

POLICY NAME: (REVIEW)
COMMUNITY GARDENS

POLICY REF: C15

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TABLE OF CONTENTS

OBJECTIVE 1

POLICY 1

 Section A: Overview 1

 Section B: Role of Council 1

 Section C: Rights and Responsibilities of Community Gardeners 2

 Section D: Conflict Resolution and Complaints Procedure 3

 Section E: Licensing 3

BACKGROUND 3

DEFINITIONS 3

SCOPE OF POLICY 4

RELATED DOCUMENTATION 4

REVIEW 4

APPENDIX ONE: GUIDELINES FOR COMMUNITY GARDENS 5

APPENDIX TWO – SITE SELECTION CRITERIA FOR NEW COMMUNITY GARDENS ON COUNCIL OWNED LAND 7

APPENDIX THREE – PROCEDURE FOR STARTING A NEW COMMUNITY GARDEN 8

OBJECTIVE

To provide direction on how Council will facilitate the establishment and management of community gardens on Council owned and controlled **land** public land.

POLICY

Section A: Overview

In supporting the creation of community gardens it is Council's intent that, once established, the gardens would be managed either individually or collectively by local management groups and that Council would have minimal involvement in the day to day operation of the gardens.

The guidelines for establishing and maintaining a community garden are contained within Appendix One. The guidelines provide advice on matters including site selection and establishment, community management of gardens, insurance and risk management and the sale of produce. Appendix Two outlines the site selection criteria for new community gardens and Appendix Three details the procedure for starting a new community garden.

This policy does not provide for the establishment of individual garden beds at the rear of properties on public land. Council cannot give consent to use public land that is classified as community land unless the use is prescribed in a Plan of Management or consent is provided under another regulation. The use of community land is also prescribed in the *Local Government Act 1993* by the core objectives set out for the management of community land under the categorisation of the land set out in section 36 E to N of the *Local Government Act 1993*.

Where the public land is Crown land the *Crown Lands Act 1989* states if a council is the manager of the reserve trust and the reserve is a public reserve, the trust has all the functions of a council under the *Local Government Act 1993* in relation to Crown public reserves.

Section B: Role of Council

Ballina Shire Council promotes the development of communal gardens by supporting community groups to self-manage garden sites. The role of Council is as follows:

- Facilitate the establishment of new gardens on appropriate public land.
- Provide assistance to community groups in setting up their management committee and submitting their application for a community garden to Council.
- Assist the management committee in obtaining grants.
- Promote the community gardens through Council's website, networks, publications and events.
- Facilitate community engagement processes.
- Provide in kind support where feasible (mulch, water options and reuse of materials for construction of gardens).

Section C: Rights and Responsibilities of Community Gardeners

1. Community gardeners have the right to:
 - Determine the type of garden that will be established ie. allotments or community garden or a combination of both;
 - Develop their own internal policies, organisational procedures and plan of management providing they liaise with Council to ensure that they meet the required standards; and
 - Be consulted with regard to any decision that may affect the project and to be advised by Council in a timely manner of any policy changes that impact on them.

2. Community garden groups and gardeners will be responsible for maintaining the garden so that the health and safety of the surrounding community is not adversely impacted. In particular, the management groups and gardeners are responsible for ensuring that:
 - They cooperate and manage effective relationships with the surrounding neighbourhood, partnering organisations and other gardeners;
 - They do not discriminate against one another due to differences in race, age, culture or sexuality;
 - They provide an annual report to Council **in accordance with Council's Community Property Leasing and Licensing Policy**;
 - Decision making is democratic, transparent and inclusive;
 - Any water leaving the garden is not contaminated by sediment, fertiliser, manure or excessive organic matter that might pollute waterways;
 - Noise levels within the garden are maintained at a level that is not disturbing neighbours;
 - Manures, compost systems and fertilisers do not produce overly unpleasant odours;
 - Compost and worm farming systems are maintained so as not to attract vermin;
 - Rainwater harvesting systems are maintained to ensure water is of a high quality and does not create mosquito problems; and
 - Lawn areas are regularly mowed and garden beds kept tidy. Any materials delivered to or stored at the garden are maintained so as not to create an unpleasant environment for other residents in the community.

