

Policy

Vegetation Vandalism on Public Land

Version 2.2

Adopted by Council at its meeting on 19 May 2016

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Vegetation Vandalism on Public Land

1 Policy Objective

- i) The purpose of this policy is to promote a consistent Shire wide approach to the protection and management of vegetation in the landscape, specifically in deterring and responding to the loss of vegetation arising from vandalism on public land.
- ii) Specific Objectives:
 - a) To promote the value of, and need for, protection of vegetation on public land.
 - b) To provide consistency in the deterrence, investigation and response to Vegetation Vandalism incidents.
 - c) To encourage the sharing of experience, expertise and resources among various land management agencies (Councils, Crown Lands and Office of Environment and Heritage) when providing information to the public and responding to Vegetation Vandalism incidents throughout the Tweed Shire.
 - d) To promote and guide broader community involvement in the prevention of vandalism and investigation and enforcement following vandalism incidents.

2 Definitions

Vegetation Vandalism is the unlawful destruction, damage or injury to trees and vegetation on public land. Examples include poisoning, mowing, pruning, removal and ringbarking.

Vegetation includes the any of the following, whether dead or alive, native or exotic:

- a) a tree (including any sapling or shrub);
- b) an understorey plant;
- c) a groundcover (being any type of grass or herbaceous vegetation);
- d) a plant occurring in a wetland.

3 Policy Background

This policy has been developed in light of increasing Vegetation Vandalism being experienced throughout the Shire. 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 vegetation on public land under the care, control and management of Council. Further background information to the policy and its initiatives are included in Appendix 1.

This policy will assist Council in meeting the recommendations of the NSW Ombudsman's Enforcement Guidelines for Councils (2002) by establishing a consistent and transparent investigation and decision making framework when responding to Vegetation Vandalism events on public land under the care and control of Tweed Shire Council.

4 Policy

4.1 Policy Principles

- i) Vandalism of vegetation on public land is a serious offence.
- ii) The long term protection and management of vegetation on public land (including re-establishment in previously cleared areas) is integral to maintaining the economic, cultural, environmental and social values of the Shire. Vegetation contributes significantly to environmental health, biodiversity values and aesthetics, including human health and well-being.
- iii) The identification and prosecution of perpetrators of Vegetation Vandalism should be pursued consistently throughout the Shire. In the absence of successful prosecutions, Council and the community must carry some responsibility for the prevention of further damage and rehabilitation of damaged areas.
- iv) Community education is a key mechanism to promote the protection of vegetation, and to encourage the reporting of vandalism.

4.2 Policy Responses

- i) Council will utilise a combination of education, monitoring, regulation, enforcement and rehabilitation to address vandalism of vegetation on public lands under its care and control.

4.3 Education

- i) Council's community education programs will include the following key elements:
 - a) Details of the environmental functions provided by 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.
 - b) Explanation of the cumulative impacts of vegetation loss, so that the impact of a single act can be judged in the context of impacts over time.
 - c) Quantify the economic value of the environmental functions vegetation provides and the cost of vegetation loss and/or damage.
 - d) Highlight the legal significance of offences (ie. they are criminal acts), and the potential fines and punishments.
 - e) Preparation and public release of costings of the direct economic cost to residents of acts of vandalism in terms of investigation, replacement/remediation and signage production and installation.
 - f) Publicity regarding successful rehabilitation and other positive outcomes, as well as successful prosecutions and enforcement actions.
 - g) Encourage the direct involvement of the community in maintenance and protection of vegetation, and in rehabilitation of damaged areas (eg. through Landcare / Dunecare) and to reiterate Council's support of input from volunteers.

4.4 Monitoring and Prevention

- i) Council will record vandalism incidents and its responses 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.
- ii) Council will, at a minimum, record the following details in regard to vandalism events:
 - a) Location of the offence
 - b) The extent of the damaged vegetation
 - c) Details of the vegetation damaged (specific species, natural bushland or amenity planting, etc)
 - d) Method of vandalism (eg. cut, cleared or poisoned).
- iii) Council will actively promote community involvement in stewardship and maintenance of high risk bushland areas.
- iv) Council will target community education initiatives toward high risk vandalism areas.

4.5 Regulation and Enforcement

- i) When responding to Vegetation Vandalism events, Council will implement the steps set out in Figure 1.
- ii) Council will clearly define relevant staff responsibilities to establish clear lines of communication between those that are involved.
- iii) Council will employ a multi-criteria standardised assessment to determine the significance of Vegetation Vandalism impacts.
- iv) Council's response to vandalism events will reflect the significance of the impacts in accordance with Table 1.

