivation amongst artists should not be underestimated as it is a powerful force dictating the quality of the art we see in public spaces. Zero tolerance policies have a great influence on the quality of the street art, not the quantity. The current approach is financially and culturally costly.

It is in this context that SAMA provides the legal infrastructure to allow emerging and established artists to paint legally. We support the artists with our Copyright Agreement, Public Liability Insurance, Can Control Policy, as well as negotiating consent, processing payments, and development applications to make sure the process is legally sound.

### III CHANGING COMMUNITY PERCEPTIONS AND BREAKING DOWN BARRIERS

People often fear what they do not understand. This is also true with graffiti and street artists. However, it is SAMA’s experience that with education and personal contact, the community as a whole supports creating legal avenues for aerosol art. This has taken place during every mural or education program SAMA has conducted.

This happens for a number of reasons. Firstly, the issue is humanised — the business owner or resident meets active aerosol artists. The subject now has a “face” for them, and as a result unfounded assumptions are often dispelled. Secondly, they see the skill involved in painting and are generally amazed. Thirdly, they see value in the product which has been created. This may be on aesthetic grounds or for financial reasons, such as improved business image or graffiti management benefits. Ultimately, coming into

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<sup>4</sup> Between 2009 and 2013, reports to NSW Police of malicious damage to property fell by 7per cent; Derek Goh and Jessie Holmes, *New South Wales Recorded Crime Statistics 2013 (2014)* NSW Bureau of Crime Statistics and Research <<http://www.bocsar.nsw.gov.au/Documents/rcs2013.pdf>> 14.

<sup>5</sup> Iveson, above n 3, 25.

contact with aerosol art culture results in people rethinking the issue. They realise there is something to be gained by a multi-faceted, community friendly approach, rather than a one-dimensional zero tolerance response.

Similarly, painting legal projects can be a catalyst for change amongst aerosol artists. While illegal painting gains recognition within the subculture, the process of painting legally, being appreciated, and often being paid, has the potential to change the perceptions street artists have of themselves. This validation contributes to them seeing themselves as recognised artists, not only in the eyes of their subculture, but in the wider community. Moreover it highlights their contribution to our society's creative culture and economies — potentially increasing self-esteem and self-worth — and ultimately contributing to mental wellbeing and participation in society. SAMA believes that all street artists should have the opportunity to be legal practitioners of their art form.

SAMA has grown out of a grass roots project where we fostered legal pathways for individual artists. As our scope grew we saw the opportunity to facilitate change on a broader scale, and to promote the legitimacy of street art to the community at large. This shift in community perceptions will make it easier for young street artists to gain validation for their art. Just like individuals, organisations and companies change their perception through contact.

SAMA have worked with groups like Sydney Trains, ING Direct, Pfizer, Kmart, Chambers of Commerce and local and state governments. For example, after running an engagement program that delivered strong cultural outcomes along with considerable savings to their graffiti management budget, a local government recognised the value in supporting legal street art. Similarly, after SAMA has worked with a high school on an education program, their teachers are far more likely to be supportive of their students pursuing aerosol art in the future. SAMA is now approached by a wide variety of groups looking to benefit from legal street art. This may be for financial reasons, to support creative economies and urban renewal, or to improve the quality of life for their staff or citizens.

As more people realise there is nothing to fear from street artists and their art, the debate moves out of the legal paradigm to a broader debate about the role and place of



public art. This is by far the more relevant debate for issues surrounding street art and graffiti. If art is ‘a creative activity, especially painting and drawing resulting in visual representation’,<sup>6</sup> then it is clear that street art is a form of art. This is true even of the simplest forms of graffiti. While one can debate how aesthetically pleasing a “tag” is, it would be difficult to claim it is less artistic (using the above definition) than calligraphy, with its technical skills of can/marker control and font creation. A visual representation is art, whether it is created with acrylic paint or enamel spray paint, whether it is hung in a gallery or on an external wall.

In this sense vandalism can be art. If someone paints an artistic work on government property without permission it is both vandalism and art.<sup>7</sup> The question is not when does vandalism become art, or when does graffiti become street art, it is instead: where do we want this art? In this context the discussion is about whether young people deserve the dignity of having their voice and art in the public space. It is about how organisations can effectively work with street art, rather than spending substantial time discussing its legitimacy. SAMA’s work reframes the discussion as a public art debate rather than a legal one.

#### IV BALANCING CULTURE

All SAMA’s operations rely on our ability to act as the link between aerosol artists and the greater community. We can only bridge the gap between these two groups if we understand both cultures and their paradigms.

SAMA looks to exceed the community’s expectations on both legal and ethical fronts. We do this by operating within a local area’s legal framework, and by making sure all of our operations clearly draw the distinction between legal and illegal art. For example, we have taught Aerosol Art as a term-long class in public high schools in conjunction with the NSW Police. This is only possible because all partners understand that we are not

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<sup>6</sup> Bruce Moore (ed), *The Australian Oxford Dictionary* (Oxford University Press, 2nd ed, 2004).

