

10.7. Tree Vandalism in North Sydney - Response to Council Resolution

AUTHOR	Gareth Debney, Bushland Management Co-ordinator
ENDORSED BY	Marcelo Occhiuzzi, Director Community, Planning and Environment
ATTACHMENTS	1. Tree and Vegetation Vandalism Policy 2022 [10.7.1 - 4 pages] 2. Tree Vandalism Response Guidelines [10.7.2 - 15 pages]
CSP LINK	1. Our Living Environment 1.1 Protected, enhanced and biodiverse natural environment

PURPOSE:

The purpose of this report is to respond to a Council resolution of 11 December 2023 regarding serious environmental vandalism incidents that occurred in neighbouring local government areas, and the vulnerability of North Sydney to similar attacks.

EXECUTIVE SUMMARY:

- Council acknowledges unprecedented environmental vandalism that has occurred in the neighbouring local government areas of Willoughby and Lane Cove.
- Extensive areas of the North Sydney LGA are vulnerable to tree vandalism. Council has recorded 88 instances of tree vandalism affecting 175 trees over the past 26 years.
- Successful prosecution of tree vandals is highly problematic, with detection delayed, making the identification of those responsible, or possible witnesses, very difficult.
- Council has a range of policies and strategies that guide the preservation, management, and expansion of our urban forest. Instances of tree vandalism are dealt with under the North Sydney Tree and Vegetation Vandalism Policy.
- Council has a range of education and engagement strategies that promote the need to protect and restore our urban forest.
- Improvements to the North Sydney Tree and Vegetation Vandalism Policy/Guidelines, could be integrated during the next policy review process.

RECOMMENDATION:

- 1. THAT** the report be noted.
- 2. THAT** a review of the North Sydney Tree and Vegetation Vandalism Policy and Guidelines be undertaken in line with the existing review schedule to be delivered in early 2025.

Background

At its meeting of 11 December 2023, Council resolved:

- 1. THAT Council acknowledges the environmental vandalism that has occurred in Bushland in our neighbouring municipalities.*
- 2. THAT Council identifies any potential environmental risks in our LGA and what preventative strategies could be implemented.*
- 3. THAT Council undertake an investigation/review on previous locations in the Local Government Area that have been subject to environmental vandalism, to ensure that no destruction is taking place.*
- 4. THAT Council place an article in the next North Sydney News about the matter, providing residents with a strategy as to how to approach Council if concerned about possible inappropriate activity.*
- 5. THAT Council work with the adjacent Councils to share information and learnings.*

Report

In August 2023, Willoughby Council staff became aware of an area of foreshore bushland in Castle Cove where 265 trees had reportedly been progressively cut or poisoned over a 6-month period. Three months later in the Lane Cove Council suburb of Longueville, 296 trees were reported to have been cut down and completely removed from an area of foreshore reserve adjoining the Lane Cove River. These illegal and highly damaging tree vandalism incidents were motivated by a desire to enhance water views from private property. These incidents were on a scale not previously seen on the lower north shore.

Tree Vandalism in North Sydney

Straddling both the Port Jackson and Middle Harbour estuaries, many residential properties in North Sydney possess water views to varying degrees. This characteristic of our suburbs leads to perceived view-related conflicts and as a result, there is an unfortunate history of tree vandalism incidents on both private and public land.

Council's Bushland Management team maintains a record of tree vandalism incidents dating back to 1997. Over this period, 88 incidents of tree vandalism affecting 142 native and 33 non-indigenous trees have been recorded. However, the true figure is expected to be higher as a proportion of incidents go unreported due to misidentification (e.g., the assumption a tree died of natural causes); mutual benefit (e.g., view improved for multiple properties so disincentive to report) or because the vandalism is considered minor/low impact (e.g., sapling tree as opposed to a mature canopy specimen).

Around 38% of tree vandalism occurs on private property in the North Sydney LGA, with the remaining 62% occurring on public land. A total of 58% of public tree vandalism sites are located within Council's bushland reserves, with the remaining 42% occurring on nature strips, in parks or other public open space, and on public lands not managed by Council (e.g., the railway corridor). The vast majority (over 80%) of reported tree vandalism in the North Sydney LGA is assessed as 'view-related'.

Table 1 below identifies several specific locations where repeated incidents of tree vandalism have occurred. In these areas, Council’s Bushland Management team undertake routine monitoring of remaining trees to deter further incidents of vandalism and/or identify suspect activity early and, where possible, take preventative action.

Reserve	Suburb	# of recorded Tree Vandalism Incidents
Tunks Park (incl. Mortlock and Judith Ambler Reserves)	Cammeray	5
Wonga Road Reserve	Cremorne	3
Primrose Park		2
Brightmore Reserve		2
Cremorne Reserve	Cremorne Point	7
Sugar Works Reserve	Waverton	7
Gore Cove Reserve	Wollstonecraft	5
Badangi Reserve		3
Forsyth Park	Neutral Bay	2
Total:		36

Table 1. Tree vandalism ‘hotspots’ in Council’s bushland reserves

Achieving prosecution outcomes following these incidents is notoriously difficult, due in-part, to the covert nature of these activities leaving few (if any) witnesses, or in the case of poisonings, a time delay between the vandalism occurring and the impact becoming visibly evident. These factors lead to a paucity of evidence identifying those responsible for the act. Furthermore, neighbours who may have seen or heard something suspicious are often reluctant to report tree vandalism or provide a witness statement.