4.6 Rehabilitation

- i) Council will ensure that rehabilitation is a key element in addressing Vegetation Vandalism.
- ii) Where possible, persons and/or corporations identified as responsible for the Vegetation Vandalism shall be required to fund all costs associated with response measures. This may include some or all of the following:
 - a) professional costs associated with assessing and reporting on the vegetation vandalism;
 - b) the costs of signage and its installation;
 - c) initial and follow up replanting and/or rehabilitation costs until the area vandalised has regenerated to the satisfaction of Council's General Manager or delegate.
- iii) The cost referred to in (ii) above does not include of any costs awarded to Council by any court for successful prosecutions brought before the NSW court system.

4.7 Timeframes for Removal of Signage, Fences and Screens

Signage, fencing and screens shall be erected and removed in accordance with significance of the Vegetation Vandalism event as outlined in Table 1 - Level of Significance and Recommended Responses.

4.8 Customer Request Management

- i) Initial notification of Vegetation Vandalism on Council Land reported by a community member will be recorded through the Customer Request Management (CRM) System or ECM and tasked to the Unit Coordinator Natural Resource Management.
- ii) Personal information contained in vegetation vandalism reports or complaints will be not normally be publicly released and it will be managed in accordance with Council's Access to Information and Privacy Management Plan Policies.
- iii) The appropriate Council Officer will investigate and use the Response Assessment Form (example provided in Appendix 4) and record the details and outcome in the Vegetation Vandalism Reporting Database.

5 Review Period

- i) The Policy document is to be reviewed five years (5) from the date of adoption but may be reviewed sooner if supported by a resolution of Council.
- ii) Despite (i) above this policy will remain in force until rescinded, endorsed or amended by resolution of Council.

6 Related Procedures

For many of areas of responsibility Council has adopted procedures which document the method of doing things. In relation to this policy, the following procedures are relevant:

- i) Vegetation Vandalism on Public Land Procedure.
- ii) Tree Management Guidelines for Council Managed Land.

7 Related Legislation

A range of offences exist under various legislation that have the potential to apply in cases of Vegetation Vandalism. The major legislation governing such incidences includes the Environmental Planning and Assessment Act 1979, the Local Government Act 1993 and the Native Vegetation Act 2003.

A more detailed overview of the relevant legislation, the offences, responsible authorities and the nature of penalties that apply are included in Appendix 2 of this document.

8 Useful Links

[Tweed Shire Council website](#)

[Division of Local Government](#)

