

BACKGROUND

This Policy has been developed in order to –

- 1 State Council's resolute opposition to tree/vegetation vandalism on Council owned or managed land at any time or under any circumstances.
- 2 Promote a consistent approach by Council to respond to the apparent increase, particularly in coastal areas, of tree/vegetation vandalism occurring on Council owned or managed land.

OBJECTIVE

The main objectives of this Policy are to –

- 1 Promote the value of and need for protection of trees and other vegetation on Council owned or managed land.
- 2 Reduce the incidence of tree/vegetation vandalism by establishing and promoting appropriate protective, investigative and responsive actions from Council.
- 3 Provide consistency in Council's deterrence, investigation and response procedures to tree/vegetation vandalism incidents on Council owned or managed land.
- 4 Promote and guide broader community involvement in the prevention of vandalism, and in Council's response to vandalism incidents.
- 5 Provide guidance to Council's investigation officers in the legal use of surveillance techniques for the purposes of investigating and prosecuting tree/vegetation vandalism offences.

POLICY STATEMENT

This Policy aims to reduce the incidence of tree/vegetation vandalism on Council owned or managed land and to establish clear principles and guidelines for Council officers to assist them to act consistently and effectively in response to tree/vegetation vandalism on Council owned or managed land.

POLICY REVIEW AND VARIATION

- 1 Council is to have opportunity to review and adopt, at least once during its Term, each Council policy.
- 2 A resolution of Council is required to adopt any variations to this policy, with the exception of minor administrative changes, such as updates to legislative references, which may be endorsed by the Executive Management Committee (EMC). Endorsement of administrative changes made to this policy by EMC does not alter the requirement for it to be reviewed and adopted by each Term of Council.

STATEMENT OF PROCEDURES

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1 INTRODUCTION

1.1 The Policy

This Policy is called Wollongong City Council's Tree and Vegetation Vandalism Policy.

1.2 Policy Purpose

Council is resolutely opposed to tree/vegetation vandalism on Council owned or managed land at any time or under any circumstances.

The purpose of this Policy is to reduce the incidence of tree/vegetation vandalism on Council owned or managed land and to establish clear principles and guidelines for Council officers to assist them to act consistently and effectively in response to tree/vegetation vandalism on Council owned or managed land.

1.3 Policy Objectives

The objectives of this Policy are:

- 1 Promote the value of and need for the protection of trees and other vegetation on Council owned or managed land.
- 2 Reduce the incidence of tree vandalism by establishing and promoting appropriate protective, investigative and responsive actions from Council.
- 3 Provide consistency in Council's deterrence, investigation and response procedures to tree/vegetation vandalism incidents, including the use of surveillance devices.
- 4 Promote and guide broader community involvement in the prevention of tree/vegetation vandalism, and in the investigation and enforcement processes undertaken by Council when responding to such incidents.
- 5 Provide guidance to Council's investigation officers in the legal use of covert surveillance cameras for the purposes of investigating and prosecuting tree/vegetation vandalism offences.

The principles of this Policy acknowledge that:

- 1 The vandalism of trees and other vegetation on Council owned or managed land is a serious criminal offence.
- 2 The long term protection and management of trees and other vegetation on Council owned or managed land (including the re-establishment of native vegetation in previously cleared areas) is integral to maintaining the economic, cultural, environmental and social values of the area. Trees and other vegetation contribute significantly to environmental health, and to human health and wellbeing.
- 3 The vandalism of trees and other vegetation on Council owned or managed land results in substantial financial and human resource costs to Council and also long term environmental costs.
- 4 Council does not support the removal of trees/vegetation for views for private benefit. Council will consider requests for removal and management of trees on public lands through the customer request process, which assesses requests against relevant criteria.
- 5 The identification and prosecution of perpetrators of tree/vegetation vandalism on Council owned or managed land should be pursued in a consistent manner.
- 6 In the absence of successful prosecutions, Council and the community must carry some responsibility for the prevention of further damage and the rehabilitation of damaged areas.
- 7 Community education is a key mechanism to promote the protection of trees and other vegetation, and to encourage the reporting of vandalism.

