

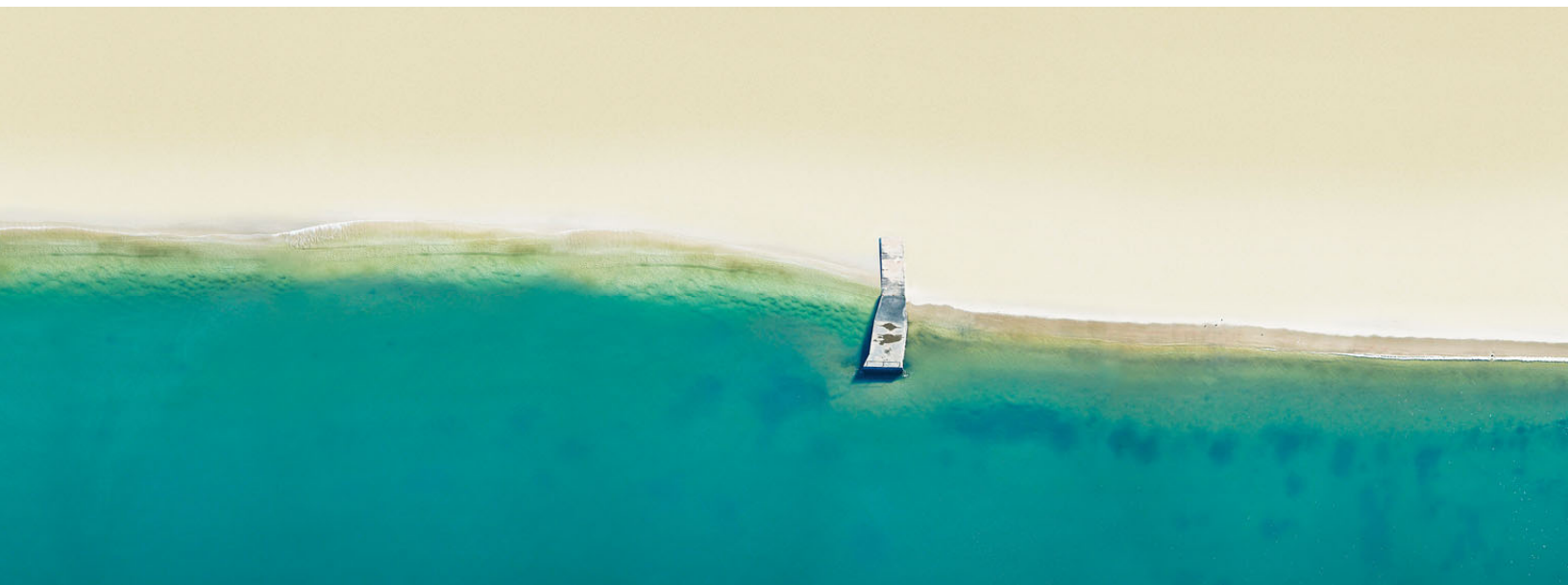


Bayside Council

Serving Our Community

Community & Verge Gardens Policy

22 February 2023



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Community & Verge Gardens Policy
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1 Introduction

1.1 Background

Community and verge gardens provide local residents with recreational opportunities and a range of other environmental, social and educational benefits that can contribute to the health and well-being of individuals and the wider community.

The opportunities and values represented by community and verge gardens are informed by the Community Strategic Plan 2030.

- Our places are accessible to all
 - Open space is accessible and provides a range of active and passive recreation opportunities to match our growing community
 - Bayside provides safe and engaging spaces, places and interactions
- The community is valued
 - We are a healthy community with access to active recreation and health education
 - All segments of our community are catered for – children, families, young people and seniors
 - Opportunities for passive and active activities are available to community members

1.2 Definitions

Community Gardens

For the purposes of this policy a community garden is defined as a not-for-profit, community based enterprise producing food primarily for the consumption of the gardeners. Community gardens are also places for learning and sharing about sustainable living practices and for actively building communities through shared activities.

There are several models of community gardens in existence throughout Australia, Bayside Council supports the following models:

- Gardens that include a shared area plus allotments for each member;
- Gardens where the entire area is managed collectively

Verge Gardens

The verge is the Council owned land between the constructed road and private property. Street verge gardening is the practice of growing ornamental, native or edible plants on the verge. Verge gardens can be either managed collectively by a group of residents or by an individual household.

1.3 Policy statement

Council is committed to providing a clear roadmap for the community and Council to develop and manage community and verge gardens in the Bayside local government area (LGA). This Policy outlines the types of gardens that may be supported by Council, where they can be located and the ongoing roles of Council and the public in managing and nurturing community and verge gardens.

1.4 Scope of Policy

This Policy covers activities related to 'gardening' by community members on Council or Council managed land and does not include the activities of Council or contracted land management activities.

2 Community Gardens - Establishment

2.1 Planning

Establishing a community garden can be a complex process. Therefore, a clear process for development and management of a community garden and clear roles and responsibilities are needed. All community gardening activities covered by this Policy must satisfy the following requirements to allow establishment and ongoing use.