Tree Management Policies

Council’s tree management policies, which include the Urban Forest Strategy, Street Tree Strategy, and the North Sydney Development Control Plan (Section 16 Tree and Vegetation Management), allow residents a degree of flexibility in maintaining view lines by conditionally permitting pruning of privately owned trees, as well as some Council-owned trees located on nature strips and parklands (by application). Trees in bushland areas cannot be pruned for views in recognition of their special landscape function, conservation value, and the habitat requirements of many hollow-dependent native wildlife species.

In 2006, Council adopted the Tree and Vegetation Vandalism Policy (Attachment 1) which established a consistent approach for dealing with reported tree vandalism incidents. The policy has been updated several times to maintain consistency with changes in NSW legislation, as well as improving its application by moving from a “one-size-fits-all” approach, to a severity-based assessment that considers a range of site-specific factors relevant to each act of tree vandalism. This methodology distinguishes between minor or inadvertent tree

vandalism and more serious/malicious damage, which in-turn guides the level of Council's response actions. The Policy outlines how reported incidents are received, assessed for severity, and actioned.

Current educational strategies

To minimise environmental vandalism and improve public perception of the value of a tree, Council's Bushland and Urban Forest Teams provide a range of information and educational resources for residents regarding the value of trees, the need for canopy protection and the environmental/community impacts that result from illegal tree vandalism.

Publications, resources, and tools available to the community include:

- "Trees shouldn't die for a view" tree vandalism education brochure, webpage, and online reporting portal for suspected tree vandalism activities;
- "Managing Trees on Public Land" brochure, webpage, video, and online public tree works request e-form;
- "Managing Trees on Private Land" brochure, webpage, and online decision tool that helps residents to know where to plant a tree on their property; what species to select based on the characteristics of their property and what to do if they think a tree on their land needs pruning or removal; and
- "Trees on Development Sites" brochure and webpage

Community engagement programs, including "Trees for Newborns", Native Havens and Streets Alive, also provide avenues for residents to be supported with tree planting on their own property, or on public land.

Raising awareness in our community of the value of trees and the need to retain, protect and manage them as "green infrastructure" is constantly required and remains an area of focus for the Urban Forest and Bushland Management Teams. To this end, Council staff will collaborate on an article for the next edition of North Sydney News, focussing on the values of our urban forest and the need to reverse recent trends of canopy decline in North Sydney.

Future Directions

Council's Bushland and Urban Forest Teams work closely with our respective counterparts in each adjoining Council. Learnings from these recent incidents have been shared across the Council boundaries and opportunities to improve outcomes in the future have been identified by each jurisdiction.

Through these learnings, it is apparent that improvements could be made to Council's Tree Vandalism and Vegetation Vandalism Policy and Guidelines during the next review process. These improvements could encompass:

- clearly defining the role each team within Council plays in the identification, investigation and prosecution/enforcement of tree vandalism incidents and reflecting these roles in

the incident response flowchart that's contained in the Tree and Vegetation Vandalism Policy Guidelines (see Attachment 2);

- establishing a standing cross-team incident response group, with the aim of improving timeframes around the investigation and implementation of response actions following a tree vandalism incident;
- maintaining a tree vandalism response kit; containing community notice banners and attachment hardware; site monitoring equipment (i.e., covert cameras); soil sampling equipment and documentation (i.e., proforma interview templates etc.); and
- consideration of offering a reward for information that leads to the successful prosecution of tree vandals in "major" incidents.

In addition, Willoughby and Lane Cove Council have begun lobbying the NSW Government to provide tougher penalties for tree vandalism perpetrators, including the criminalisation of these offences. North Sydney Council's support for this initiative was confirmed in a Mayoral Minute (MM02), presented to Council at the meeting of 12 February 2024.

Options

Council has the following options in relation to this matter:

1. Do nothing/take no action
2. Review and update the NSC Tree and Vegetation Vandalism Policy

These options are assessed in the table below.

Option	Finance / Resourcing	Risk / Opportunity	Consultation
1. Do nothing/take no action	No additional funds of resourcing necessary	Existing policy settings remain in-place. No changes to the NSC Tree and Vegetation Vandalism Policy. Potential improvements to the management of tree vandalism in NSC not realised.	Not applicable
2. Schedule a review of the NSC Tree and Vegetation Vandalism Policy and Guidelines	Staff time across multiple teams / Divisions required to review and amend the NSC Tree and Vegetation Vandalism Policy and Guidelines.	Staff resources will need to be redirected away from other priorities to conduct the policy review, consult stakeholders and report proposed amendments to Council. Amendments to the policy could improve the efficacy of tree vandalism response actions; achieve better	Internal consultation with staff and teams involved in urban forest management; community education; customer service and compliance will be required. Community consultation (including Precincts) on proposed

Option	Finance / Resourcing	Risk / Opportunity	Consultation
	Existing budgets could fund a tree vandalism response kit (i.e. pre-purchased banners & installation hardware).	compliance outcomes / prosecution rates; increase community awareness of tree vandalism and the consequences for perpetrators.	amendments to the Tree and Vegetation Vandalism Policy / Guidelines.

Option 2, is recommended for the following reasons:

- a review of the current Tree and Vegetation Vandalism Policy and Guidelines could make improvements to the monitoring, reporting, investigation, and regulatory actions that occur in response to tree vandalism.; and
- raising awareness of tree vandalism impacts on the whole community may result in changing attitudes, fewer incidents, and greater level of deterrence in the future by a more informed community.

Consultation requirements

Community engagement is not required at this stage.

Financial/Resource Implications

Policy review will involve multiple staff across divisions contributing to the process and will require the appointment of a project lead.

Existing signage budgets are sufficient to fund “Trees shouldn’t die for a view” community notice banners and related installation hardware.