1.4 Policy Application

This Policy applies to the investigation and enforcement of tree/vegetation vandalism on Council owned or managed land.

1.5 Definition

For the purpose of this Policy, tree/vegetation vandalism means the unlawful cutting down, felling, uprooting, killing, poisoning, ringbarking, burning, topping, lopping, pruning, injuring, mowing over, driving over, or otherwise destroying or removing any tree (regardless of height, trunk diameter or branch spread) or other vegetation on Council owned or managed land.

2 BACKGROUND

This Policy has been developed in response to an apparent increase in tree/vegetation vandalism occurring within the Wollongong local government area. In particular, conflicts between water views and vegetation in coastal headland, beach and lakeside areas have resulted in the vandalism of trees and vegetation on Council owned or managed land.

There are many reasons that motivate the vandalism of trees and/or other 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 foreshore, creation of dirt bike tracks or unimpeded views). Where possible, the response to acts of vandalism should relate to the impact of the incident and 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/vegetation vandalism can occur in a variety of forms, including poisoning, pruning, burning, removal and destruction, and mowing over or destructive driving over low growing native vegetation. 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 the loss of wildlife habitat.

Such vandalism can have substantial financial and human resource costs for Council. 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. Long term environmental costs are difficult to calculate and may not be recovered.

The clandestine nature of tree/vegetation vandalism on Council owned or managed 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. Although successful investigations and prosecutions are difficult, their impact is significant in making the community aware of the seriousness of unlawfully damaging vegetation.

A range of offences with a range of penalties (such as fines and requirements for remediation) exist under various legislation that have the potential to apply in cases of tree/vegetation vandalism. In implementing this Policy, Council's Regulation and Enforcement Division will determine under which legislation any enforcement action is to be pursued should a known offender be identified.

3 POLICY RESPONSES

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 creating this support. As such, long-term and varied programs are required.

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

- a To explain the various environmental functions of vegetation in natural and urban environments including: wildlife habitat, water quality, air quality, shade, erosion control, aesthetics, weed suppression and wind breaks.
- b 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.
- c To highlight the legal significance of offences (ie they are criminal acts), and the potential fines and punishments.
- d To calculate and publicise the direct economic cost to residents of acts of vandalism, in terms of investigation, replacement and remediation costs.
- e To publicise successful rehabilitation and other positive outcomes, as well as successful prosecutions and enforcement actions.
- f To involve the community directly in maintenance and protection of vegetation, and in rehabilitation of damaged areas (eg through Bushcare).

3.2 Prevention

Council will actively promote community involvement in the stewardship and maintenance of high risk native vegetation community areas.

Council will target community education initiatives toward high risk vandalism areas.

Where new plantings, or a substantial change to the way existing vegetation is managed on Council owned or managed land is proposed, Council will communicate with the local community the purpose of the plantings or the change to vegetation management and the expected outcomes.

Where draft Landscape Master Plans and specific Plans of Management are prepared for Council owned or managed land, the public consultation process provides opportunities for the community to provide their feedback on the location and type of proposed vegetation.

3.3 Monitoring

Council will record tree/vegetation vandalism incidents and its response in Council's customer request management system and will use the system 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. The following details about each tree/vegetation vandalism incident will be recorded as a minimum:

- a The location of the offence.
- b The number of trees vandalised and the size of the area that has been impacted upon.
- c Whether the vandalised tree(s)/vegetation was/were planted for amenity reasons, or was/were planted as part of a Bushcare site, or was/were planted as part of contracted restoration works, or form(ed) part of a native vegetation community.
- d Method of vandalism (eg cut, poisoned, burnt or unknown).

3.4 Regulation and Enforcement

Council becomes aware of tree/vegetation vandalism in a variety of ways, from the proactive actions of Council staff to the receipt of complaints or requests from members of the public.