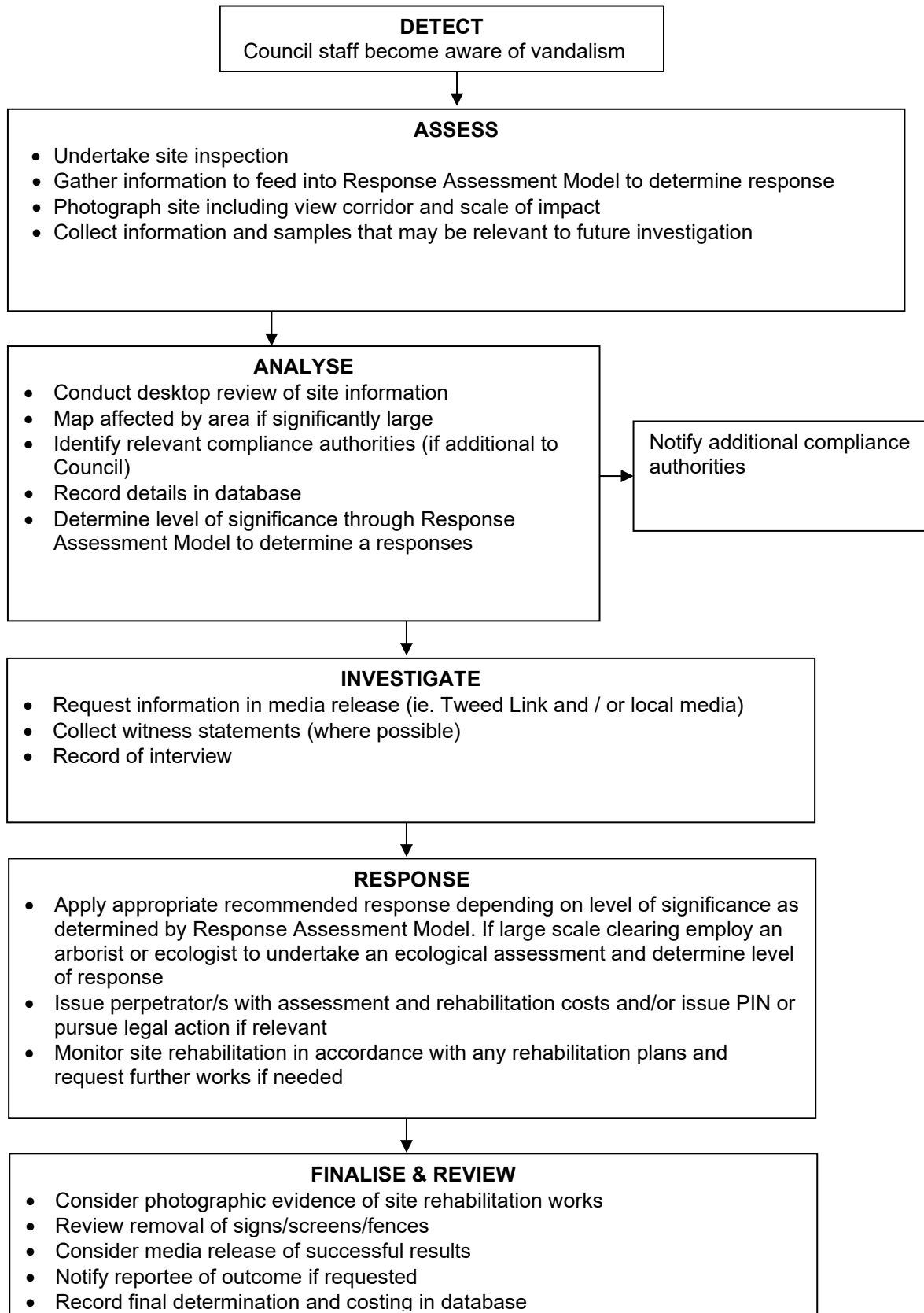


Figure 1 - Investigation and Response Procedure

Table 1 - Level of Significance and Recommended Responses

Significance*	Response
Low significance	A) Leave trees in place as safety allows.
	B) Undertake natural/assisted regeneration and/or revegetation works.
	C) Install small long term educational signage or temporary informative signage to assist regeneration works.
	D) Install fencing to support natural/assisted regeneration (if practical) until regeneration has restored site to previous extent or retain as permanent fencing.
	E) Issue Penalty Infringement Notice (PIN) where evidence exists (to cover rehabilitation and Council Officer(s) assessment costs).
Medium significance	A) Letterbox residents.
	B) Leave trees in place as safety allows.
	C) Undertake natural/assisted regeneration and/or revegetation works.
	D) Install large signs for a period of 12 months. The site to be monitored to determine if rehabilitation and regeneration of the site has been successful and no further incidences have occurred. This period will be extended with assessments at 6 monthly intervals should there be evidence of further vandalism.
	E) Install fencing to support natural/assisted regeneration (if practical) until regeneration has restored site to previous extent or retain as permanent fencing.
	F) Issue PIN (to cover rehabilitation and Council Officer(s) assessment costs) or consider action in Local Court or Land & Environment Court where evidence exists.
High significance	A) Letterbox residents.
	B) Leave trees in place as safety allows.
	C) Install large signs for 24 months, or if there is a large reduction in canopy cover, until rehabilitated vegetation has reached height and canopy cover of pre-existing/pre-vandalised vegetation.
	D) Install fencing to support natural/assisted regeneration (if practical) until regeneration has restored site to previous extent or retain as permanent fencing.
	E) Where vandalism has occurred to obtain views, install shade cloth screens. These screens will be removed once rehabilitated vegetation has reached the height and canopy cover of pre-existing/pre-vandalised vegetation.
	F) Prepare site rehabilitation plan and undertake restoration works (involving local residents and care groups where possible) and assess for replanting at greater density (eg. "3-for-1").
	G) Publicise damage event in the media and request public assistance to identify the perpetrator(s).
	H) Pursue action in the Local Court or Land & Environment Court where evidence exists.

*An assessment of Vegetation Vandalism as Low, Medium and High Significance is undertaken by Council staff using the Response Assessment Model methodology in the *Vegetation Vandalism on Public Land Procedure*. The criteria for assessing the significance of a Vegetation Vandalism event includes vegetation significance (age, size, ecological community); environmental effects (habitat loss, number of trees, weed spread); site

prominence; occurrence of vandalism (ie. more than once in the same location); and estimated cost of replacement. These criteria are used to consistently calculate the level of significance across a range of sites and events.

Appendix 1 - Background to the Policy

1. Tree and Vegetation Vandalism

The issue of Vegetation Vandalism is not unique to Tweed Shire. In November 2005 the NSW Minister for the Environment sought feedback from NSW Local Government Councils regarding ways to improve investigation of breaches of local council Tree Preservation Orders. This was in response to tree poisoning and removal from council reserves and private property “appearing to have reached epidemic proportions in some areas of coastal NSW and being particularly common around the harbour and beachside suburbs of Sydney”. In response, the Minister investigated 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.

The physical nature of tree and Vegetation Vandalism can occur in a variety of forms, including poisoning, pruning, removal, mowing of native understorey and the dumping of exotic and environmental weeds. 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.

