

Verge Gardening Policy Draft

V1 - 2022

Title	Verge Gardening Policy
Summary	The Policy will provide a framework for resident participation in planting and caring for verge gardens of the Inner West, and to enable improved biodiversity and liveability outcomes.
Document Type	Council Policy
Relevant Strategic Plan Objective	<ul style="list-style-type: none"> • Strategic Direction 1: An ecologically sustainable Inner West • Strategic Direction 2: Liveable, connected neighbourhoods and transport. • Strategic Direction 4: Healthy, resilient, and caring communities
Legislative Reference	<ul style="list-style-type: none"> • <i>Local Government Act 1993</i> • NSW Roads Act 1993 • NSW Biosecurity Act 2015
Related Council Documents	<ul style="list-style-type: none"> • Model Code of Conduct • Verge Gardening Guidelines (draft 2022) • Grants and Fee Scale Policy 2020 • Healthy Ageing Strategy 2022 • Pathways to Inclusion 2017 • Community Gardens Policy 2020 • Weed Management Policy 2019 • Pesticide Use Notification Plan 2019–2022 • Asset Management Strategy 2018
Version Control	See last page

INNER WEST

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1. Purpose

- 1.1 The purpose of this Policy is to provide a framework for residents wanting to plant and care for gardens on verges of the Inner West.
- 1.2 Many Inner West residents wish to make use of the verge to plant and care for gardens. Appropriate planting of verge gardens contributes to the ecological health and liveability of the Inner West.
- 1.3 The Policy ensures a balance between our residents' desire to beautify the Inner West and improve liveability with the need to manage public land in a way that does not jeopardise public safety, reduce access, interfere with infrastructure and essential services.
- 1.4 This policy recognises the needs of the community and sets out the requirements for verge gardens to reduce potential conflict between neighbours.

2. Scope

- 2.1 This policy applies to all Inner West residents currently or proposing to maintain a verge garden. It applies to verge gardens located on Council land adjoining single dwellings or multi-unit dwellings in residential areas. It outlines the approval and ongoing requirements for community participation in the verge gardening program.
- 2.2 Council is responsible for the management of all activities taking place within the road reserve including footpaths, verges, lanes and public open space.
- 2.3 This policy does not apply to:
 - community gardens
 - Bushcare volunteer sites or other Council managed natural areas
 - non-residential premises or residences above commercial properties in urban centres
 - creek lines
 - rain gardens
 - in road tree pits
 - remnant vegetation
 - Local Area Traffic Management devices (LATMs)
- 2.4 This policy does not authorise or apply to the installation of:
 - verges on roads with speed limit above 60km per hour

- verges adjacent to disabled parking spaces
- verges adjacent to bus zones
- garden beds or other areas in parks or on private property
- raised beds and planter boxes and other built garden features
- artificial turf and other artificial plants

3. Definitions

3.1 In the Verge Gardening Policy, the following terms have the following meanings:

Definitions	Within the scope of this policy
Verge	A verge is the area of land located between a street kerb and the boundary of an adjoining property but not including the pedestrian walkway.
Verge garden	gardens (including plants, soil and associated animal life such as insects) established at ground level by the resident on the Council-owned verge adjoining/ edging the resident's home.

Definitions	Outside the scope of this policy
Bushcare sites	Land / gardens that are being maintained, revegetated or restored with native plantings to improve biodiversity and habitat in the Inner West, often with the help of resident volunteers.
Council managed natural areas	Land (including foreshores and waterways) that is being actively managed with native planting to improve biodiversity and habitat in the Inner West, sometimes with the help of paid contractors.
Creek lines	Existing natural drainage lines and sections of smaller waterways which may not be always "running with water" but are an important part of our river network.
Community garden	Community-managed spaces for non-commercial food growing and other gardening activities that is accessible to and for the benefit of the local community.
In-road tree pits	Cut-out sections in road carriageways specifically for street trees to grow (different to those found in the footpath).

Non-residential premises	Any buildings other than those which have a formal approval for people to live in them.
Local Area Traffic Management devices (LATMs)	Physical measures to control and calm traffic movements in our local streets such as speed humps and pedestrian refuge islands.
Rain gardens	Vegetated drainage systems which are built by Council but designed to recreate natural water movements.
Remnant vegetation	In areas where there has been a lot of urban development like the Inner West, these are the remaining pockets of trees and undergrowth which have not been cut down and create shelter for animals and birds.