TREE AND VEGETATION VANDALISM POLICY

D1-11

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Policy Owner: Director Open Spaces & Infrastructure

Category: Operational

Direction: 1. Our Living Environment

1. STATEMENT OF INTENT

- 1.1 This Policy promotes a consistent approach to the protection and management of trees and vegetation in the landscape, particularly in deterring and responding to the loss of vegetation arising from deliberate vandalism on public land. It identifies the actions to be undertaken by North Sydney Council against tree vandalism on public land.
- 1.2
- 1.3 This Policy assists Council to meet the recommendations of the NSW Ombudsman's *Enforcement Guidelines* (2015).
- 1.4 The objectives of the Policy are to:
- a) promote the value of and need for protection of trees and vegetation on community land;
 - b) provide regional consistency in the deterrence, investigation and response to tree vandalism incidents;
 - c) encourage the sharing of experience, expertise and resources among councils when deterring and responding to tree/vegetation vandalism incidents throughout the North Sydney local government area; and
 - d) promote and guide broader community involvement in the prevention of vandalism, and in investigation and enforcement following vandalism incidents.

2. ELIGIBILITY

- 2.1 The Policy applies across the whole of the North Sydney local government area.

3. DEFINITIONS

- 3.1 Tree Vandalism - is the unlawful destruction, damage or injury to trees and vegetation on private and public land, examples include poisoning, mowing, pruning, removal and ringbarking.
- 3.2 Tree or Trees - refers to any tree or plant on public land, regardless of height.

Re-adopted by Council 22 August 2022

4. PROVISIONS

4.1 Guiding Principles

Council's guiding principles for regarding the protection of trees and vegetation are:

- 4.1.1 Values - Trees and vegetation contribute significantly to environmental health and sustainability, as well as providing tangible benefits to human health and wellbeing. The unauthorised destruction of trees and vegetation is a serious offence.
- 4.1.2 Education - Council's community environmental education program will promote the value of vegetation and the adverse impacts of tree and vegetation vandalism. Community reporting of tree vandalism will be encouraged through education and access to digital reporting media.
- 4.1.3 Monitoring and Prevention - Council will record vandalism incidents and its response to these on a database to allow an assessment of the cumulative impacts of vandalism, to identify high risk areas and to monitor the effectiveness of rehabilitation and response efforts and community education over time.

Council may prepare management plans for individual trees and/or strands of vegetation in high-risk areas. Where prepared, these plans will include rehabilitation response in case of loss or damage. Where appropriate these plans will involve residents in their preparation and implementation and/or will be communicated to residents.

- 4.2 Where offenders are caught in the act of tree or vegetation vandalism, they will be prosecuted under the *Development Control Plan 2013: Section 16 - Trees and Vegetation Management* (formerly the *Tree Preservation Order 2006*).
- 4.3 Where Council identifies or suspects tree or vegetation vandalism to have taken place on public land, an investigation and response procedure will be instigated in accordance with Council's *Tree Vandalism Response Guidelines*. These guidelines provide an incident severity-based response to tree/vegetation vandalism that is both flexible and consistent in its application.

5. RESPONSIBILITY/ACCOUNTABILITY

- 5.1 Council's Open Space & Infrastructure Division is responsible for administering this Policy and taking actions as defined in Sections 4.2 to 4.3 in this Policy.

6. RELATED POLICIES/DOCUMENTS/LEGISLATION

The Policy should be read in conjunction with the following Council policies and documents:

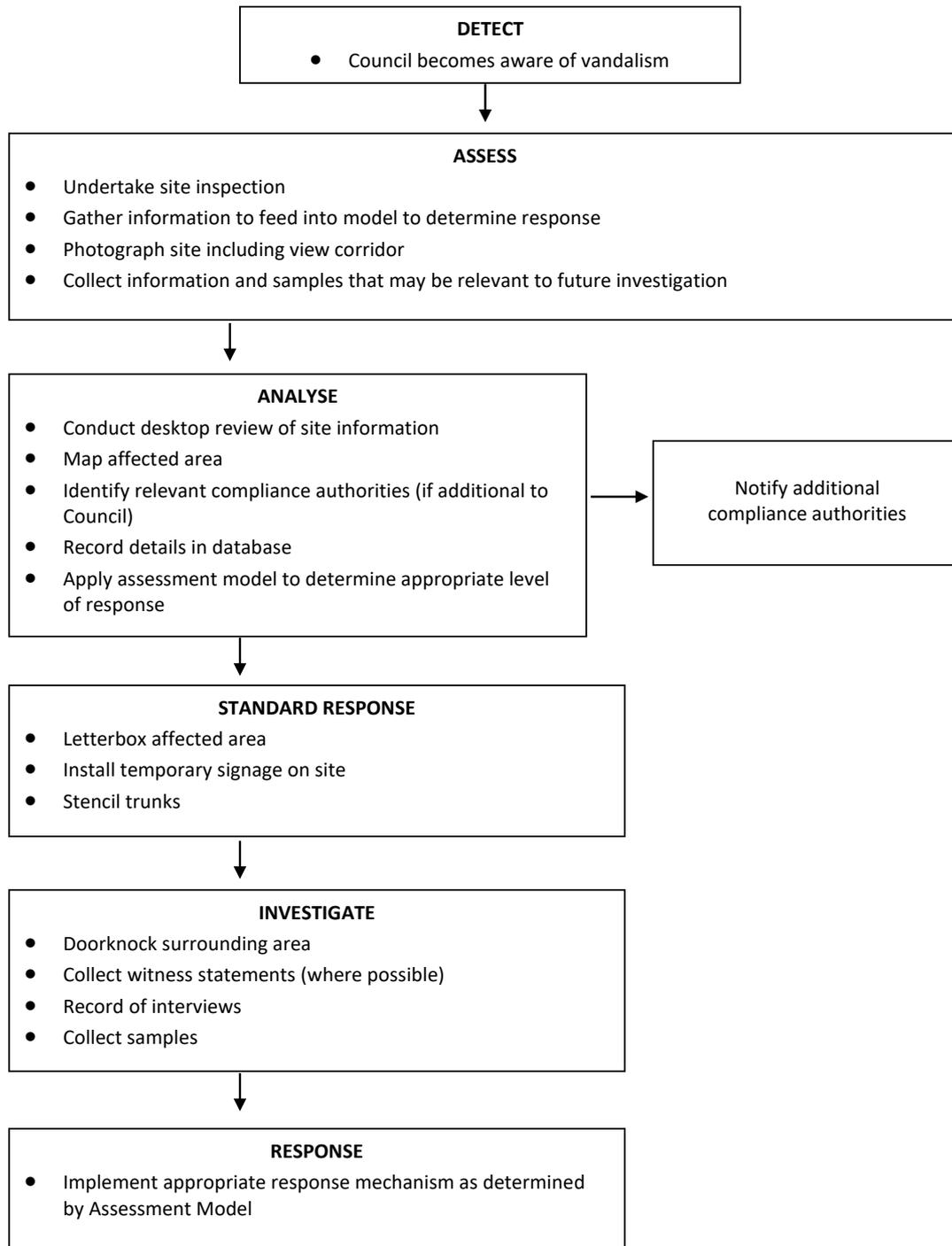
- Bushland Plan of Management
- Development Control Plan
- Overhanging Branches Policy
- Urban Forest Strategy
- Tree Vandalism Response Guidelines