Council encourages resident groups to contact Council early in the planning process and to review the many excellent resources available regarding community gardening including '10 Steps to Starting a Community Garden' on the Australian City Farms and Community Gardens Network website and the City of Sydney's 'Guide to Getting Started in Community Gardening' available on the City of Sydney's website.

Application forms and a checklist for starting a community garden are available on Council's website.

2.2 Where community gardens can be established

For the purposes of the Policy, community gardens supported by Council can only be located on Council owned or managed land and be managed only by an authorised group of local residents. All community gardens established on Council land require an approval from Council.

Not all Council land or open space is suitable for community gardening and the following areas are excluded from community garden applications:

- Cook Park
- Areas mapped as endangered ecological communities
- Some areas mapped as contaminated land following assessment by Council
- State Roads and reserves adjacent to State Roads
- Median strips and roundabouts.

2.3 Park Plans of Management

Council has Plans of Management (POM) for many parks and open space areas. Community gardening activities that occur in an area with an existing POM must be consistent with this Plan. Where relevant, Council incorporates community gardens into plans of management as 'community land'.

2.4 Establishing Community Garden Groups

Community gardens come in many shapes and sizes and the groups that manage them are just as varied, encompassing a range of ages, skills and experience. To ensure community gardens are managed effectively, groups need to develop and

adhere to a set of rules agreed to by both Council and the garden group. For larger groups this requirement means the development of a management plan; for smaller groups it may be a simple licence agreement.

Larger community garden groups must become incorporated through the NSW Office of Fair Trading. Incorporation allows garden committees to open a bank account, obtain public liability insurance and apply for government grants. To become incorporated garden groups must first establish a management committee with annually elected office bearers and commit to regular meetings. Appropriate governance arrangements ensure good management of the garden where issues are addressed in a timely and transparent manner, tasks are shared thereby avoiding excessive responsibility being placed on a few people or the garden becoming dominated by one person or faction.

2.5 Insurance and Risk Management

It is essential that community garden groups be aware of the risks associated with undertaking publicly accessible community gardens and that garden groups have a duty of care to community members who visit gardens. As such, all community garden management plans are required to include a risk assessment.

To ensure risks are financially covered, each garden and its members must be covered by public liability insurance of at least \$20,000,000. Council recognises that there is a cost associated with obtaining public liability insurance and provides the following options for obtaining insurance cover:

- Council community grant or another grant
- Fundraising
- Garden membership fees
- A partnering organisation or agency that can extend their policy to cover the garden
- A group of community gardens with similar objectives might obtain insurance together
- Purchasing a policy through incorporated groups such as Garden Clubs of Australia

2.6 Financial Sustainability

Long-term financial viability is critical for the success of any community garden project. While Council has a community grants program that can be applied to for the purposes of community gardens, gardens should be planned so that they are not dependent on grants or sponsorship. Financial sustainability must be demonstrated in the garden's management plan and may require, as is the case for several community gardens in other Sydney council areas, an annual membership fee.

During the building of a community garden, Council may, at its discretion and subject to budgetary constraints, fund the following materials and activities:

- Raised garden beds
- Recycling, worm farming and composting facilities and associated infrastructure
- Fencing
- A limited supply of soil, compost, mulch and tools
- Public signage and educational materials
- Soil contamination testing

2.7 Conflict Resolution and Complaints Procedure

Community Gardens should aim to be tolerant and caring environments. However, it is inevitable that conflicts arise, either within the garden group or with external stakeholders such as local residents or Council. Council therefore recommends that all community garden management plans include a gardener's agreement and a conflict resolution process that provides expectations of behaviour that all members must sign and agree to follow. Garden groups of less than 12 twelve members that do not have a garden management plan, are to be required to sign individual gardener's agreements with Council.

2.8 Occupation Agreement

New community gardens that have been approved by Council will be granted an initial permit for a trial period of 12 months, which will accrue no occupation fee for the trial period. If the garden group or individuals fulfil their responsibilities in regard to the management of the garden within the first year, another permit may be negotiated. All permits issued after the 12-month trial period incur an annual administration fee, listed in Council's 'Fees & Charges'. The permit or any other occupation agreement granted between a community garden group (or individual entities) and Council may be revoked or not renewed if:

- The community garden group disbands or ceases to function
- Individuals or the community garden group fail to fulfil their agreed responsibilities as outlined in this policy and/or the permit issued
- The garden is not maintained or becomes unsafe for public access
- Appropriate insurance cover is not maintained
- If any relevant Act, Regulation, or environmental code is breached.

2.9 Use of the Gardens as Demonstration Sites

Council's vision of community gardens includes promotion of the gardens as demonstration sites for sustainable living. As such Council, while ensuring that garden activities are not disrupted, retains the right to use community gardens for community education events such as tours and workshops. Council would, therefore, encourage community garden groups to include sustainable practices such as recycling, organic/permaculture gardening principles as well as outdoor learning, performance, meeting spaces and interpretative signage in their plans of management.

