
Vegetation Vandalism Procedure

1 Purpose

The purpose of this procedure is to provide guidance to staff responding to vegetation vandalism being experienced throughout the local government area. This is particularly apparent in the coastal zone where development pressure and conflicts between water views and vegetation has put vegetation on public land under the care, control and management of council at risk.

2 Scope

This procedure applies to public open space and road reserves that is under the care, control and management of Coffs Harbour City Council

3 Procedure

3.1 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.

In this regard, community environmental education program should aim to address the following:

- 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 ANZ Standard or 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 (eg through Landcare and other community groups).

3.2 Monitoring and Prevention

Given the many years of experience by council 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 council does not have the resources to monitor all areas at risk 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.

3.3 Regulation, Enforcement & Rehabilitation

- Council will follow the Investigation and Response Protocol included in Appendix 2 when responding to 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;
- To support consistency Council will use the Response Assessment Model (Appendix 3) 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;
- Council will use the suite of potential response measures to vandalism events included in Appendix 4 of this procedure.

4 Definitions

Vegetation Vandalism: the unlawful destruction, damage or injury to vegetation on public open space and road reserves. Examples include poisoning, mowing, pruning, removal and ringbarking.

5 Key Responsibilities

Position	Directorate	Responsibility
General Manager	Executive	To lead staff (either directly or through delegated authority) in their understanding of, and compliance with, this procedure and associated policy.
Directors	All Directorates	To communicate, implement and comply with this procedure and associated policy.
Council Leaders	All Directorates	To implement this procedure and associated policy.
Responsible Officer	Sustainable Infrastructure	To implement this procedure and associated policy.
All Council officials	Council	To comply with this procedure and associated policy.

6 References (laws, standards and other Council documents)

6.1 Related Legislation, Australian Standards, OLG Circulars or Guideline

- Local Government Act 1993
- Environmental Protection and Assessment Act 1979
- Biodiversity Conservation Act 2016
- Fisheries Management Act 1994
- Pesticides Act 1999
- Coffs Harbour Local Environment Plan 2013
- SEPP (Vegetation in Non-Rural Areas) 2017

6.2 Related Council policy or procedure

- Vegetation Vandalism Policy

7 Details of Approval and revision

- **Approval date: 19/08/2017**
- **Responsible Section: Roads and Open Space**
- **Superseded policies/procedures: Tree Vandalism Policy**
- **Next review date: 19/08/2021**

Table of amendments

Amendment	Authoriser	Approval ref	Date

8 Appendices (delete if not used)

- Legislative framework;
- Investigation and Response Protocol;
- Response Assessment Model;
- Proposed response measures;
- Template for Letterboxing;
- Signage template.

APPENDIX 1

LEGISLATIVE FRAMEWORK FOR LOCAL GOVERNMENT

OFFENCE	OFFENCE PROVISION	PROSECUTION AUTHORITY	JURISDICTION	SHORT OFFENCE CODE	MAXIMUM PENALTIES	LIMITATION PERIOD (FROM THE DATE WHEN REGULATORY AUTHORITY NOTIFIED)	REMEDICATION
Contravene SEPP (Vegetation in Non-Rural Areas) 2017	S125 of the Environmental Planning and Assessment Act 1979	Local Government	No PIN option, caution letter only unless take to court	Development carried out without development consent	N/A	2 years from the date of the offence or the date on which the offence first came to the notice of an "Authorised Officer".	Council may choose to enter into an agreement for remediation
Contravene SEPP (Vegetation in Non-Rural Areas) 2017	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Local Court	Development carried out without development consent	\$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".	Not available through the local court, Council may choose to enter into an agreement for remediation
Contravene SEPP (Vegetation in Non-Rural Areas) 2017)	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Land and Environment Court	Development carried out without development consent	Individual \$1 million, & \$10,000 for each day offence continues Corporation \$5 million, & \$50,000 for each day offence continues	2 years from the date of the offence or the date on which the offence first came to the notice of an "Authorised Officer".	A Court may, impose remediation
Carry out forbidden development (S76B)	S125 of the Environmental Planning and Assessment Act 1979	Local Government	Local Court or Land and Environment Court	Development carried out without development consent	Individual \$1 million, & \$10,000 for each day offence	2 years from the date of the offence or the date on which the offence first came to the notice	A Court may, impose remediation

					continues Corporation \$5 million, & \$50,000 for each day offence continues	of an "Authorised Officer".	
Contravene s629 of the Local Government Act 1993	s629(1) of the Local Government Act 1993	Local Government	Local Court	Wilful or negligent damage of a plant in a public place	1-20 Penalty units	6 months from when offence occurred	N/A
Contravene s629 of the Local Government Act 1993	s629(2) of the Local Government Act 1993	Local Government	Penalty Infringement Notice	Removal of a plant in a public place	\$220	6 months from when offence occurred	N/A
Contravene s629 of the Local Government Act 1993	s629(2) of the Local Government Act 1993	Local Government	Local Court	Removal of a plant in a public place	1-20 Penalty units	6 months from when offence occurred	N/A