The Policy should be read in conjunction with the following documents/legislation:

- Environmental Planning and Assessment Act 1979 (Section 125)
- Native Vegetation Act 203 Sections S12(1), S42(2) and 43(1)
- NSW Ombudsman's Enforcement Guidelines (2015)
- Pesticides Act 1999 (Sections 7(1)(b), 10(1)(b) and 15(1))
- Rivers and Foreshores Improvement Act 1948 (Section 22B(1)b)

Version	Date Approved	Approved by	Resolution No.	Review Date
1	23 October 2006	Council	832	2008/09
2	16 February 2009	Council	61	2012/13
3	18 February 2013	Council	61	2016/17
4	25 June 2018	Council	214	2020/21
5	22 August 2022	Council	251	2024/25

Re-adopted by Council 22 August 2022

APPENDIX A: INCIDENT AND RESPONSE PROTOCOL



Last Updated: June 2018

Tree Vandalism Policy 2013 – Response Guidelines

POLICY GUIDELINES

1. Education

Unless the community has an understanding of the benefits and value of vegetation, and understands the adverse impacts of vandalism, it is difficult to sustain the level of community and political support necessary to deter and respond to such activities. There is no single strategy or argument that will be successful in engendering this support. As such, long-term and varied programs are required.

Council's community environmental education program will include the following key elements about the value of vegetation and the adverse impacts of tree and vegetation vandalism:

- To explain the various environmental functions of vegetation in natural and urban environments including: habitat, water quality, air quality, shade, erosion control, aesthetics, weed suppression, noise attenuation, climate change mitigation and wind breaks.
- To explain the cumulative impacts of vegetation loss, so that the impact of a single act can be judged in the context of impacts over time
- To give an economic value to the environmental functions of vegetation and, therefore, to the cost of vegetation loss and damage, and/or by using a similar weighted calculation.
- To highlight the legal significance of offences (i.e. they are criminal acts), and the potential fines and punishments
- To calculate and publicise the direct economic cost to residents of acts of vandalism, in terms of investigation, replacement and remediation costs
- To publicise successful rehabilitation and other positive outcomes, as well as successful prosecutions and enforcement actions
- To involve the community directly in maintenance and protection of vegetation, and in rehabilitation of damaged areas (e.g. through Bushcare and Landcare).

2. Monitoring and prevention

- Council will record vandalism incidents and its response to these on a database to allow an assessment of the cumulative impacts of vandalism, to identify high risk areas and to monitor the effectiveness of rehabilitation and response efforts and community education over time. While councils may utilise a variety of database types to record this information, in order to assist with regional scale assessment and reporting, all councils will at a minimum record the following details in regard to vandalism events:
 - a. The area of canopy that has been impacted upon
 - b. Location of the offence
 - c. Vegetation Type (natural bushland or amenity)
 - d. Method of vandalism (cut, cleared or unknown)
- Council will prepare management plans for individual trees and/or stands of vegetation in high risk areas. These plans should include rehabilitation responses in case of loss or damage. These

plans should involve residents in their preparation and implementation when possible, and be communicated to residents.

- Council will actively promote community involvement in stewardship and maintenance of high risk bushland areas.
- Council will target community education initiatives toward high risk vandalism areas

3. Regulation, Enforcement and Rehabilitation

- Council will follow the Investigation and Response Protocol included in Attachment 3 when responding to tree and vegetation vandalism events
- To support the effective implementation of the Investigation and Response Protocol, Council will clearly define relevant staff responsibilities within the protocol, and establish clear lines of communication between those that are involved.
- Council will participate in the development and trial of a regionally standardised 'Response Assessment Model' for the purpose of identifying both the level of impact of vandalism events, and the appropriate initiatives that should be implemented by council in response to these. An example of such an Assessment Model is included in Attachment 4
- Council endorses the suite of potential response measures to vandalism events included in Attachment 5 of this policy.