3 Community Gardens – Roles and Responsibilities

3.1 Council

Council provides the following support to community garden groups:

- A staff member who acts as a point of contact for all members of community gardens
- Assessment of garden proposals and management plans
- Provision of initial advice on design and maintenance of gardens
- Assistance with establishing worm farms and composting facilities.
- Connecting local gardens and gardeners to each other to help build relationships and encourage the sharing of information and experiences.

- Promotion of community gardening through Council's website, publications and events.
- Determination of potential breaches of permits and revocation of individual or group agreements if breaches have occurred.

Council is not able to provide the following services or resources.

- Ongoing administrative support (e.g. photocopying, promotion)
- Care of garden group finances
- The provision of large infrastructure (e.g. sheds, rainwater tanks, sun shelters)
- The ongoing provision of plants, seeds, soil or mulch, tools, or other equipment
- The repair or replacement of damaged, lost, or stolen infrastructure and equipment
- The development or hosting of any internet-based platforms for group communications and promotion, e.g. websites, blogs, wikis
- Ongoing financial support.

3.2 Garden Groups

Community gardens should be initiated and managed by community members for the long term, considering the needs of all stakeholders and the surrounding community. Specifically, gardeners are responsible for ensuring that:

- They maintain effective relationships with the surrounding neighbourhood, partnering organisations and gardener members
- Garden group members and visitors to the garden are not to be discriminated against due to differences in race, gender, culture, or sexuality
- Decision-making by the garden committee is democratic, transparent and inclusive
- The garden is managed in such a way that water contaminated by sediment, fertilisers etc. is contained on site
- Garden activities that may incur noise, dust etc. do not disturb neighbours
- Compost, worm farms and garden materials are maintained so as not to attract vermin or produce unpleasant odours
- Rainwater harvesting systems are maintained to ensure water is of a high quality
- Lawn areas are regularly mowed and garden beds kept tidy
- Visitors are welcomed during daylight hours.

Community gardeners have the right to:

- Develop their own internal policies, organisational procedures and management plan providing they liaise with and get support from Council
- Be consulted about any decision that may affect the garden and to be advised by the Council in a timely manner of any policy changes that impact them
- Be treated with respect by other gardeners, local residents and partnering organisations
- Negotiate a secure and reasonable agreement with Council.