The clandestine nature of 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.

If left unchecked, vandalism can have substantial financial and human resource costs for councils. These include the direct loss of the asset value of the vegetation, the cost of the investigation, rehabilitation and repair, and the cost of implementing punitive or deterrence measures. This highlights the necessity for this Policy in order to help reduce Vegetation Vandalism events.

2. Policy Responses

a. 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.

b. 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 beach dune vegetation.

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

- i. targeting communities with educational material and workshops;
- ii. increasing the presence of enforcement officers;
- iii. monitoring vegetation condition by photographs or aerial photography;
- iv. involving the community in stewardship and maintenance of bushland areas;
- v. 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, all of the time, community involvement and reporting of vandalism is integral to any monitoring and prevention program. The community, however, must have confidence that if they do report incidents, their reports will be treated with confidentiality and followed up promptly and effectively by the appropriate Council Officers. 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 Vegetation Vandalism over time including both ecological and economical. The database will also assist Council Officers in identifying serial complainers and / or vexatious persons.

c. Regulation, Enforcement and Rehabilitation

Effective responses need to be quick, predictable, consistent, fair and well-resourced. This policy ensures that standard procedures are used to investigate, assess the significance of, and respond to incidents of vegetation vandalism. To support the effective implementation of this procedure 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.

There are a range of responses that can and have been used to deal with instances of vandalism to vegetation. Experience has shown that the most effective responses involve a suite of actions, rather than a single action, that combine enforcement, education, and rehabilitation.

Appendix 2 - Legislative Framework

OFFENCE	OFFENCE PROVISION	PROSECUTION AUTHORITY	JURISDICTION	SHORT OFFENCE CODE	MAXIMUM PENALTIES	LIMITATION PERIOD (FROM THE DATE OF THE OFFENCE)	REMEDIATION
Contravene Tree Preservation Order	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Penalty Infringement Notice	Development carried out without development consent	\$600	1 years	
Contravene Tree Preservation Order	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Local Court	Development carried out without development consent	1 - 11 Penalty Units	2 year	
Contravene Tree Preservation Order	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Land and Environment Court	Development carried out without development consent	1 - 11 Penalty Units	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 without development consent	1 - 11 Penalty Units	2 years	
Contravene Tree Preservation Order	s629(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	S43(1) of the Native Vegetation Act 2003	Office of Environment and Heritage	Penalty Notice for s12(1) offence		\$3,300 for individual and \$5,500 for corporations.		
Clear native vegetation	S12(1) and S42(2) of the Native Vegetation Act 2003	Office of Environment and Heritage	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".	S36 remediation notice may be issued by DNR or a S41 (5) Court may make such order as it thinks fit to remedy or restrain the contravention

OFFENCE	OFFENCE PROVISION	PROSECUTION AUTHORITY	JURISDICTION	SHORT OFFENCE CODE	MAXIMUM PENALTIES	LIMITATION PERIOD (FROM THE DATE OF THE OFFENCE)	REMEDATION
Clear native vegetation	S12(1) of the Native Vegetation Act 2003	Office of Environment and Heritage	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 S41 (5)
Willful or negligent use of a pesticide that injures the property of another person	s.7(1)(b) of the Pesticides Act 1999	Office of Environment and Heritage	Land and Environment Court		Up to \$120,000 / \$250,000 (individual / corporation).	3 years 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
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	Office of Environment and Heritage	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'.	order the offender to pay the costs of a "public authority" (which includes a Council)
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	Office of Environment and Heritage	Local Court		(2) Up to \$20,000		where that authority has incurred costs as a result of the offence or in the clean-up, abatement or
Use of a pesticide in a manner that harms the property of another person	s.10(1)(b) of the Pesticides Act 1999	Office of Environment and Heritage	Land and Environment Court.		(3) Up to \$60,000 / \$120,000 (individual / corporation)		

OFFENCE	OFFENCE PROVISION	PROSECUTION AUTHORITY	JURISDICTION	SHORT OFFENCE CODE	MAXIMUM PENALTIES	LIMITATION PERIOD (FROM THE DATE OF THE OFFENCE)	REMEDATION
Use registered pesticide in contravention of approved label	s.15(1) of the Pesticides Act 1999	Office of Environment and Heritage	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.	mitigation of pesticide pollution

Version Control:

Version History		
Version #	Summary of changes made	Date changes made
1.0	First Draft to Council for Public Exhibition	01/07/2014
2.0	Second draft to Council for adoption	23/10/2014
2.1	Addition of timeframes for removal of signs, fences and screens.	31/08/2015
2.1	Changes to timeframes text following further Council consideration	5/11/2015
2.1	Adopted by Council following exhibition	Council meeting 19 May 2016 Minute No 235
2.2	Reviewed as part of Policies Review and no changes required.	16/06/2022