RESOURCES

Resources required for an individual council to implement this policy include:

- Educational materials (eg brochures)
- Management plans and rehabilitation strategies
- Correspondence templates (eg for letter drops)
- Signage/banners
- Paint stencils
- Investigative / regulatory staff
- Physical materials such as bunting, fencing, sail or shade cloth
- Database to record and monitor vandalism events
- Access to suitable endemic plants suitable for use in rehabilitation
- Staff trained and resourced to carry out rehabilitation

Regional resource opportunities

The effective and consistent application of this policy throughout the region could be enhanced, and the resource implications for individual councils reduced through the sharing of experience, expertise and resources among councils. Particular examples of where such resource and information sharing could occur include:

1. Development and use of regional templates for:
 - Educational materials (e.g. brochures)
 - Management plans and rehabilitation strategies
 - Correspondence (e.g. for letter drops)
 - Signs

- Recording vandalism incidents (e.g. Access database)
- 2. The sharing of specialist investigative resources and staff that are experienced in environmental investigation techniques. These skills need to be further developed and shared in the region.
- 3. The promotion and sharing of case studies that critique both successful and unsuccessful responses to vandalism events and the lessons learned from these.
- 4. Sharing of physical materials required for responding to vandalism events (e.g. construction fencing, bunting, paint stencils).

There is also the potential for revenue raised through Penalty Infringement Notices and successful court prosecutions to be used as a source of revenue to assist with funding further preventive and regulatory initiatives.

RELATED POLICIES

- *Bushland Plan of Management 2014*
- *(Draft) Bushland Rehabilitation Plan 2018*
- *Development Control Plan 2013 - Section 15 Bushland*
- *Development Control Plan 2013 - Section 16 Trees & Vegetation Management*
- *Overhanging Branches Policy*
- *Street Tree Strategy 2016*
- *(Draft) Urban Forest Strategy 2018*

REVIEW DATE

Four years from the date of adoption.

IMPLEMENTATION RESPONSIBILITY

Tree Preservation Officer
Tree Maintenance Supervisor
Tree Maintenance Officer
Parks Technical Officer
Bushland Management Coordinator

ATTACHMENTS

1. Background to the Policy
2. Legislative framework
3. Response Protocol
4. Example Response Assessment Model
5. Proposed response measures
6. Template for Letterboxing
7. Signage template

ATTACHMENT 1.

BACKGROUND TO THE POLICY

TREE AND VEGETATION VANDALISM

This policy has been developed in light of increasing tree/vegetation vandalism being experienced by councils across the region. This is particularly apparent in the coastal zone where development pressure and conflicts between water views and vegetation has seen an increase in the vandalism of trees and vegetation under the care, control and management of councils.

This issue is not unique to the upper and lower north shore region however, with the Minister for the Environment seeking feedback from councils in November 2005 regarding ways to improve investigation of breaches of the Tree Preservation Order. This was in response to tree poisoning and removal from council reserves and private property *'appearing to have reached epidemic proportions in some areas' and being particularly common around the harbour and beachside suburbs of Sydney'*. In response, the Minister was investigating ways to provide councils with greater powers to investigate breaches of Tree Preservation Orders

There are many reasons that motivate vandalism of trees and vegetation. Some acts are random and without purpose, while others occur through ignorance or are motivated by personal self-interest or gain (eg increased property values, better access to the waterfront, or unimpeded views). Where possible, the response to acts of vandalism should be adapted to suit the perceived motivation. For example, community education and Ranger patrols may be the best response to random vandalism, while prosecution and fines may be the most effective deterrent to economically motivated acts.

The physical nature of tree and vegetation vandalism can occur in a variety of forms, including poisoning, pruning, removal and destruction, and mowing of native understorey. This kind of vandalism has a significant and cumulative impact on the environment. Particular impacts include reduced visual and community amenity, loss of environmental services such as wind-breaks and erosion control, and loss of wildlife habitat.

Such vandalism can have substantial financial and human resource costs for councils. These include the direct loss of the asset value of the trees or vegetation, the cost of the investigation, rehabilitation and repair costs, and the cost of implementing potential punitive / deterrence measures.

The clandestine nature of tree/vegetation vandalism on public land frequently makes the identification of perpetrators difficult. Even where it is possible to identify the most likely offender, it can be difficult to collect sufficient evidence to prove responsibility. This is frequently exacerbated by a general unwillingness among the community to provide testimony, even where an offence may have been witnessed.

Recognition of the common tree/vegetation vandalism issues being experienced by councils has resulted in North Sydney Council resolving to prepare a regional policy. This approach, supported by increased sharing of resources and expertise between councils, will provide a greater level of organisational capacity and commitment to address this issue consistently throughout the region.

POLICY RESPONSES

2. Monitoring and Prevention

Given the many years of experience by councils and other land managers in dealing with unapproved clearing and damage to vegetation, it is often possible to predict areas facing high risk of damage, such as new developments fronting waterways with bushland reserves.

The risk of damage to these areas can be reduced by:

- Targeting community education material
- Increasing the presence of enforcement officers
- Monitoring vegetation condition by photographs or aerial photography,
- Involving the community in stewardship and maintenance of bushland areas.
- Developing and implementing management plans for these areas.

Because councils and other land managers do not have the resources to monitor all areas at risk however, community involvement and reporting of vandalism is integral to any monitoring and prevention program. However, the community must have confidence that, if they do report incidents, they will be followed up promptly and effectively by the council. Recording and responding to information provided by the community is therefore extremely important, and can be facilitated through the development of a tree / vegetation database. Development and maintenance of a database is integral to any monitoring and prevention program as it is the most effective means of recording and demonstrating the cumulative impacts of tree and vegetation vandalism over time.