The request will then be investigated according to the associated internal Council Tree and Vegetation Vandalism Investigation and Response Procedure (developed separately to this Policy). The impact of the incident (either low, medium or high) will be determined using the incident impact assessment method detailed in the associated Procedure. The incident impact assessment will include consideration of the number of trees and/or the size of the area of established understory that is involved, whether the tree(s) is/are part of a heritage item, whether the tree(s)/established understory is/are a part of an endangered ecological community and whether the location where the vandalism of trees or damage to understory vegetation has a significant visual impact on other residents and the public.

The response to the impact of the incident will be determined using the Proposed Response Measures for Low, Medium and High Impact Vandalism Incidents at Attachment 1 of this Policy.

Covert surveillance cameras may be used as a response measure for high impact vandalism incidents as described in the Tree/Vegetation Vandalism Covert Surveillance Camera Procedure at Attachment 2 of this Policy.

4 RESOURCES

The resources required for Council to implement this Policy include:

- Investigative/regulatory staff
- Environmental educational/community engagement staff and resources
- Management plans and rehabilitation strategies
- Correspondence templates (eg for postcards to residents)
- Signage (see Attachment 3 for an example sign)
- Covert surveillance cameras
- Physical materials such as bunting, fencing, sail or shade cloth
- Customer request management system to record and monitor vandalism events
- Access to suitable locally indigenous plants suitable for use in rehabilitation
- Staff trained and resourced to carry out rehabilitation.

5 IMPLEMENTATION RESPONSIBILITIES

If a tree/vegetation vandalism incident has occurred in a Council park or on a Council road reserve, the relevant Parks Coordinator will action the customer request in accordance with this Policy, and the Tree and Vegetation Vandalism Investigation and Response Procedure.

If a tree/vegetation vandalism incident has occurred in a Council managed Natural Area, a Natural Areas Officer will action the customer request in accordance with this Policy and the Tree and Vegetation Vandalism Investigation and Response Procedure.

If a tree/vegetation vandalism incident involves an endangered ecological community, has occurred in a declared Aboriginal Place or has affected Aboriginal objects, the actioning officer will notify the Office of Environment and Heritage.

Council's Regulation and Enforcement Division will follow up on information supplied by the Parks Coordinator/Natural Areas Officer and obtained from any witnesses and where sufficient evidence exists, will pursue enforcement action.

6 REVIEW

Council will review this Policy every two years. The review will include an assessment of the number and impact of tree/vegetation vandalism customer requests received, the actions taken, the level of Council resources to implement this Policy and the Tree and Vegetation Vandalism Investigation and Response Procedure, and legislative changes since the development of this Policy.

7 RELATED COUNCIL POLICIES AND DOCUMENTS

- Public Tree Management Policy
- Compliance and Enforcement Policy
- Encroachment Policy
- Customer Service Policy
- Urban Greening Strategy 2017-2037

8 ACKNOWLEDGEMENTS

The following documents were referred to and form the basis of preparing this Policy:

Hunter and Central Coast Regional Environmental Management Strategy (2007) Regional Tree and Vegetation Vandalism Policy.

Sutherland Shire Council (2014) Tree Vandalism Policy.

ATTACHMENT 1 RESPONSE MEASURES FOR TREE/VEGETATION VANDALISM INCIDENTS

Council will take action in response to incidents of tree/vegetation vandalism. The selection of response measures will be guided by the level of impact generally categorised as low, medium or high as per the descriptions below. Further details of the proposed actions are contained in the Tree and Vegetation Vandalism Investigation and Response Procedure. Proposed actions are as follows:

Level of Impact	Examples of Vandalism Incidents	Response Actions
Low	<ul style="list-style-type: none"> • The pruning of small trees, and/or • the removal of recently planted trees, shrubs or groundcovers over an area of up to 10 square metres. 	<ul style="list-style-type: none"> a Leave tree skeletons in place as far as safety allows. b Install a small temporary sign on the site highlighting the damage and requesting witnesses contact Council (see Attachment 3 for an example of a tree/vegetation vandalism sign). Signs are to remain until public amenity and environmental conditions have been restored to Council’s satisfaction. c Subject to Divisional Manager approval, organise a media release about the incident. d Re-plant and rehabilitate damaged areas. e Where sufficient evidence exists, issue a Penalty Notice.
Medium	<ul style="list-style-type: none"> • The pruning of medium to large trees, and/or • the clearing or poisoning of between 10 square metres and 20 square metres of established understorey vegetation not forming part of an endangered ecological community, and/or • the removal of recently planted trees, shrubs or groundcovers over an area of between 10 square metres and 20 square metres, and/or • repeat vandalism at the location of a previous low impact incident. 	<ul style="list-style-type: none"> a Investigating officer to undertake letterbox drop of residents in the vicinity seeking information on perpetrators. b Leave tree skeletons in place as far as safety allows. c Install a large temporary sign or large banner on the site highlighting the damage and requesting witnesses contact Council (see Attachment 3 for an example of a tree/vegetation vandalism sign). Signs and banners are to remain until public amenity and environmental conditions have been restored to Council’s satisfaction. d Subject to Divisional Manager approval, organise a media release about the incident. e Re-plant and rehabilitate damaged areas. f Where sufficient evidence exists, issue a Penalty Notice or pursue action in the Local Court.

Level of Impact	Examples of Vandalism Incidents	Response Actions
High	<ul style="list-style-type: none"> • The poisoning, ringbarking, burning or removal of medium to large trees, and/or • the vandalism of any sized area of understorey vegetation forming part of an endangered ecological community, and/or • the removal of recently planted trees, shrubs or groundcovers over an area greater than 20 square metres, and/or • a location where the vandalism of trees or damage to understorey vegetation has a significant visual impact on other residents and the public, and/or • repeat vandalism at the location of a previous medium or high impact incident. 	<ul style="list-style-type: none"> a Investigating officer to undertake letterbox drop of residents in the vicinity seeking information on perpetrators. b Assess the best response to stabilise the area and ensure the vandalism is not rewarded (eg by cutting down or clearing the dead vegetation). Leave tree skeletons in place as far as safety allows. c Erect a large or extra large sign or large banner on the site highlighting the damage and requesting witnesses contact Council (see Attachment 3 for an example of a tree/vegetation vandalism sign). Signs and banners are to remain until replacement plants have been installed or public amenity and environmental conditions have been restored to Council's satisfaction. d Subject to Divisional Manager approval, organise a media release about the incident. e Assess the capabilities to install covert surveillance cameras in accordance with the Tree and Vegetation Vandalism Covert Surveillance Camera Procedure at Attachment 2 of this Policy. f Depending on the scale of the damage, write a report to Council proposing action to block views in the damaged area using a barrier (such as bunting, sail or shade cloth or a fence). Following the Council resolution and after notifying residents in the vicinity of the proposed action, install the barrier. Barriers are to remain until replacement trees have been installed or public amenity and environmental conditions have been restored to Council's satisfaction. Publicise Council's response in the media. g Prepare and implement a rehabilitation plan which should aim to increase the density or extent of vegetation and includes replacement ratios of at least 4:1 (consistent with NSW Government offsetting methodology). The plan should preferably involve local residents/schools/Bushcare groups where appropriate in its implementation. h Link successful rehabilitation to the removal of barriers where possible, with the aim of promoting the protection of rehabilitation works. For example, bunting or signs may be removed after twelve months if re-planted vegetation is established and maintained to Council's satisfaction. i Protect the site and rehabilitation works with fencing (eg temporary construction fencing). Persist with rehabilitation works and maintenance of rehabilitated areas to ensure no loss of vegetation over time. j Where sufficient evidence exists, pursue action in the Local Court or Land and Environment Court.