Council may revoke the licence for the use of the land where the above responsibilities and other requirements of this policy are not met.

Section D: Conflict Resolution and Complaints Procedure

Community gardens should aim to promote an environment that is tolerant and respectful. However, as conflicts may arise, the internal policies of the community garden groups must include procedures for the management of conflict and complaints.

In the event that these procedures fail to resolve such problems the following steps should be taken as soon as possible:

- If the conflict or complaint is within the group then the management group should seek the assistance of an independent mediator and if this fails then the matter may be referred to Council for resolution.
- If the conflict or complaint is with neighbouring property owners then the management group should seek to follow their own conflict resolution procedures. If this is not successful then the matter should be referred to Council for resolution.

Section E: Licensing

A licence for the use of the public land must be signed between Council and the organisation responsible for the garden for the purpose of developing and maintaining a community garden. The licence agreement will include conditions for the use of the public land.

At the initial set up of a new garden, a licence will be granted for 12 months with an option for a three year licence after this period, in accordance with Council's Community Property Leasing and Licensing Policy. ~~Thereafter licenses will be issued for a four year term.~~

BACKGROUND

Community gardens are unique forms of public open space managed by the community for the production of food and to contribute to the achievement of a sustainable urban environment.

Community gardening is a valuable recreational activity that contributes to the health and wellbeing of the community and provides a range of environmental, social and educational benefits.

One potential benefit is community development. Community gardens can bind a community by giving residents a sense of pride and involvement. Residents from different backgrounds and ages come together in companionship and friendship to share a common interest.

This policy has been developed in response to a growing interest from the community for the creation of community gardens.

DEFINITIONS

Council

Ballina Shire Council

Community Garden	A parcel of public open space owned or managed by Council and operated by the community for the production of produce for personal use of its members or for sale by the community garden management for the benefit of the community garden activities. There are three main types of community gardens: Allotments, Communal Gardens and Verge Gardens. These are defined below.
Allotments	The community garden consists of individual allotments on which members manage and grow their own crops.
Communal Gardens	Gardens where the entire garden is managed collectively and the produce shared among the members.
Verge Gardens	Gardens established on the nature strip and managed collectively by a group of local residents. This policy does not apply to verge gardens.
Community Garden Management	An elected group representing the membership of a community garden.

SCOPE OF POLICY

This policy applies to:

- Council employees
- Councillors
- Community members
- Not-for-profit community groups

RELATED DOCUMENTATION

Related documents, policies and legislation:

- Local Government Act 1993
- Crown Lands Act 1989
- Australian City Farms and Community Gardens Network
- Private Structures on Public Land and Roads Policy (BSC)
- Community Property Leasing and Licensing Policy (BSC)

REVIEW

The Community Garden Policy is to be reviewed at least every four years.

APPENDIX ONE: GUIDELINES FOR COMMUNITY GARDENS

1. Establishment, Site Selection and Approval

Establishing a community garden can be a complex process requiring consultation with a broad range of stakeholders. There are a number of issues that need to be considered before a community garden is initiated. ~~In order for Council to consider supporting the establishment of a new community garden on Council owned or managed public land,~~ Applicants will need to address the site selection criteria ~~below in this policy~~ outlined in Appendix Two and follow the procedure for starting a new community garden outlined in Appendix ~~One~~ Three.

~~The first steps in this procedure include establishing a community garden group, conducting a site assessment of potential sites and discussing a proposal with Council to identify any possible issues. Council will provide a Community Garden application form that outlines the basis for carrying out the initial site assessment.~~

Once a preferred site has been established, applicants will need to submit ~~an approved~~ a Community Garden Application Form to Council for assessment. ~~If~~ development consent is also required, Council will advise applicants of any additional information that is to be submitted.

If the application is supported, ~~community consultation will occur in accordance with Step 6a of the procedure outlined in Appendix Three.~~

~~Council will organise community consultation with local residents and work with the community group to address any concerns that may arise from the consultation process.~~

~~On completion of the community consultation and when any issues have been resolved the community garden will be approved and work may then progress on establishing the garden.~~

~~Alternatively, if opposition requires Council to reconsider its support for the preferred site, then Council will work to assist the group in finding an alternative site, if available.~~

2. Community Management of Gardens

Community gardens will be licensed to an incorporated community group with approved public liability cover.