3. Regulation, Enforcement & Rehabilitation

In order to promote consistency among councils when investigating and responding to vandalism events, a guideline protocol has been developed that is included in Attachment 3. Councils' implementation of this protocol will ensure quick and consistent assessment of damage and determination of an appropriate response strategy. To support the effective implementation of this protocol, clear delineation of staff responsibilities within the process, and clear lines of communication between staff involved need to be established. This will ensure implementation of clear and consistent responses by council, and assist in ensuring that staff and other resources required to initiate and implement a response are available.

Although successful investigations and prosecutions are difficult, their impact is significant in making the community aware of the seriousness of illegally damaging vegetation. Involvement of police and/or private investigators may be warranted in serious cases to take advantage of their investigative skills. Establishing a body of specialist expertise and experience within the region is essential if investigations and prosecutions are going to succeed. This could be supported through the sharing between councils in the region of staff who possess such expertise.

There are a range of responses that can be and have been used to deal with instances of vandalism to trees and other vegetation. Experience has shown that the most effective responses involve a suite of actions, rather than a single action, and combine enforcement, education, and rehabilitation. Effective responses need to be quick, predictable, consistent, fair and well-resourced. It needs to be recognised, however, that councils do not have the resources available to implement the full suite of response measures that are available every time a vandalism event is detected.

To promote consistency between councils in the region, a Response Assessment Model will be developed to assist councils in assessing the level of impact of vandalism damage, and in determining the appropriate level and type of response that is required. An example of such an Assessment Tool is included in Attachment 4. The model to be developed will consider factors such as the ecological value, cultural significance, natural condition, and public prominence of damaged vegetation, and calculate the level of impact of the damage (ie high medium or low). The suite of potential responses considered appropriate for high, medium and low impact offences is included in Attachment 5.