4. Statement

- 4.1 Council encourages the appropriate planting of verge gardens as it helps contribute to the ecological health and liveability of the Inner West. Residents are encouraged to use local native plant species to ensure greater plant survival and to maximise benefits for local native fauna including several threatened species found in the Inner West.
- 4.2 The Verge Gardening policy seeks to ensure the following environmental and social objectives are achieved:
- Recognition of the role of streets in increasing biodiversity and providing ecosystem services such as food and shelter for wildlife, reducing the Urban Heat Island Effect and acting to decrease stormwater run-off that causes flooding and carries pollution to rivers
 - Contributing to the establishment of the Blue Green Grid - a multi-functional network of connections across the Inner West and into neighbouring local government areas - consistent with priorities 1, 3, 4 and 7 of the Local Strategic Planning Statements
 - Reducing carbon emissions and other costs associated with mowing
 - Providing mental health benefits associated with gardening and spending time outdoors
 - Providing a positive focal point for the community in the street scape

- Engaging the community in the design and maintenance of public spaces
- Improving skills and knowledge across Council and the community in creating more liveable spaces
- Ensuring that public land is managed in a manner that does not jeopardise public safety, access, infrastructure and essential services, and other community needs
- Creating a sense of place.

Application

- 4.3 Individual residents who want to establish or maintain a verge garden adjoining their residential property must submit an application and be given written approval by Council. Approvals for verge gardens are issued under section 138 of the *Roads Act 1993*.
- 4.4 Not every location is suitable for a verge garden due to safety, access and public infrastructure (including street trees) requirements, and other community needs. In these instances applications will not be approved.
- 4.5 Applicants must comply with all of the requirements of the Verge Gardening Guidelines available on Council's internet. As each verge is unique Council retains the right to determine additional site-specific requirements.
- 4.6 Council undertakes street upgrade and street tree planting programs in consultation with residents. Although verge gardening projects are resident-driven, if Council is undertaking footpath works that offer the opportunity to create new unpaved areas that are suitable for verge gardens, residents can apply for a verge garden as per this policy.
- 4.7 Council will consider requests from residents to remove pavement to create nature strips for the purpose of establishing a verge garden. Footpaths have variable site conditions which need careful assessment to determine suitability for creation of a nature strip. Requests will be assessed taking into account:
- The footpath's gradient, soil, and drainage
 - Existing trees and future street tree planting
 - Access and heritage requirements
 - Location of underground services, utilities and other site-specific issues
- 4.8 An application fee will apply to the resident as per the Council Fees and Charges.

Gardening in Lanes

- 4.9 Council will consider applications from residents wanting to garden on public land adjoining their property in lanes (e.g., narrow kerbs along back and side fences in

lanes). Gardening in lanes is not always permitted due to limited space and multiple conflicting uses. Requests will be assessed taking into account:

- The volume and composition of traffic using the laneway
- Vehicle turning paths for access to off-street parking spaces
- Vehicle turning paths at laneway intersections
- Any slope in the laneway impacting the lean of high vehicles
- Safety issues associated with intersections and any other site-specific issues

Ongoing Council Support

- 4.10 Council is committed to helping residents establish and maintain verge gardens. Council can provide information to residents on garden layout, site preparation, plant species selection and weed management. Council will also provide a limited number of local native plants to new applicants and run plant giveaways for existing verge gardeners at other times.
- 4.11 A competition is held annually in the Inner West to recognise the best verge garden and to encourage participation in the program. The winning garden is used to promote the verge garden program among Council's Environmental network.

Insurance

- 4.12 Council extends its public liability insurance to gardeners who have received approval to garden on their verge and whose gardens are compliant with this Policy.
- 4.13 Council does not provide personal accident insurance for residents who injure themselves while gardening on the verge.
- 4.14 Council is not liable for any damage or loss that the resident may suffer by the act, default, omission or neglect of any other person or by reason of the Council, its members agents and contractors for failing to do something on or to the public space used.

Access and safety

- 4.15 This policy aims to ensure verge gardens do not negatively impact on footpath and verge access and safety.
- 4.16 Council aims to ensure public places provide safe and equitable access for people of all abilities. A person with mobility difficulties may be unable to safely navigate the path if it is blocked or otherwise impacted by a poorly designed or maintained verge garden. Pedestrians crossing intersections may not be seen by motorists if there is tall dense vegetation on the verge. Similarly, verge gardens must not "trap" pedestrians in a road carriageway by forming a barrier in an unsafe location.

Infrastructure maintenance and other public works

- 4.17 Verge gardens that are well maintained ensure the ongoing health of Council's street trees. Street trees must not be removed or damaged to create or maintain a verge garden. Early consultation with Council staff is encouraged if a verge garden is located in close proximity to a street tree to ensure the plant species selected are appropriate.
- 4.18 Pipes and cables that provide essential services including gas, electricity, water, stormwater, sewerage and communications are located underneath the footpath and verge. Utility companies, Council and their contractors need to carry out works on and underneath the footpath and verge from time to time to maintain these assets. This can include areas that have been approved for a verge garden.
- 4.19 Approval of a verge garden does not negate the right of access for utility companies, Council and contractors to access and undertake works on this land and any assets beneath at any time. This could include complete removal of the verge garden for infrastructure projects (for example, footpath upgrades or underground cabling).
- 4.20 Residents are not entitled to financial compensation for the loss of plants, or other items moved/removed to enable these works. Residents can opt out of maintaining the verge garden following works that impact part or all of the verge garden. In these circumstances Council will resume maintenance of the verge at the resident's request, which may include the replanting of grass on the verge.