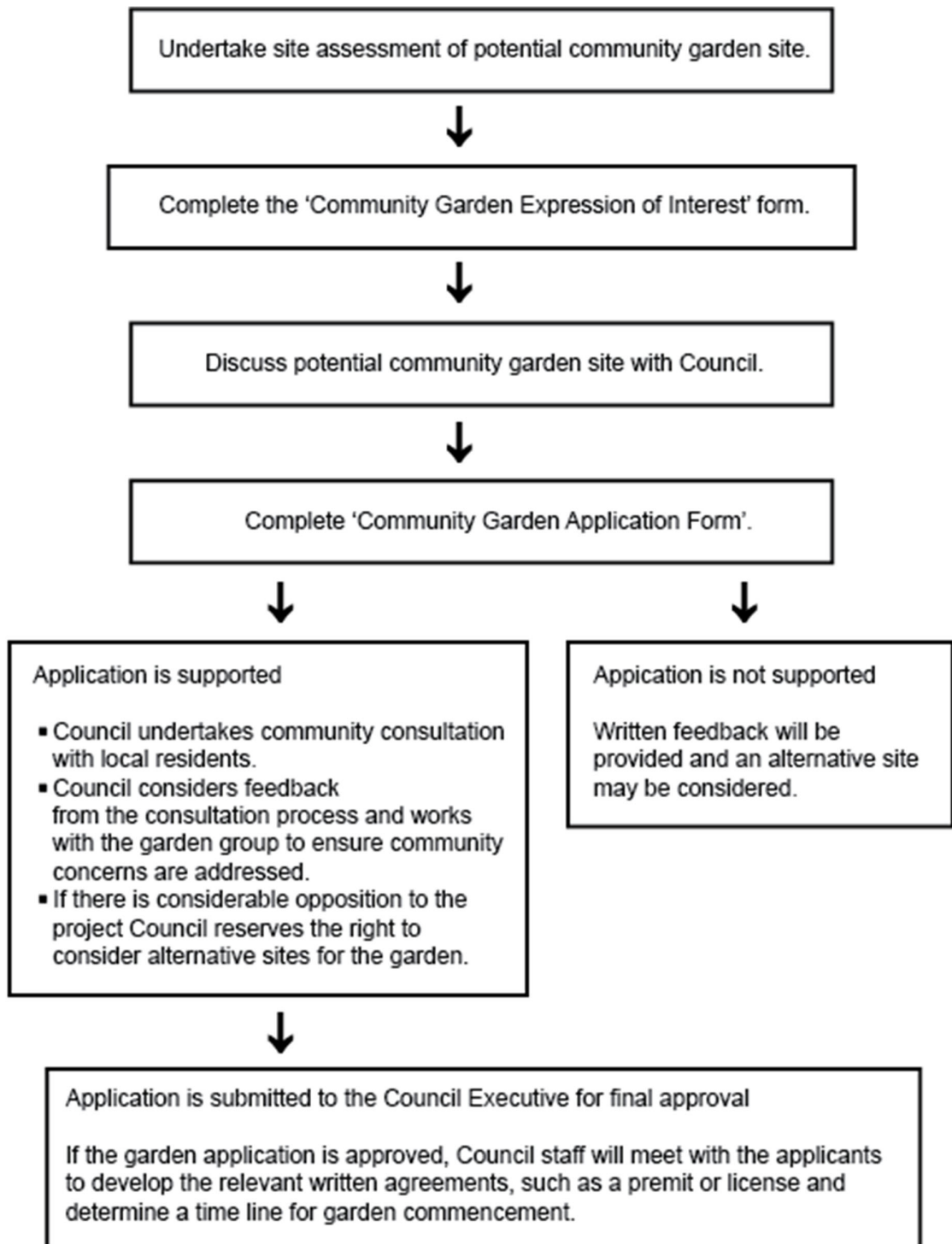
4 Community Gardens – Site Selection

For Council to consider supporting the development of new community gardens on Council owned or managed land, applicants need to address the site selection criteria outlined below and follow the procedure for establishing a new community garden. The first steps in this procedure are to establish a community garden group, conduct a site assessment of potential sites and then discuss the proposal with the

Council to identify possible issues. Once a preferred site has been established, applicants need to submit a completed application form to Council. If the application is supported, Council then organises community consultation with local residents and works with the community garden group to address any concerns.

- 1 Location: Sites classified as Community Land under the Local Government Act such as parks, open space and community centres that have outside areas may be appropriate for community gardens. Priority is given to sites located in high density areas and/or near community centres or community organisations that might be able to support or partner the project.
- 2 Safety: Sites should have no major safety or health concerns; and have good passive surveillance (for example, can be easily seen from nearby houses or shopping areas).
- 3 Accessibility: Sites should be accessible for a range of user groups, located close to public transport and allow disabled and vehicular access e.g. for delivery of mulch and soil.
- 4 Solar access: To be suitable for growing fruits and vegetables potential garden sites need to receive full sunlight for at least 5 - 6 hours per day.
- 5 Size: The selected site needs to accommodate all members in the community garden group. Large garden groups therefore need to be located at a site that can accommodate the appropriate number of garden beds with room for storage and composting systems. Space for rainwater tanks, seating areas, shelter for gardeners and for community workshops and demonstrations may also need to be considered. Smaller garden groups may be able to utilise verges or pocket parks that can support few garden beds with storage and composting off-site.
- 6 Water: Sites need to have access to reticulated water or access to buildings where water can be harvested.
- 7 Soil Contamination: Contaminated land is an issue across the entire Bayside Council area. As such garden beds within the community garden that are to be used for growing edible plants must be raised and self-contained (with enclosed bases so there can be no movement of moisture from the potentially contaminated ground surface into the garden bed). The garden beds must be filled with clean soil (soil bought from a landscaping supplier and not sourced from the garden site).
- 8 Multiple Use: Priority is given to sites where a community garden can be integrated without conflicting adversely with other land uses and where the community garden can still be used by non-gardeners for passive recreation and educational workshops.

5 Community garden – Approval Process



6 Verge Gardens

6.1 General

Verge gardens, like community gardens can offer a range of benefits to individuals and the community through connections between neighbours and mental and physical health benefits. Additionally, well designed and maintained verge gardens can:

- Improve the water efficiency of verges
- Contribute to beautiful streets
- Reduce urban heat island effects
- Provide ecological and social benefits

6.2 Where are verge gardens permitted?

Not all streets are suitable for verge gardens. In the Bayside local government area verge gardens are not permitted on:

- Collector and State roads*

Or on streets with or close to the following:

- Hospitals, schools and shopping centres
- Town centres and
- Streets with timed parking or parking restrictions

*Collector and State roads can be identified by visiting Council's 'Online Maps' web page and clicking on the 'Property and Wards' link. Collector and State roads are coloured yellow.

6.3 Small verge gardens

Residents proposing to install small verge gardens that comply with the description below, can install a verge garden once they have completed and returned to Council the 'Small Verge Garden Checklist' found on Council's website.

- Maintained turf
- Low shrubs and groundcovers not higher than 100cm
- Organic mulch, less than one third of the verge area and 1.5m away from the trunk of a street tree
- Garden edging at ground level that does not present a trip hazard.