<sup>7</sup> Whether street art and graffiti are art or not has been widely debated, and many authors have outlined various definitions; see, eg, Kim Dovey, Simon Wolland and Ian Woodcock, ‘Placing Graffiti: Creating and Contesting Character in Inner-city Melbourne’ (2012) 17(1) *Journal of Urban Design* 21, 22; Jessica Irons, *Spray Away: Making the Case for Legal Graffiti as a Legitimate Form of Public Art in the City of Sydney* (Thesis, University of New South Wales, 2009) 15-16; Cameron McAuliffe and Kurt Iveson, ‘Art and Crime (and Other Things Besides ...): Conceptualising Graffiti in the City’ (2011) 5(3) *Geography Compass* 128,130-133; Matthew Lunn, *Street Art Uncut* (Craftsman House, 2006) 3-5.

promoting unlawful acts. Rather, we are teaching an emerging form of art that is appealing to young people who should have the opportunity to pursue it legally.

This, however, would be meaningless if we only understood the community's expectations and had no understanding of how graffiti and street art culture operates outside our project. Without understanding artists' needs and how to respond appropriately to them, we would not be able to maintain their interest and participation. Many community organisations lack the cultural understanding required — they might only give eradication and enforcement information in education programs — or only commission non-street art related designs.

It is restrictive and disrespectful of their artistic style and creativity to ask aerosol art practitioners to paint only historical murals or native bush landscapes, while not seeking a geographical, legal and cultural space for them to pursue their own art and expression. SAMA understands what aerosol artists seek to gain from legal projects, including gaining exposure, creative freedom, financial gain, beautification of their environment, challenging authority, and making a social statement.<sup>8</sup> It is only once we understand this subculture that we can hope to work effectively with it.

It is this understanding that also enables us to implement graffiti specific 'Crime Prevention through Environmental Design Principles'. Artworks can be designed and placed to reduce vandalism in specific areas. As a result, after painting more than 150 artworks, we are only aware of two which have been painted over in the last seven years.

#### V THE FUTURE OF AUSTRALIAN STREET ART

While SAMA and other groups have experienced success in changing the perceptions of specific institutions, the overwhelming narrative from local and state governments continues to revolve around eradication and enforcement rather than education, engagement, urban renewal and creative economies. For instance, of the 16 local council submissions to the NSW inquiry into graffiti and public infrastructure, all referred to the

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<sup>8</sup> Jarrod Linkston Wheatley and Peter Adams, *Zero Tolerance: the Street Artists of the Blue Mountains* (Blue Mountains Street Art Collaborative, Lettuce Spray Productions, 2011).

amount spent on eradication rather than positive programs of engagement or the contribution of street art to creative economies and urban renewal.<sup>9</sup>

The government's approach appears to be based only on the assumption that graffiti and street art is detrimental to the community — that it is widely 'perceived as transgressive personal acts of expression signifying social decay and a loss of authorised control.'<sup>10</sup> Many governments in Australia believe this zero tolerance approach will make them look tough on visible crime. These governments, along with companies that have a vested interest in the graffiti eradication industry, continue to perpetuate an image of graffiti as 'an infectious presence of dirt, disease and contagion'.<sup>11</sup> Graffiti writers are constructed as 'vandals and thugs roaming the streets out of control'.<sup>12</sup> The language of war and militarism is often used when referring to graffiti policies.<sup>13</sup>

However, this is not the future of Australia's relationship with street art. It is not prudent to continue to spend vast amounts of money on strategies that are not working and fail to capitalise on street art's strengths. An asset-based approach is the future. SAMA is an example of this — we see individuals, particularly young people, who are interested in the creative activity of art as a positive opportunity for engagement and the development of healthy communities. We see street art as a powerful force for inclusion, urban beautification, renewal and regeneration, as well as making a substantial contribution to creative economies.<sup>14</sup> We are a social venture and we receive no government funding to achieve our social mission. All the money to pay for our community work is raised through selling products to individuals and companies who see value in them. Our existence is proof that there is community demand for legal street art.

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<sup>9</sup> Cameron McAuliffe, 'Graffiti or Street Art? Negotiating the Moral Geographies of the Creative City' (2012) 34(2) *Journal of Urban Affairs* 189, 203.

<sup>10</sup> Dovey et al, above n 7, 35.

<sup>11</sup> Cameron McAuliffe, 'Legal Walls and Professional Paths: the Mobilities of Graffiti Writers in Sydney' (2013) 50(3) *Urban Studies* 518, 522.

<sup>12</sup> Ibid.