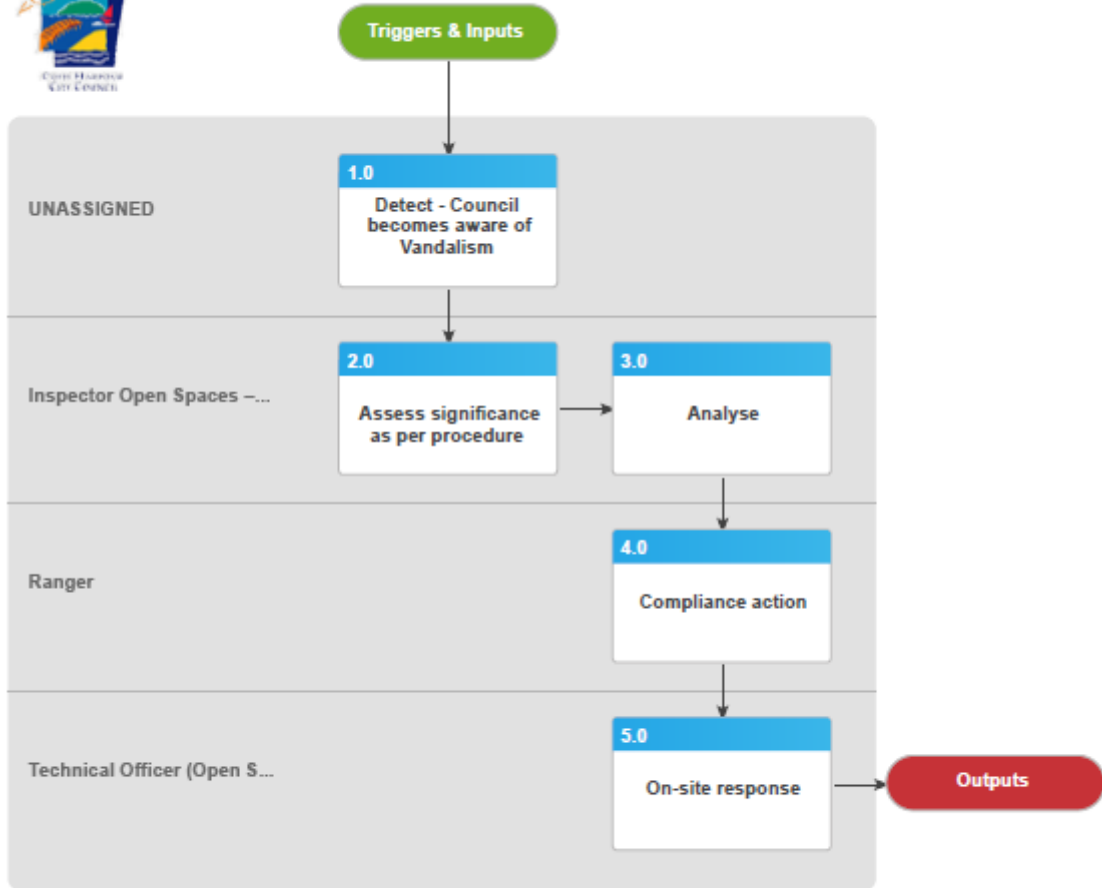
NB: it should be noted that the Office of Environment and Heritage and/or Local Land Services can take actions under the:

- Local Land Services Act (Clearing without Approval)
- Water Management Act (Carrying out controlled activity without, or otherwise than as authorised by, a controlled activity approval), and
- Pesticides Act (Use of a pesticide in a manner that harms the property of another person)

However Local Government is not the Appropriate Regulatory Authority for these Acts.