Vandalism, theft and other damage

- 4.21 Verge gardens on public land may be susceptible to vandalism, theft and other damage. Although Council is committed to supporting the verge gardening program, residents are responsible for any costs and works associated with restoring verge gardens following any such damage. Residents are not entitled to financial compensation for any such damage. Residents may choose to opt out of maintaining the verge garden following damage and need to notify Council of their decision. In these circumstances Council will resume maintenance of the verge, which may include the replanting of grass in the verge.

Multi-unit dwellings

- 4.22 An individual tenant or owner occupier can apply for a verge garden adjoining their multi-unit dwelling/ building. They must provide proof of strata permission in the form of a letter with the strata's common seal stamp affixed.
- 4.23 This permission may be withdrawn by the strata but Council's approval to garden in the verge will not be revoked earlier than two years of permission first being granted. This is to allow certainty in the scheme and provide adequate time for verge gardens to establish. Council will withdraw its approval for the verge garden

if provided with a letter from the strata with its common seal stamp demonstrating strata permission has been withdrawn.

Use of contractors

4.24 Residents can engage contractors to undertake planting and maintenance of plants on a registered verge garden. The resident must ensure that contractors meet the requirements of this policy and have appropriate (public liability) insurances.

Legacy verge gardens

4.25 Verge gardens established prior to publication of this policy that are found to be non-compliant with this policy are required to achieve compliance within 12 months of notice from Council. Potential issues are:

- All new plantings must be compliant
- No hard landscape materials, structures or other items (see Guidelines for more information) to be used in the garden
- Non-compliant plants must be pruned as described in clause 6.1 of this policy
- Non-compliant plants must be removed as soon as practical or when they die, whichever comes first within 12 months of notice from Council
- Non-compliant items must be removed as soon as practical or when they wear out, whichever comes first within 12 months of notice from Council; or *where practical*
- Where public safety and access is an issue that must be immediately rectified. Non-compliant plants, structures or other items will be subject to the compliance requirements outlined in clause 6.1 of this policy.

5. Responsibilities

5.1 Council staff are responsible for the following:

- Reviewing and approving applications in accordance with the Policy;
- Providing initial and ongoing advice and support as requested, to resident verge gardeners;
- Monitoring verge gardens and responding to reports of breaches of the Policy and Guidelines.
- Administering the annual verge garden competition.
- Reviewing and revising Policy and Guidelines.

5.2 Residents are responsible for the following:

- Designing, establishing and maintaining the verge garden in accordance with this Policy and Guidelines.
- Following Council direction in relation to any Compliance issues
- Advising Council if they are moving or are no longer willing or able to maintain the verge garden.

6. Compliance

- 6.1 If a resident does not comply with the Verge Gardening Policy or Guidelines, they will be issued with a letter outlining the non-compliant issues and be asked to address these within a given timeframe (usually 14 days).
- 6.2 Should the verge garden continue to remain non-compliant Council staff may take action necessary for the garden to comply including, but not limited to, trimming and removing vegetation or other items that do not meet requirements or otherwise pose a risk to public access and safety.
- 6.3 Permission for the resident to garden on the verge may also be withdrawn, and in unresolved circumstances Council may resume maintenance of the verge, which may include restoration of grass in the verge.
- 6.4 In cases where there is a high risk to public safety Council may remove items without any notice. Council will not be liable for reimbursing residents for items removed.
- 6.5 Where compliance is not achieved through the above means, more formal enforcement action may be taken under the *Roads Act 1993* or *Local Government Act 2020*.

7. Administrative changes

- 7.1 From time-to-time circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made including branding, Council Officer titles or department changes and legislative name or title changes are considered minor in nature and not required to be formally endorsed.

8. Version Control – Policy History

This policy will be formally reviewed every three years from the date of adoption or as required.

Governance use only:

Document	Verge Gardening Policy	Uncontrolled Copy When Printed	
Custodian	Coordinator Urban Ecology Volunteers & Projects	Version #	Version 1
Approved By	Council	ECM Document #	33443197
Next Review Date	<i>[Insert relevant date no later than 3 years post adoption]</i>		
Amended by	Changes made	Date	
Environment and Sustainability	New policy	November, 2022	