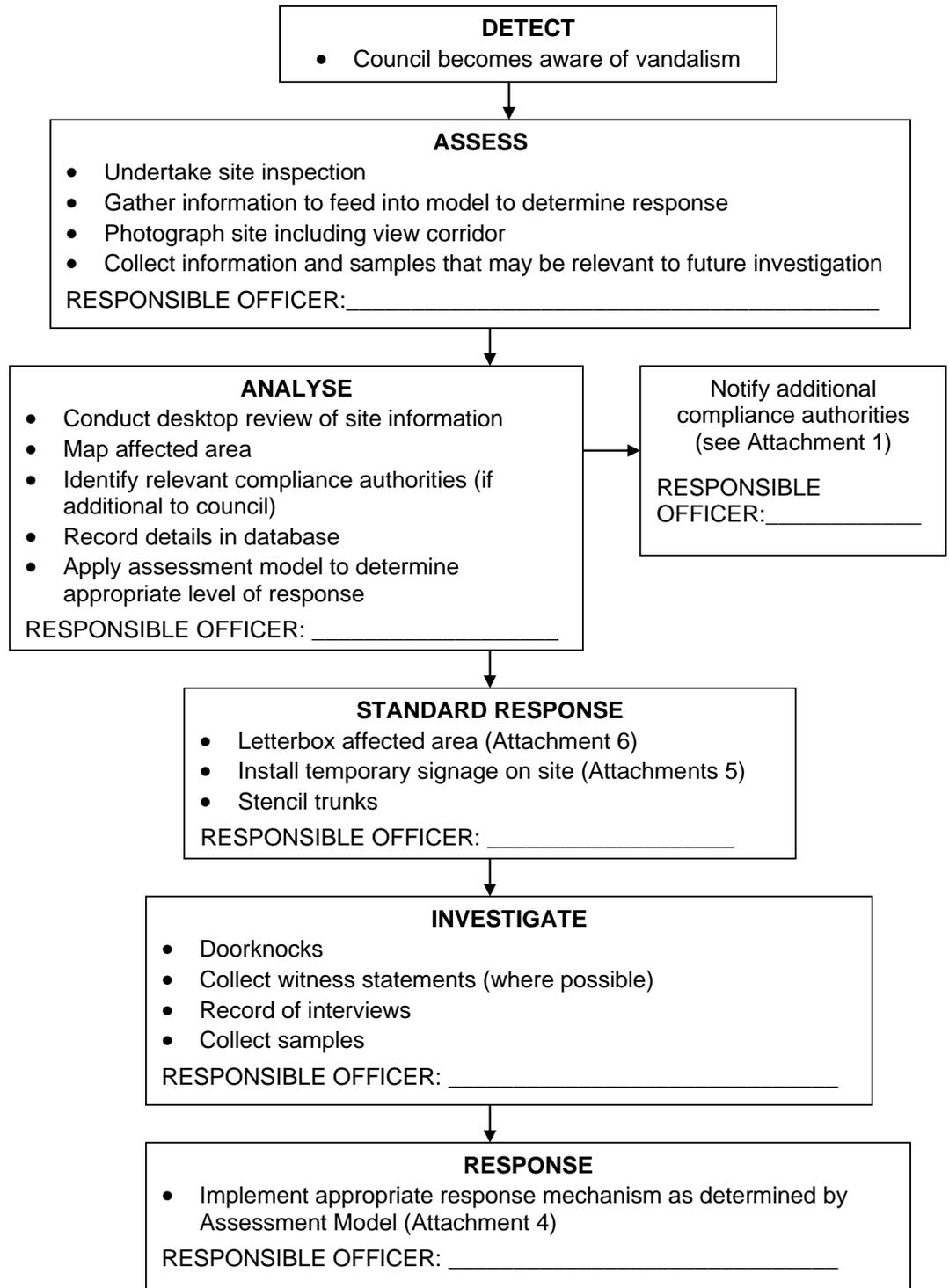
ATTACHMENT 2

LEGISLATIVE FRAMEWORK

OFFENCE	OFFENCE PROVISION	PROSECUTION AUTHORITY	JURISDICTION	SHORT OFFENCE CODE	MAXIMUM PENALTIES	LIMITATION PERIOD (FROM THE DATE OF THE OFFENCE)	REMEDATION
Contravene Tree Preservation Order	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Penalty Infringement Notice	Development carried out with out development consent	\$750 individual \$1500 business	1 years	
Contravene Tree Preservation Order	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Local Court	Development carried out with out development consent	1 - 11 Penalty Units Up to \$110,000	2 year	
Contravene Tree Preservation Order	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Land and Environment Court	Development carried out with out development consent	1 - 11 Penalty Units Up to \$1.1million	2 years	A Court may, impose remediation
Carry out forbidden development	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Land and Environment Court	Development carried out with out development consent	1 - 11 Penalty Units Up to \$1.1million	2 years	
Contravene Tree Preservation Order	s629(1) of the Local Government Act 1993	Local Government	Local Court	Wilful or negligent damage of a plant in a public place	Up to \$2,200	6 months	
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	NSW Environment Protection Authority	Infringement Notice		\$400 for individual and \$800 for corporation	12 months from the date of the offence or the date on which the offence first came to notice of an 'authorised officer'.	A court may also, where the offence is proven, order the offender to restore land damaged as a result of the offence and / or order the offender to pay the costs of a "public

							authority” (which includes a Council) where that authority has incurred costs as a result of the offence or in the clean-up, abatement or mitigation of pesticide pollution
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	NSW Environment Protection Authority	Local Court		(2) Up to \$20,000		
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	NSW Environment Protection Authority	Land and Environment Court.		(3) Up to \$60,000 / \$120,000 (individual / corporation)		
Use registered pesticide in contravention of approved label	s.15(1) of the Pesticides Act 1999	NSW Environment Protection Authority	As for offence under s.10(1)(b) of the Pesticides Act		As for offence under s.10(1)(b) of the Pesticides Act.	As for offence under s.10(1)(b) of the Pesticides Act.	

**ATTACHMENT 3
INVESTIGATION AND RESPONSE PROTOCOL**



ATTACHMENT 4

EXAMPLE RESPONSE ASSESSMENT MODEL FOR TREES

Location: _____
 Officer: _____
 Date: _____

NOTE:

- Tree assessments to be carried out by a qualified arborist
- Bushland assessments to be carried out by a qualified bush regenerator/bushland ecologist

Criteria	T#1	T#2	T#3	T#4	T#5	T#6	T#7	T#8	T#9
Significance of the tree									
<i>Type 1 for yes 0 for no for each item</i>									
Historical value									
Significant tree (on register)									
Rare to the area									
Outstanding aesthetic quality									
Habitat features/scientific or ecological value									
Key stone / Remnant species									
TOTAL	0	0	0	0	0	0	0	0	0
Age-range estimate									
<i>< 10yrs (type 5)</i>									
<i>10-30yrs (type 30)</i>									
<i>>30yrs (type actual age estimate)</i>									
TOTAL	0	0	0	0	0	0	0	0	0
Bushland vegetation (if applicable)									
<i>Area of bushland affected in m²</i>									
<i>< 10m² (type 5)</i>									
<i>10-30m² (type 30)</i>									
<i>>30m² (type actual area)</i>									
TOTAL									
Site									
<i>1 for low profile</i>									
<i>(localised area affected, minimal public view impact)</i>									
<i>2 for average profile</i>									
<i>(localised area, high public view impact)</i>									
<i>3 for high profile</i>									
<i>(i.e. harbor foreshore, public park/bushland)</i>									
TOTAL	0	0	0	0	0	0	0	0	0
SULE									
<i>Type 1 for short, 2 for medium or 3 for long</i>									
TOTAL	0	0	0	0	0	0	0	0	0
Environmental effects									
<i>Type 1 for yes and 0 for no</i>									
Method used may cause secondary damage eg poison contamination of soil/waterway etc									
Method used may cause/exacerbate erosion									
Method used may create public safety/liability issue									
Habitat - Loss of nesting sites or foraging areas									
Is the area able to be restored (<i>No = 1; Yes = 0</i>)									
Method used may impact threatened species/EEC									
TOTAL	0	0	0	0	0	0	0	0	0

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Target									
<i>1 for occasional, 2 intermittent, 3 frequent, 4 constant</i>									
TOTAL	0	0	0	0	0	0	0	0	0
Damage									
<i>Type 2 for major or 1 minor</i>									
TOTAL	0	0	0	0	0	0	0	0	0
TOTAL SCORE	0								

SIGNIFICANCE	ACTION
Low Significance (Trees) <9 Low Significance (Bushland) <14	A) Letterbox residents
	B) Leave trees in place and tattoo trunks
	C) Install temporary signage
	D) PIN or Local Court where evidence exists.
Medium Significance (Trees) 10-54 Medium Significance (Bushland) 15-84	A) Letterbox residents
	B) Leave trees in place and tattoo trunks
	C) Install temporary / permanent signage
	D) Replant and rehabilitate
	E) Pursue action in the Local Court or Land & Environment Court where evidence exists.
High Significance (trees) >54 High Significance (bushland) >84	A) Letterbox residents
	B) Leave trees in place as safety allows
	C) Install permanent signage
	D) Replant and rehabilitate (involve community where possible)
	E) Increase the density of vegetation in rehabilitation works
	F) Offer rewards for information
	G) Block views obtained by the vandalism (eg bunting, shade cloth, shipping containers)
	H) Pursue action in the Local Court or Land & Environment Court where evidence exists.