ATTACHMENT 2 TREE AND VEGETATION VANDALISM COVERT SURVEILLANCE CAMERA PROCEDURE**1 Background**

The use of covert surveillance cameras (CSCs) for tree/vegetation vandalism offences on public land is not included in Council's CCTV Policy and Code of Practice Policy due to the specific legal powers provided to council investigation officers under the Environment Planning and Assessment Act 1979. Covert surveillance cameras can potentially be used to assist in the deterrence and detection of tree/vegetation vandalism offences on public land. This Procedure has been developed to provide guidance to Council's investigation officers and interested parties with respect to Council's approach to using covert camera surveillance to pursue tree/vegetation vandalism offences under that Act.

2 Relevant Legislation

Environment Planning and Assessment Act 1979 (EP&A Act);
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;
Local Government Act 1993 (LG Act);
Surveillance Devices Act 2007 (SD Act);
Privacy and Personal Information Protection Act 1998 (PIPP Act);
Workplace Surveillance Act 2005 (WS Act).

The cutting down, lopping, trimming, poisoning, burning, ringbarking or otherwise destruction of prescribed trees, without a permit or development consent, is generally a breach of clause 7(1) of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017. A prescribed tree is defined as one which is three (3) metres or more in height; or has a diameter of 200mm or more at a height of one (1) metre from the ground; or has a branch spread of three (3) metres or more (Wollongong Development Control Plan 2009, Chapter E17).

Section 9.18 of the EP&A Act specifies that an investigation officer, at any premises lawfully entered, being in the context of this Procedure, public land, can, amongst other things:

- (d) take such photographs, films, audio, video and other recordings as the officer thinks necessary,
- (h) examine and inspect any records, and
- (i) copy any records.

The installation and use of CSCs is regulated by the SD Act, which provides that landowner's consent is required before land can be used for such cameras. Footage of persons obtained from such cameras is also regulated by the PIPP Act. However, that legislation has specific exemptions from its operation in relation to law enforcement.

The WS Act covers requirements for surveillance of workplaces which may include Council reserves. Cameras used in this Procedure will not be used for workplace surveillance. As Council employees are not the focus or reason for surveillance, notification of surveillance is not required, however, Council considers it good practice to let any relevant workgroup manager/supervisor know of the surveillance, in writing, and on a strict need-to-know basis.

3 Approved Application of CSCs

Covert surveillance cameras used by Council investigation officers under this Procedure will only be employed to determine whether there has been compliance with or a contravention of the EP&A Act or its Regulations.

Some CSCs have the capability of recording sound in addition to collecting images. This feature means that a CSC could be considered to be a listening device for the purposes of the SD Act. To ensure no compliance issues with the SD Act, the function to record sound with images **must be turned off**.

4 Authorised Officers

Only persons with delegated authority as a Council investigation officer under the EP&A Act are authorised to undertake actions under this Procedure.

5 Permission from landholder for CSC location

The SD Act stipulates that "express or implied" consent from the landowner of the placement location is required to install, use or maintain a CSC. In this regard Council approves the use of CSCs on Council owned and managed land/road reserves. In the case where a CSC is sought to be installed on private lands Council must obtain written consent from the landholder. For example a signed consent in an investigation officer's contemporaneous notebook.

6 Location of CSC Unit

The placement of the CSC unit is critical to the gathering of evidence that can be used successfully when investigating a tree/vegetation vandalism incident. The location of the unit will remain known only to employees directly involved in the maintenance and operations of the unit in the investigation and other people as necessary under the WS Act. Cameras will generally be located at locations of repeated tree/vegetation vandalism incidents.

When selecting a location for installation, the investigation officer must consider the following:

- Impacts to native flora and fauna habitat;
- Impacts on heritage values (Aboriginal or other heritage values);
- Security and protection of the equipment is adequate in order to prevent casual observation and/or detection;
- The ability to maintain privacy of nearby private property;
- Security of cameras against vandalism or damage;
- Damage to assets in affixing equipment; and
- Adequate lighting to support the operation of CSCs at night.