3. Insurance and Risk Management

It is essential that community garden committees and gardeners be aware of the risks associated with undertaking a publicly accessible community garden project. Each group has a duty of care to the community who access the garden areas and must take out adequate public liability insurance cover and become incorporated through the NSW Office of Fair Trading.

It is recognised that public liability insurance has an associated cost, and may not be easily accessible to small community groups. Options for obtaining insurance cover include:

- The individual group collect fees from its members to cover the cost of insurance.

- The group may be auspiced by another organisation or agency and as a project of that organisation will be covered by their insurance.
- A group of community gardens with similar objectives might obtain insurance together.
- The group may elect to join an existing community garden group and be covered by their insurance policy.

4. Incorporation of the Community Garden Group

Council requires that community garden groups have a clear and identified legal structure. Groups must apply to the NSW Office of Fair Trading to become incorporated associations.

This arrangement affords the group some flexibility in the management of funds and enables them to open a bank account, obtain public liability insurance cover and apply for government grants.

Incorporation as an association requires groups to establish a management committee with annually elected office bearers and to commit to regular meetings. This can be beneficial for the project as it maintains a structure that can address management issues as they arise.

5. Sale of Produce from Community Gardens

The intent of community gardens is to provide interested gardeners with the opportunity to use public land to produce food that may be consumed personally or by other members of the garden.

The management group may put in place a policy for the distribution of excess produce to other community groups such as soup kitchens.

Alternatively, it is recognised that there are costs associated with the running of community gardens such as insurance, water, etc. Therefore the sale of produce from the community garden is permitted subject to all the funds raised being returned to the management group for the benefit of, and reinvestment in, the community garden.

APPENDIX TWO – SITE SELECTION CRITERIA FOR NEW COMMUNITY GARDENS ON COUNCIL OWNED LAND

Proposed sites for community gardens should meet the following criteria:

1. **Location:** Sites classified as community land under the Local Government Act 1993 may be appropriate. These sites are usually established for community use such as parks, open spaces and community centres.
2. **Safety:** Sites should have no major safety or health concerns and have good passive surveillance of the site and pedestrians.
3. **Accessibility:** Sites should be accessible for a range of user groups. Sites should allow for disabled access and have vehicle access to enable delivery of materials.
4. **Sun-Light Solar Access:** Sites need to be suitable for growing vegetables food and receive full sunlight ideally for at least 5 -6 hours per day.
5. **Size:** Sites which are large enough to accommodate garden beds, composting systems, rainwater tanks and seating areas will be favoured however the scale of the garden will to some extent be determined by the sites available in the area of interest. ~~This may result in a variety of sizes ranging from small gardens (serving locals) to larger projects/gardens that would serve a larger membership and attract members from a wider area.~~
6. **Water:** Provision and source of water for the garden will need to be considered.
7. **Soil Contamination:** Sites need to be checked for soil contamination. If high levels of contamination are detected, advice will be required from recognised experts on whether it is suitable for growing food.
8. **Fencing Security:** Provision of lighting and fencing should be considered to protect the garden from vandalism and theft. The need for fencing will be assessed on a case by case basis. Other measures such as hedging around the site perimeter may also be suitable. If any form of fencing is proposed this should be included in the application form.
9. **Vehicle Access:** Vehicle access and management through the reserve must be considered to minimise any potential risks to public safety and damage to the public reserve and infrastructure.
10. **Underground Services:** An assessment must be undertaken to determine the existence of any underground services on the site that may constrain or restrict the community garden operations. Structures or deep rooted vegetation may not be permitted in certain locations or may be subject to buffer distances from the underground service.
11. **Signage:** Any proposed signage must be suitably located and approved by Council. Signage considerations include location, wording, dimensions and attachments (ie. how the signage is to be installed).

Note: It may not always be possible to find a site that meets the above criteria. Council will work with applicants to prioritise the sites that can meet as many of the requirements as possible.

APPENDIX THREE – PROCEDURE FOR STARTING A NEW COMMUNITY GARDEN