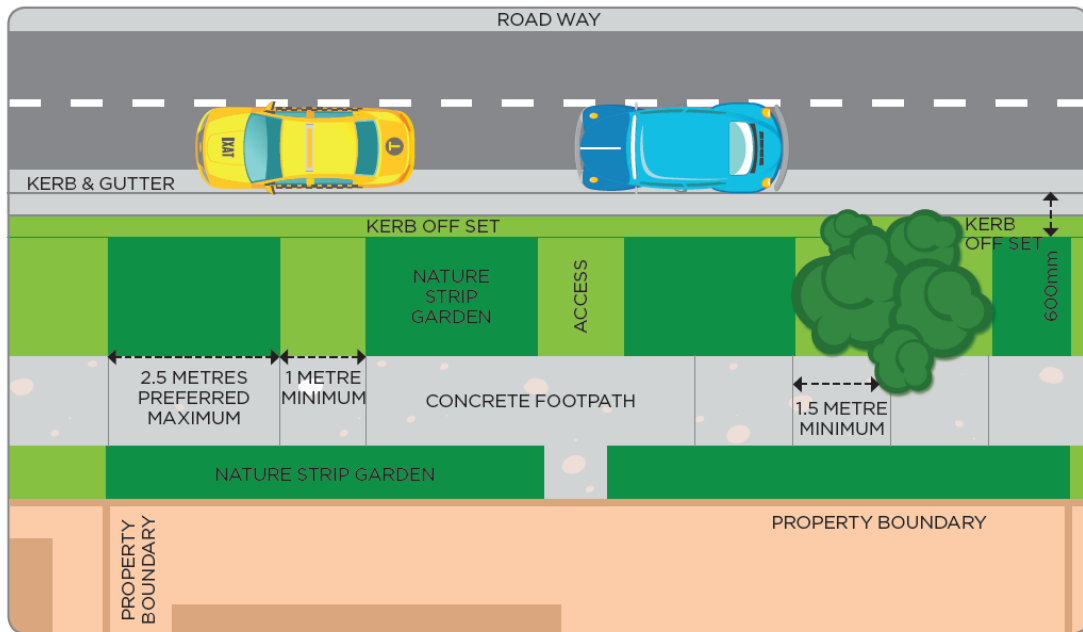


Figure 1: Small verge garden preferred set out.

6.4 Verge gardens requiring approval

Residents proposing to create verge gardens that contain any of the materials listed below, need to complete an application form and receive written approval from Council prior to installation of the verge garden:

- Temporary structures such as bollards or garden ornaments
- Raised vegetable planters
- Furniture including seats and benches
- Paving and/or consolidated inorganic mulch
- Vegetation higher than 1m.

Where a resident proposes to include raised planter boxes in their verge garden the following requirements must be adhered to.

- Planter boxes are required to be installed on firm level natural surfaces to allow for effective drainage.
- All planter boxes must have a weed mat or geofabric layer at the base to form a separation barrier between the existing site soil and the imported growing medium.
- The planter box must be free of sharp edges, nails or any overhanging material which may impede the footpath or cause injury to pedestrians.
- No structures or ornaments are permitted within your planter box.

Planter boxes are required to meet the following set-out requirements.

- Where there are multiple planter boxes proposed, they must be positioned to ensure an uninterrupted 1m clearance between each planter.
- A clear distance of 300mm minimum is to be maintained between the edge of the footpath and the planter box.
- Planter boxes are not suitable for verges narrower than 2 metres (excluding the footpath).

- A minimum of 1m is to be maintained between planter boxes and any driveway edge.
- Council only permits two types of planter boxes, steel planter boxes or treated pine (similar to the examples shown in Figure 3).
- Planter boxes cannot be less than 38cm in height or greater than 74cm in height.
- The total height of the planter box and vegetation must not exceed one metre.