APPENDIX 2

INVESTIGATION AND RESPONSE PROTOCOL





Summary

Objective
Provide guidance to staff responding to vegetation vandalism being experienced throughout the local government area

Owner Terry Thorn

Expert Jeff Holmes

Procedure

1.0 Detect - Council becomes aware of Vandalism UNASSIGNED

NOTE Discovery of vandalism
This could be a call from a concerned resident, or detected by Council staff

2.0 Assess significance as per procedure Inspector Open Spaces – Trees

- a Undertake site inspection, Senior Biodiversity Officer may assist
- b Gather on site information to complete response assessment model, Senior Biodiversity Officer may assist
- c Photograph site including view corridor
- d Collect any relevant samples i.e vegetation or soil samples

3.0 Analyse Inspector Open Spaces – Trees

- a Conduct desktop review of information and apply response assessment model
- b Identify affected area (if required)
- c Notify Compliance Section for Council Land (via council customer request system), NPWS for Land in the Regional Park or relevant compliance authority for other public land.

4.0 Compliance action Ranger

- a Review data and undertake investigation, Senior Biodiversity Officer may assist
- b Survey area if required (by engaging council survey team)
- c Undertake compliance actions as per procedure and evidence allows, Senior Biodiversity Officer may assist

5.0 On-site response Technical Officer (Open Space)

- a Apply responses as per significance outcome, e.g temporary signage, permanent signage, rehabilitate etc.

Triggers & Inputs

TRIGGERS

None Noted

INPUTS

None Noted

Outputs & Targets

OUTPUTS

None Noted

PERFORMANCE TARGETS

None Noted

Process Dependencies

PROCESS LINKS FROM THIS PROCESS

None Noted

PROCESS LINKS TO THIS PROCESS

None Noted

RACI

RESPONSIBLE

Roles that perform process activities

Inspector Open Spaces – Trees, Ranger, Technical Officer (Open Space)

ACCOUNTABLE

For ensuring that process is effective and improving

Process Owner Terry Thorn

Process Expert Jeff Holmes

CONSULTED

Those whose opinions are sought

STAKEHOLDERS

None Noted

STAKEHOLDERS FROM LINKED PROCESSES

None Noted

INFORMED

Those notified of changes

All of the above. These parties are informed via dashboard notifications.

Systems

None Noted

APPENDIX 3 RESPONSE ASSESSMENT MODEL

Location:									
Officer:									
Date:									
0.125 Weighting for each Main Criteria									
Criteria	T#1	T# 2	T# 3	T# 4	T# 5	T# 6	T# 7	T# 8	T# 9
Significance of the Vegetation									
1 =No 2 = yes									
Historical value									
Commemorative tree									
Significant tree (on register)									
Local significance									
Endangered Ecological Community									
Curious growth habit or physical appearance									
Horticultural/scientific value									
Crown projection area>100m2									
Aesthetic amenity									
Valuable habitat or corridor									
Key stone species									
Contributes to the landscape									
TOTAL	0	0	0	0	0	0	0	0	0
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Life Cycle Stage									
Type 3 for young, 10 for semi-mature, 42 for mature									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Site Significance									
1 for low profile, 2 for average profile and 3 for high profile									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Life Expectancy									
Type 1 for short, 2 for medium or 3 for long									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Environmental & Ecological Impact									
Type 2 for yes and 1 for no									
Contamination									
erosion / increased exposure of other vegetation									
removal of regenerative capacity									
Habitat loss - Loss of nesting sites / feed tree									
Is the area able to be restored									
Does poisoned tree impact threatened species									
Is there an urban ecological benefit									
TOTAL	0	0	0	0	0	0			
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Public Safety Burden									
1 for occasional, 2 intermittent, 3 frequent,4 for constant									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
Damage									
Type 2 for major or 1 minor									
WEIGHTED TOTAL	0	0	0	0	0	0	0	0	0
TOTAL SCORE	0	0	0	0	0	0	0	0	0
SIGNIFICANCE	ACTION								
Low Significance < 6.253	as per Policy/Procedure								
Medium Significance 6.253 - 9.876									
High Significance > 9.876									

APPENDIX 4

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

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

Low significance 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 significance events

- Letterbox surrounding residents
- Erect temporary (consider permanent) signage
- 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 significance 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 Landcare 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
- Consider 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 (prior consultation with Executive Leadership Team, 355 committees, landcare groups, councillors should occur if this is proposed).

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, consider prosecution in the NSW Land and Environment Court. If successful, publicise the outcomes.

APPENDIX 5

TEMPLATE LETTER FOR LETTER BOXING

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 to council of rehabilitating the damage caused is likely to exceed **[INSERT VALUE]**, taking money away from other community services.

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

APPENDIX 6

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**.