<sup>13</sup> Kurt Iveson, 'The Wars on Graffiti and the New Military Urbanism' (2010) 14(1-2) *City: Analysis of Urban Trends, Culture, Theory, Policy, Action* 115; Terri Moreau and Derek H Alderman, 'Graffiti Hurts and the Eradication of Alternative Landscape Expression' (2011) 101(1) *The Geographical Review* 106.

<sup>14</sup> Zukin and Braslow have argued that 'despite predominant motifs of grittiness and transgression', the consequences of unplanned and naturally occurring artists' districts are 'higher housing prices, more intensive capital investment, and eventual ... gentrification'. Sharon Zukin and Laura Braslow, 'The Life Cycle of New York's Creative Districts: Reflections on the Unanticipated Consequences of Unplanned Cultural Zones' (2011) 2(1) *City, Culture and Society* 131.

While SAMA promotes and fosters legal avenues for street art, as part of our asset-based approach we also recognise the benefits of a healthy, vibrant graffiti culture — a culture which is currently illegal. For example, we recognise the important role “senior” graffiti writers play within the subculture. Younger writers aspire to the quality of their work. They are respected and shape subculture rules, fostering self-regulation. Both of these factors result in an increase in the overall quality and vibrancy of illegal and legal art alike. Current laws and policies do not work with this aspect of graffiti culture but rather hinder it.<sup>15</sup> In this way we have much to gain from a healthy, legal and illegal, graffiti culture.

Community perceptions of art and creativity, especially in cities, are changing.<sup>16</sup> There is demand for street art products in the dominant culture. Graffiti is viewed by some as art’s creative edge. Austin sees illegal graffiti as ‘a step forward for modern art’ and as an ‘enhancement to contemporary urban living, a welcome growth in the living city’.<sup>17</sup> SAMA is currently working with the University of Western Sydney to test people’s perceptions of street art. Survey results, yet to be published, indicate that the majority of individuals enjoy street art and feel inspired by it. These results build on conclusions by Austin and Sanders that we cannot generalise about graffiti making people feel unsafe.<sup>18</sup> Context and quality play the dominant role in people’s perceptions.

What would our society look like if we took a different approach to graffiti? Could our urban spaces include outdoor galleries that contribute positively to people’s wellbeing? Decriminalisation does not necessarily equal chaos. Iveson and Young have both proposed alternative models of graffiti management.<sup>19</sup> Melbourne’s vibrant laneways provide a limited example. Young outlines the policy struggle in Melbourne to achieve a Graffiti Management Plan which encompasses the dichotomous reality of Victoria’s restrictive *Graffiti Prevention Act 2007*, and the widely recognised economic and social

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<sup>15</sup> McAuliffe, above n 9.

<sup>16</sup> See Dovey, above n 7; McAuliffe and Iveson, above n 7, 143.

<sup>17</sup> Joe Austin, ‘More to See Than a Canvas in a White Cube: For an Art in the Streets’ (2010) 14(1-2) *City: Analysis of Urban Trends, Culture, Theory, Policy, Action* 33, 42.

<sup>18</sup> Mark D Austin and Claudia Sanders ‘Graffiti and Perceptions of Safety: A Pilot Study Using Photographs and Survey Data’ (2007) 14(4) *Journal of Criminal Justice and Popular Culture* 292, 316.

<sup>19</sup> Iveson, above n 3; Alison Young, ‘Negotiated Consent or Zero Tolerance? Responding to Graffiti and Street Art in Melbourne’ (2010) 14(1-2) *City: Analysis of Urban Trends, Culture, Theory, Policy, Action* 99, 114.

benefits of laneways filled with an ever-changing array of vibrant art. She argues for a policy which is 'inclusive, balanced, informed and equitable.'<sup>20</sup>

In its current Graffiti Management Plan, the City of Melbourne has articulated a more collaborative approach for a few selected areas of the City, which involves street artists, residents, and businesses in the decision-making processes.<sup>21</sup> The ideas of zoning and meaningful collaboration with artists and the community provide real opportunities for this visual culture to be valued. More insights could be gained from research into responses to street art in other cities. The combination of a self-regulating street art culture and community public art interventions could combine to create vibrant urban public spaces.

Our society faces a choice: to continue to criminalise and stigmatise aerosol artists, or to include them in society by placing the debate in the public art domain. Providing people with an avenue for creative expression is a powerful catalyst for positive growth. Social inclusion contributes to the validation of these artists and allows us all to enjoy the benefits of high quality art on our streets.

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<sup>20</sup> Alison Young, 'Negotiated Consent or Zero Tolerance? Responding to Graffiti and Street Art in Melbourne' (2010) 14(1-2) *City: Analysis of Urban Trends, Culture, Theory, Policy, Action*, 101.

<sup>21</sup> City of Melbourne, *Graffiti Management Plan 2014-2018* (May 2014)

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