



# TREE AND VEGETATION VANDALISM POLICY

D1-09

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**Policy Owner:** Director Open Spaces and Environmental Services

**Category:** 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 This Policy assists Council to meet the recommendations of the NSW Ombudsman's *Enforcement Guidelines* (2002).
- 1.3 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.

## 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* (2013). 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 Division Open Space and Environment Services 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:

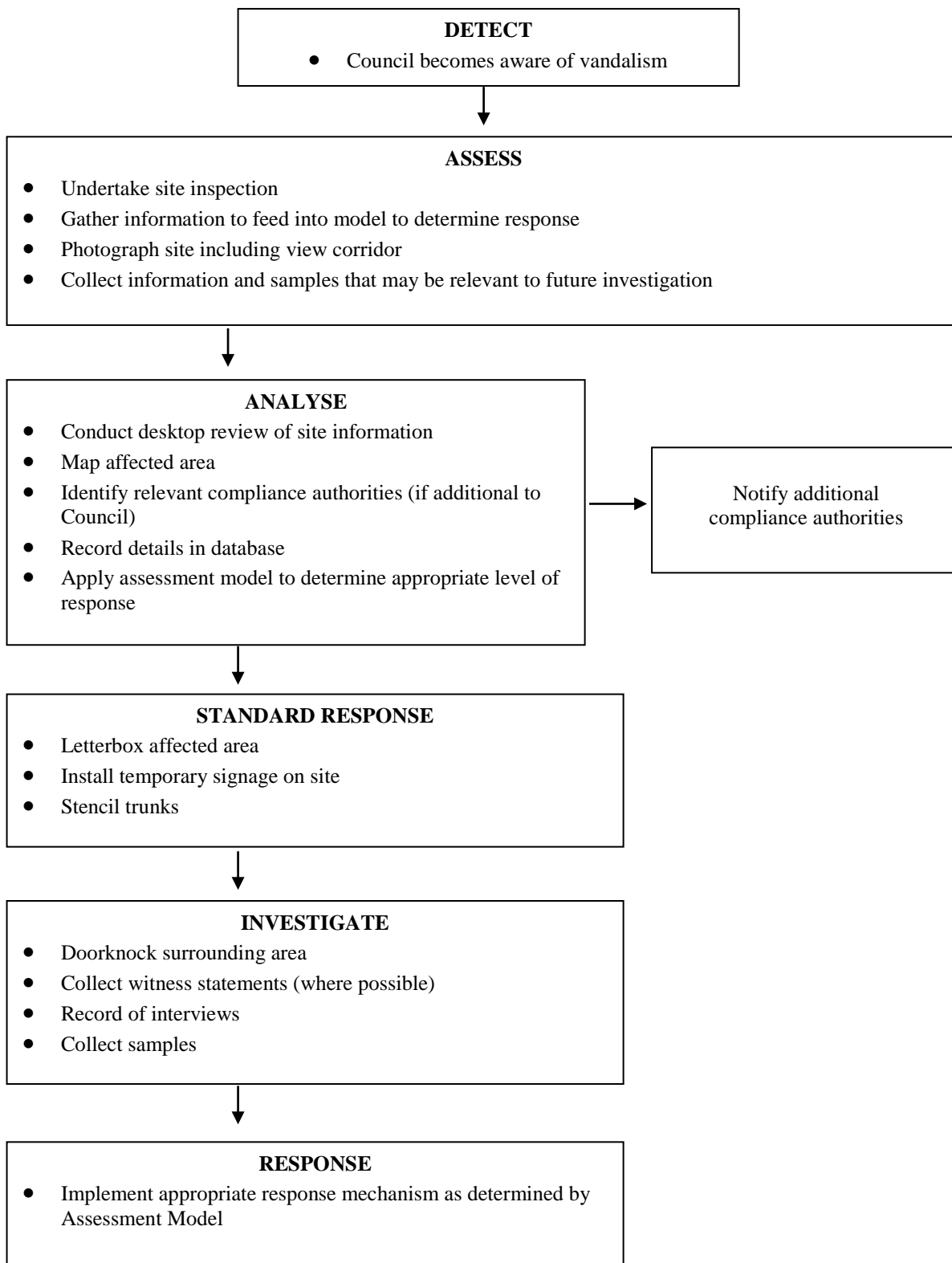
- Bushland Plan of Management
- Development Control Plan 2013: Section 16 - Trees and Vegetation Management
- Overhanging Branches Policy
- Street Tree Strategy
- Urban Forest Strategy
- Tree Vandalism Response Guidelines 2013

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

- Environmental Planning and Assessment Act 1979 (Section 125)
- Local Government Act 1993 (Section 629(1))
- Native Vegetation Act 2003 (Sections S12(1), S42(2) and 43(1))
- Pesticides Act 1999 (Sections 7(1)(b), 10(1)(b) and 15(1))
- Rivers and Foreshores Improvement Act 1948 (Section 22B(1)b)

<b>Version</b>	<b>Date Approved</b>	<b>Approved by</b>	<b>Resolution No.</b>	<b>Review Date</b>
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

**APPENDIX A: INCIDENT AND RESPONSE PROTOCOL**



**APPENDIX B: RELEVANT LEGISLATION**

<b>Offence</b>	<b>Offence Provision</b>	<b>Prosecution Authority</b>	<b>Jurisdiction</b>	<b>Short Offence Code</b>	<b>Maximum Penalties</b>	<b>Limitation Period (from the date of the offence)</b>	<b>Remediation</b>
Contravene Tree Preservation Order	s.125 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	s.125 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	s.125 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	s.125 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	s.629(1) of the Local Government Act 1993	Local Government	Local Court	Willful or negligent damage of a plant in a public place	Up to \$2,200	6 months	
Clear native vegetation	s.43(1) of the Native Vegetation Act 2003	Department of Natural Resources	Penalty Notice for s12(1) offence		\$3,300 for individual and \$5,500 for corporations.		

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Clear native vegetation	s.12(1) and s.42(2) of the Native Vegetation Act 2003	Department of Natural Resources	Local Court	Clearing without approval	Up to \$11,000	2 years from the date of the offence or the date on which the offence first came to the notice of an "Authorised Officer".	s.36 remediation notice may be issued by DNR or a s.41 (5) Court may make such order as it thinks fit to remedy or restrain the contravention
Clear native vegetation	s.12(1) of the Native Vegetation Act 2003	Department of Natural Resources	Land and Environment Court	Clearing without approval	Up to \$1,100,000	2 years from the date of the offence or the date on which the offence first came to the notice of an "Authorised Officer".	S36 remediation notice may be issued by DNR or a Court may make such order as it thinks fit to remedy or restrain the contravention under s.41 (5)
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	Department of Environment and Conservation	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

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							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	Department of Environment and Conservation	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	Department of Environment and Conservation	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	Department of Environment and Conservation	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.	