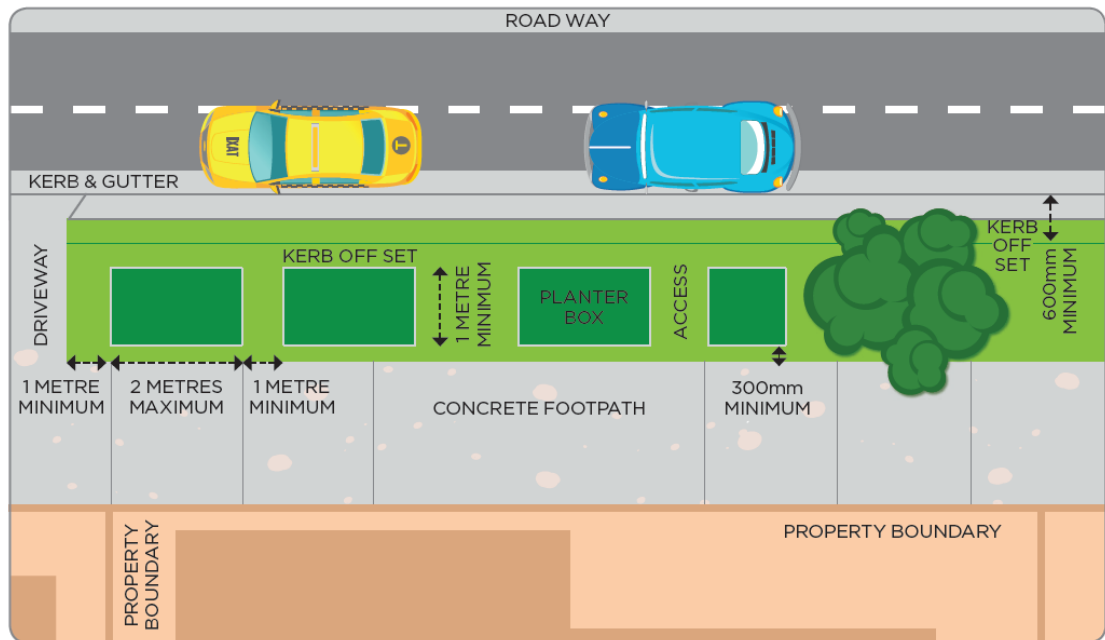


Figure 2: Verge garden including planter boxes preferred set out.



Figure 3: Acceptable planter box types

6.5 Basic requirements of all verge gardens

Where a verge garden is permitted, the householder responsible must ensure the garden does not pose a risk to the community. Residents proposing to install a verge garden must ensure they can meet the following:

- Gaps in vegetation to allow ingress and egress from parked vehicles at least every three metres
- A 1.5m wide footpath is always maintained
- All plantings are at least 300mm from the kerb edge

- The visibility of traffic signs is retained (Council can at any time decide to install or change the location of traffic signs as the need arises)
- Site lines from driveways and around corners are not obscured
- No plantings within 500mm of a power pole
- No vegetation over 1m is planted within 10m of No Stopping signs
- No vegetation over 1m is planted under electricity overhead wire lines
- You have consulted with your neighbours about your proposed verge garden and have their support
- If you are renting in the residence associated with the verge garden, you have obtained consent from your landlord prior to installing a verge garden and recommended that the verge garden is included on the owner's public liability insurance.

6.6 Verge garden materials that are unacceptable

The activities and materials listed below constitute a hazard and are not permitted to be included in verge gardens. If these materials are found within a verge garden, they must be removed on the request of Council or appropriate compliance action will be taken and the materials removed at the owner's expense.

- Raised garden edging
- Listed weeds, as defined by the Department of Primary Industries www.weeds.dpi.nsw.gov.au
- Spiky plants
- Stakes
- Guide wires
- Irrigation systems
- Any materials or structures that are unsafe, block sight lines, are loose or slippery, present a hazard, are impermeable or are sharp are unacceptable.
- Changing the level of the verge, either fully or partially, is also not permitted.

6.7 Who is responsible for verge gardens?

The householder is responsible for the continued maintenance of a verge garden adjacent to their property. Verge gardens are planted in public spaces and priority must always be given to access for pedestrians, ingress and egress from parked cars, postal and other utility services. If adequate access is not provided, householders may be asked to remove or make changes to their garden. If you move into a residence with an established verge garden, it is your responsibility to ensure that the verge garden complies with this Policy or remove the garden and reinstate the verge to the standard of the surrounding surface.

Council is not responsible for reinstating any landscaping or any damage to verge gardens or their contents, caused by animals, persons, weather events or works by utility service providers. Utility service providers (e.g. electricity, water or telecommunications) may need to upgrade or maintain their infrastructure at any time. Utility service providers will not normally reinstate verge gardens after works are completed.

Council is responsible for planting, removing and maintaining all street trees on the street verge and reserves the right at any time to alter or remove any verge garden and landscaping.

6.8 Insurance

Applicants are encouraged to include their verge garden on the householder's public liability insurance policy. Residents are reminded that the creation and installation of verge gardens are done at the resident's own expense and own risk. While this Policy has been developed to manage public liability risks, it does not prevent a third party from making a claim against the resident for any injury, loss or damage caused by a verge garden.

6.9 Conflict Resolution and Complaints

Verge gardens should add to the amenity of the streetscape and be supported by neighbours and the community. Prior to seeking approval to install a verge garden, the householder should consult with neighbours and obtain their support to install the garden. However, it is still possible that differences relating to a verge garden may arise. It is the responsibility of the resident who created the verge garden, to resolve those issues. Council will only intervene where a verge garden is non-compliant.

Where specific concerns are raised about a verge garden that predates this Policy, or where an issue cannot be resolved between neighbours, Council Officers will inspect the verge garden and determine on a case-by-case basis if works are necessary to modify the existing verge garden. This may result in Council directing a resident to modify their verge garden within a certain timeframe. If the resident fails to undertake the works, Council reserves the right to undertake the works and may seek to recover the costs associated with completing the works.

6.10 Breaches of the Policy or Approvals

If a verge garden contravenes any part of the approval granted, Council may direct the participating resident to remediate the verge garden so that it becomes compliant.

If a verge garden poses an immediate and unacceptable risk or a participating resident does not comply with a previous Council direction to remediate a verge garden, Council may remove the verge garden.