7 Signage

Where CSCs are used for law enforcement purposes (compliance with the EP&A Act), Council is not required to use signage to indicate that CSCs are being used for the detection of tree/vegetation vandalism in a particular location. Council may place signage at selected locations within the Local Government Area highlighting that tree/vegetation vandalism is an offence and that surveillance cameras may be operating. These signs aim to act as a deterrent and may also serve a secondary privacy purpose to warn people that surveillance cameras are operational within the Local Government Area. It also needs to be recognised that signage in specific locations may not be effective as offenders may take preventative action to avoid detection by means including searching for and vandalising hidden cameras.

8 Retrieval of Images from CSC Units

Where used, CSC unit/s will be located in strategic locations as determined by investigation officers. Once the units are installed, the surveillance units will be inspected through regular patrols. Images will be retrieved in response to incidents in the vicinity of the camera, CSC memory and battery life.

Once the unit is returned to Council:

- the memory card must be removed and reviewed for evidence; and
- any surveillance evidence must be stored in the appropriate HPE Records Manager container.

If no relevant evidence is identified, that is, a breach of the EP&A Act, the images on the memory card are to be erased and the card placed back with the CSC unit. The CSC unit can then be redeployed.

9 Use and Security of Images

The use of the investigation powers under the EP&A Act must be balanced by the responsibility to consider privacy implications. In this regard, the following procedures are to be followed:

- A record of the placement of CSC will be stored within the relevant Council database. The database may be modified as required to ensure appropriate data is collected;
- Monitoring and evaluation of images will only be carried out by Council investigation officers;
- Images are not to be shown or distributed to other persons (including other Council staff) for any purpose other than law enforcement purposes;
- Where images obtained do not provide satisfactory evidence of an offence these images are required to be deleted at the earliest available opportunity;
- Where images obtained do provide evidence these images must be retained in a secure location (eg within an approved Council electronic file);
- Internal legal advice is required prior to using any evidentiary images for training or presentation purposes;
- Other organisations such as NSW Police or the Office of Environment and Heritage may view the evidentiary images as part of an investigation into non-compliance with or a contravention of other legislation (eg National Parks and Wildlife Act 1974) or for lawful purposes; and
- Images displaying a criminal act (separate from EP&A Act breaches) must be kept and forwarded to the NSW Police.

10 Complaints

Complaints received about the use of cameras under this Procedure will be dealt with in accordance with Council's normal customer request process.

11 Inappropriate Use

Any use of the CSC units or images produced which is inconsistent with this Procedure will be considered misconduct and subject to disciplinary action in accordance with Council's procedures, and if appropriate, will be reported to the NSW Police.

12 Disclosure of Data to the Public

Requests for recorded information from the public must be forwarded to Council's customer service unit to be dealt with under the Government Information Public Access (GIPA) Act as a GIPA request.

Information will also be provided during the course of an investigation to offenders and witnesses to gain evidence and during interviews. Information will also be provided to the offender or their legal representative for active court proceedings.

ATTACHMENT 3

EXAMPLE OF A TREE/VEGETATION VANDALISM SIGN



Example small sign size: 600 x 400mm.
Example large sign size: 1800 x 1200mm.
Example extra large sign size: 3600 x 2400mm.

Note 1: As detailed in the internal Council Tree and Vegetation Vandalism Investigation and Response Procedure, depending on the site, additional information may be added to the sign, such as the importance of the vandalised trees/vegetation and the lateral extent of the vandalism site.

Note 2: The Parks Coordinator/Natural Areas Officer shall obtain approval in writing from their Divisional Manager for the final wording and location of the sign(s) prior to installation.

SUMMARY SHEET

Responsible Division	Environmental Strategy and Planning
Date adopted by Council	23 July 2018
Date of previous adoptions	
Date of next review	March 2020
Responsible Manager	Manager Environmental Strategy and Planning
Authorised by	Director Planning and Environment