ATTACHMENT 5

PROPOSED RESPONSE MEASURES FOR LOW, MEDIUM AND HIGH IMPACT VANDALISM EVENTS

The suite of response measures considered appropriate to implement in response to high, medium and low impact tree and vegetation vandalism events on public land are outlined below. They include:

Low impact events

- Letterbox surrounding residents
- Install temporary signage
- Leave tree skeletons in place as far as safety allows and stencil trunks
- Where sufficient evidence exists, issue Penalty Infringement Notice or pursue prosecution in the Local Court.
- Rehabilitate or re-plant

Medium impact events

- Letterbox surrounding residents
- Erect semi-permanent signage – leave in-situ until affected vegetation recovers or replacement plantings are established
- Leave tree skeletons in place as far as safety allows and stencil trunks
- Treat poisoned plants or soil to attempt to rescue affected vegetation
- Re-plant and rehabilitate damaged areas.
- Where sufficient evidence is available, pursue legal proceedings in either the Local Court or Land & Environment Court (NB. While the penalties are more substantial in the Land & Environment Court, so too are the costs of proceedings and the burden of evidence that is required. The decision regarding which court to commence proceedings in will depend largely on an assessment of these factors).

High impact events

- Letterbox residents in the vicinity highlighting the damage and seeking information on perpetrators
- Leave tree skeletons in place as far as safety allows
- Erect permanent signs on the site highlighting damage and its consequences
- Publicise damage and responses in the media
- Protect site and rehabilitation works with fencing (eg construction fencing)
- Involve residents and community groups (eg Bushcare and schools) directly in planning and implementing rehabilitation strategies
- Treat poisoned plants or soil to attempt to rescue affected vegetation
- Increase the density or extent of vegetation in rehabilitation works(eg “two-for-one” or “three-for-one”)
- Persist with rehabilitation works and maintenance of rehabilitated areas to ensure no loss of vegetation over time
- Offer rewards for information
- Pursue proceedings in the Land & Environment Court where sufficient evidence exists
- Draw attention to the damage through public art or painting the dead stumps
- Block views using barriers such as bunting, shade cloth, fences or shipping containers

For example, an integrated response to a major incident, combining a suite of actions, may include:

1. Immediately assess the site and gather information
2. Erect permanent signs pointing out the damage and seeking information on the perpetrators.
3. Letterbox residents in the vicinity to publicise the damage and seek information for the investigation.
4. Conduct a thorough investigation including doorknocking local residents with a view to identifying potential witnesses.
5. Assess the best response to stabilise the area and ensure the vandalism isn't rewarded (eg by cutting down or clearing the dead vegetation). Implement measures to block views that may have been obtained (eg shipping containers or screening with shade cloth) or to highlight the damage that has occurred (eg decorating tree skeletons or installing bunting). Such actions can go some way in defeating the vandal's purpose.
6. Prepare and implement a rehabilitation plan, preferably involving local residents (although this may not always be possible or desirable). Successful rehabilitation can be linked with the removal of "punishments". For example, bunting or signs may be removed after 12 months if re-planted vegetation is established and maintained. This will encourage residents to protect rehabilitation works.
7. Where sufficient evidence may be available, pursue prosecution in the NSW Land and Environment Court. If successful, publicise the outcomes.

ATTACHMENT 6

TEMPLATE LETTER FOR LETTERBOXING

Occupier
Address 1
Address 2

Dear Occupier

RE: DAMAGE TO VEGETATION ON COMMUNITY RESERVE

In the last few months valuable trees / bushland in the community reserve at **LOCATION** has been vandalised.

This vandalism has included **[INSERT OFFENCE – EG POISONING OF 5 LARGE TREES]**. The impacts from this deliberate vandalism of community property include **[INSERT IMPACTS EG LOSS OF HABITAT, SHADE AND AMENITY]** The cost of rehabilitating the damage caused is likely to exceed **[INSERT VALUE]**, a cost to ratepayers.

All native vegetation on Council reserves is protected. Deliberately killing or pruning trees and other vegetation on Council reserves without approval is illegal, and can attract substantial penalties. Council is now investigating this particular incident with a view to identifying those responsible.

Council is planning to **[INSERT PROPOSED SUITE OF ACTIONS e.g. REPLACE THE POISONED TREES WITH THREE NEW TREES OF THE SAME SPECIES; REHABILITATE THE SITE AND FENCE IT TO PREVENT FURTHER DAMAGE; INVITE THE LOCAL PRIMARY SCHOOL TO ASSIST IN REPLANTING THE DAMAGED AREA.]**

If you have any information that may help Council in its investigation, or if you would like to be involved in rehabilitating and protecting the site in future, please contact **[NAME – POSITION]** on **[PHONE NUMBER]**.

Your assistance in this matter would be greatly appreciated.

Yours faithfully

MANAGER / MAYOR

ATTACHMENT 7

SIGN TEMPLATE

ENVIRONMENTAL VANDALISM!

These trees / vegetation have **BEEN DESTROYED / KILLED / ARE SICK** as a result of deliberate **POISONING / MOWING / OTHER ACTIVITY**.

This vandalism is a criminal act. Council is investigating to identify those responsible for this selfish damage to community property and would be grateful for any information from the community that may assist.

Should you have any information that can assist in these inquiries, or if you would like to participate in helping to rehabilitate and protect the site in future, please phone council on **PHONE NUMBER**.