Examples of the Guidelines being contravened include (but are not limited to).

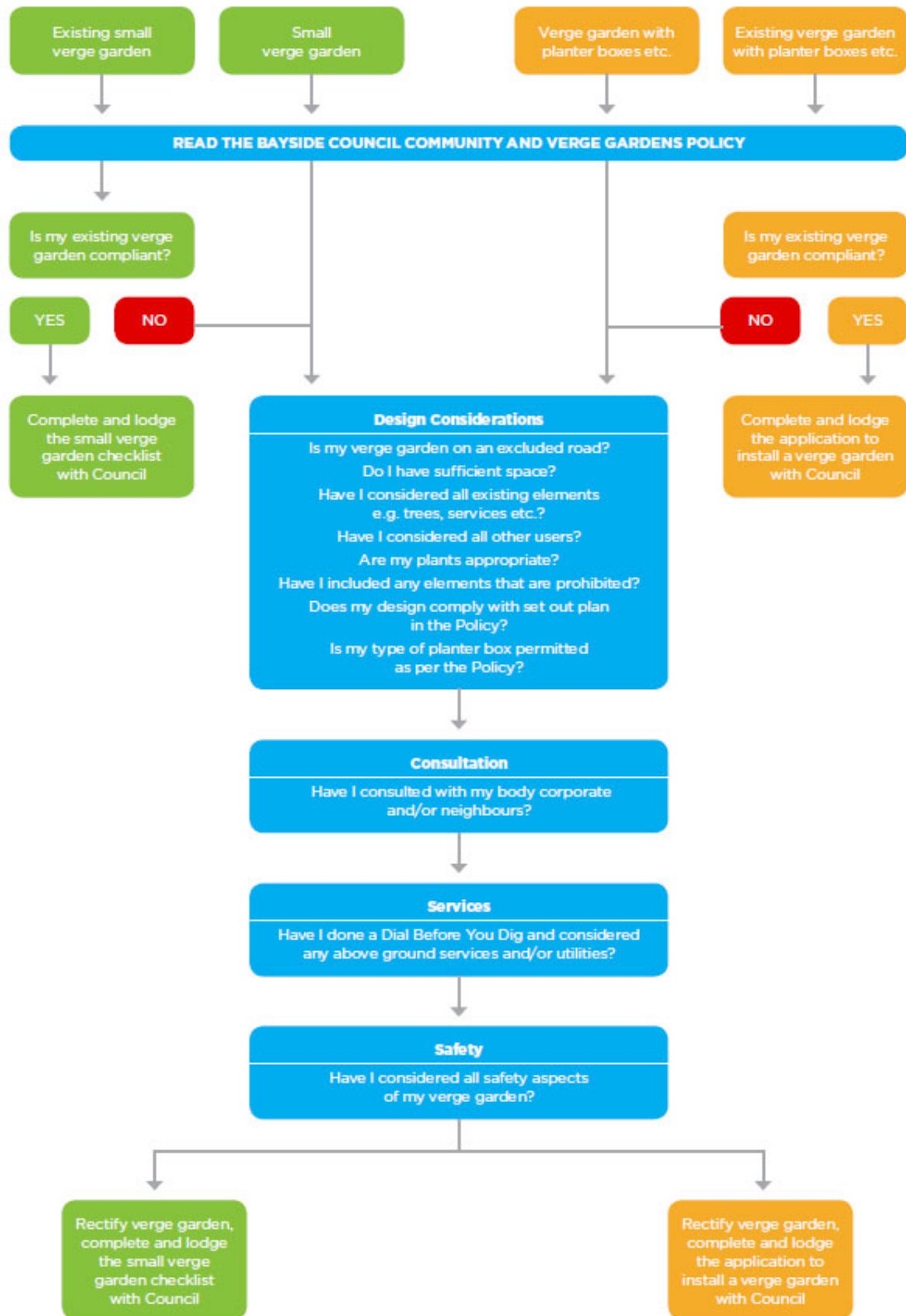
- Obstructing the access or visibility of pedestrians and/or other road users.
- Presenting a trip hazard to pedestrians and/or other road users.
- Plants, branches or shrubs encroaching on a footpath or road.
- Planting weeds, poisonous, thorny or otherwise hazardous plants.
- Allowing a verge garden to become neglected, unkempt or unsafe.

When determining whether to remove a verge garden, Council will take a balanced approach informed by an analysis of risks and benefits to the community including (but not limited to).

- The likelihood of harm being experienced by someone as a result of the verge garden.
- The significance of harm potentially experienced by someone as a result of the verge garden.
- The social and environmental benefits being delivered by the verge garden and the length of time for which the verge garden has existed.

Council reserves the right to remove or modify a verge garden (in whole or part) to undertake any future infrastructure or maintenance work (including street tree planting). Any cost associated with restoring the verge garden to its prior state will be borne by the resident with the responsibility to maintain the verge garden.

6.11 Verge Garden Approval Process



7 Policy implementation

7.1 Policy responsibilities

Manager Environment and Resilience is responsible for the policy substance in this document.

Manager Environment and Resilience is responsible for the assessment of community garden proposals, and providing advice on verge garden applications.

General Manager (normally on the Committee) is responsible for the approval or otherwise of community garden proposals.

Manager Compliance & Certification is responsible for the assessment, determination of verge garden applications, monitoring their implementation, and enforcement of approval conditions.

7.2 Procedures

Approved Community Gardens

All approved community gardens on Council owned or managed land, must have an approved garden plan, application form and other relevant documents. The Council staff member responsible for managing community gardens, monitors the development and activities of approved community gardens and where non-compliant activities or elements are detected, the staff member responsible contacts the garden group to discuss and rectify the issue. This process is documented, including a statement of the issue, the resolution and when it was completed.

Where the issue cannot be resolved through an informal process, a formal letter is sent to the garden group outlining the issue including an agreed date for rectification. The community garden group is responsible for completing the rectification works.

If the community garden group refuses or fails to rectify outstanding issues within the agreed time frame, a second formal letter is sent to the garden group with, if necessary, a new agreed time frame for rectification of the non-complying garden elements. Finally, if compliance cannot be achieved, Council will send a third and final letter stating how and when Council will rectify the issue. This may include;

- Council removing the non-complying elements and charging the garden group for the expenses incurred
- Council cancelling the garden group's permit and Council taking over management of the garden
- Council cancelling the garden group's permit and demolition of the garden, again expenses may be charged to the garden group

Unapproved Community Gardens

Where an unapproved community garden is detected on Council owned or managed land, the Council staff member responsible for managing community gardens, contacts the residents involved and proceeds with the approval process outlined in Council's Community Gardens Policy.

Where the approval process identifies non-compliant elements of the community garden, these must be resolved prior to lodging a formal application with Council. If the community garden group refuses to comply with the guidelines for an approved community the garden, the process in section 7.1 is followed. Once Executive approval has been granted to the community garden group, a permit may be granted.

Unapproved Verge Gardens

There are many verge gardens throughout the Bayside local government area that have been in existence prior to the implementation of Council's Community and Verge Gardening Policy, or were installed since, in ignorance of the Policy.

Under the Policy, simple verge gardens of turf and/or low shrubs and groundcovers not higher than 100cm do not require approval, more complex verge gardens do require approval, but no verge garden can contain materials deemed hazardous to the public. The list of hazardous materials is included in the Community and Verge Gardens Policy.

Residents who have installed a verge garden prior to or in ignorance of Council's Community and Verge Gardens Policy, are not required to apply for approval but any element of a verge garden that is deemed a risk to the public must be removed by the resident and the verge garden is recommended to be included on the resident's public liability insurance certificate.

As Council staff become aware of extant verge gardens, they are inspected to determine if they pose a hazard to the public. Where hazardous materials are identified, the resident will be contacted by letter which contains the following.

- Identification of the hazardous materials
- Why removal is requested
- A timeframe for removal
- Who is responsible for removal (the resident) and
- That the resident is encouraged to include the verge garden on their household public liability insurance and provide Council with a copy of the certificate of currency

If the resident refuses or fails to rectify outstanding issues within the agreed time frame, a second letter is sent, with, if necessary, a new agreed time frame for removal of the hazardous materials. Finally, if compliance is still not achieved, Council will send a third and final letter stating how and when Council will rectify the issue. This may include;

- Council removing the non-complying elements and charging the resident for the expenses incurred

Approved Verge Gardens

All verge gardens containing elements such as raised garden beds, trees and other larger elements must have an approved garden plan, application form and other relevant documents. Where non-compliant activities or elements are detected in a verge garden, the staff member responsible for managing community and verge gardens contacts the resident to discuss and rectify the issue. This process is documented, including a statement of the issue, the resolution and when it was completed.

Where the issue cannot be resolved through an informal process, a formal letter is sent to the resident outlining the issue and an agreed date for rectification. The resident is responsible for completing the rectification works.

If the resident refuses or fails to rectify the outstanding issues within the agreed time frame, a second formal letter is sent to the resident, with if necessary, a new agreed time frame for rectification of the issue. Finally, if compliance is still not achieved, Council will send a third and final letter stating how and when Council will rectify the issue. The letter may include:

- Council removing the non-complying elements and charging the resident for the expenses incurred
- Council cancelling the resident's verge garden permit and demolishing the garden, again expenses may be charged to the resident

7.3 Breaches

The consequences for breaches of this policy are outlined elsewhere in this Policy.

8 Document Control

8.1 Review

This policy is to be reviewed at least every four years.

The Manager Governance & Risk may approve minor amendments that do not alter the substance of the policy.

8.2 Version History

Version	Release Date	Author	Reason for Change
1.0	14/06/2017	Environment Officer	New document
2.0	22/02/2023 (Council) 08/02/2023 (CPE Ctte)	Environment Officer	Revision and addition of new section relating to verge gardens.