

<b>Responsible Directorate</b>	<b>Infrastructure</b>
<b>Responsible Business Unit/s</b>	<b>Parks and Sustainability</b>
<b>Responsible Officer</b>	<b>Manager Parks and Sustainability</b>
<b>Affected Business Unit/s</b>	<b>All</b>

## Objective

The City of Stirling (“**City**”) recognises the value of community gardens as open spaces that are designed, built and managed by the community. Community gardens enable active participation in environmental sustainability and education around topics such as local food production, water conservation, waste recycling and valuing nature.

This policy provides the assessment considerations for guiding the City’s approval and support for the appropriate establishment and management of community gardens on City owned or managed land (“**Land**”).

## Scope

This policy applies to all proposed and current community gardens on City owned or managed land, involving groups of residents and Incorporated Associations. The primary purpose of community gardens is to provide space for the community to come together to grow fruit, vegetables and herbs sustainably, or engage with nature through designed ‘native’ gardens.

## Policy

### Establishment of community gardens on City-managed land

The City may approve and provide support for a community garden on Land if the proposed project is sited in a suitable location, provides tangible benefits to the City’s residents, and has the potential to demonstrate sustainability outcomes.

### Overview of Community Garden Application Process

1. A Community-based Garden Committee is formed
2. The Committee works with the City to identify potential sites for a community garden.
3. If a site is identified, the Committee submits a community garden application with the identified site(s) for the City’s internal assessment regarding suitability in consultation with Ward Councillors.
4. If any sites are deemed suitable by the City, a report is submitted to Council requesting approval to undertake community consultation of one or more of the proposed sites.
5. If consultation is endorsed by Council, the City undertakes wider community consultation.
6. After consultation, the City reviews community feedback and submits a report to Council with a recommendation to either approve or refuse the allocation of a site for the proposed community garden project.

7. If Council endorses the proposed community garden and supports listing funds in the budget for its development, the Committee may have the option between two operation modes:-

- a. Partnership Funding Model (delayed incorporation of the Community Garden); or
- b. Grant Funding Model (requiring immediate incorporation of the Community Garden).

### **Community Garden Committee – Eligibility to request use of land**

A Community Garden Committee (“**Committee**”), consisting of at least five (5) members, must be formed in order to request access to Land for the purpose of establishing a community garden. This enables the City to ensure that there is a group of residents who are willing to take a leadership role in the establishment and ongoing management of the community garden. An Incorporated Association may also form a Committee. While a group of residents may form a Committee without being incorporated in the initial stages, the Committee must agree to become incorporated within three years or to an extension of time at the discretion of the City.

### **Site Selection Characteristics and Guidelines**

A Committee must contact the City in order to enquire if any Land may be available for a proposed community garden. The Committee may also identify potential sites for the City to consider, otherwise the City would advise on potential sites which may be available and suitable in consultation with Ward Councillors. The Council’s decision on potential sites is final.

To determine whether a proposed site would be suitable for a community garden, a range of site characteristics would be considered, including but not limited to the following:

- The size of the site and its potential to accommodate typical community garden infrastructure;
- Potential impacts on the primary function, classification, purpose and the ongoing management and maintenance of the site and the surrounding area;
- The proximity to other existing community gardens;
- Potential for universal access; access for walkers, cyclists and public transport users; and access for delivery of gardening and infrastructure materials;
- Availability of a suitable water source or the estimated costs to install a water connection;
- Potential to incorporate Crime Prevention Through Environmental Design (CPTED) Guidelines, for example, passive surveillance;
- Environmental factors including soil, slope, microclimate, drainage, solar access and aspect; and
- Potential impacts on existing vegetation and trees.

### **Application and Assessment**

If a suitable site can be identified, the Committee would then be required to complete and submit a formal application for a community garden project, requesting approval for access to Land. The City would advise on the outcomes of the assessment process or assessment progress, within six (6) weeks of the completed application being received.

Applications would be assessed against the following factors including but not limited to:

#### The capacity of the Committee to plan and manage a Community Garden

- **Committee:** The number of Committee members.
- **Capacity:** The commitment, knowledge, experience and capacity in the Committee relevant to the successful establishment and long-term management of a community garden project.
- **Planning:** There is documentation proposing how the community garden could be financed, managed and sustained.

### The potential benefit to City of Stirling residents

- **Support:** The level of initial community support for the community garden from local residents, partners and other organisations including any documented interest from residents in close proximity who wish to become members and participate in community gardening;
- **Participation:** Proposed activities and/or events that would encourage participation from the wider community.

### The potential to demonstrate sustainability

- **Activities:** Proposed activities that would raise awareness, increase knowledge and develop skills across sustainability themes such as local food production, water efficiency and conservation, waste recycling or encouraging people to re-connect with nature.

## **Community Garden Consultation**

If the community garden application meets the criteria, a community consultation for the proposal may be endorsed by Council. All residents within at least a 400-metre radius would be notified of the proposed project with a request to provide comment. The City would also undertake at least one consultation day for residents and other interested stakeholders at the proposed site. The results of consultation and feedback would inform the City on the overall level of support for the community garden within the wider community. It is anticipated that community consultation would be completed within a three (3) month period.

## **Approval Process**

After community consultation has been completed, the City would submit a report to Council for consideration. Council would determine the merit of the community garden application and report recommendation and may approve, vary the conditions or refuse the application.

Council approval is required for a Committee to use Land for a community garden.

A budget request may be included in the report to seek funding assistance for the development of the community garden. The community garden would be developed under the Partnership Funding Model. The Committee may request to operate under the Grant Funding Model subject to meeting the relevant requirements.

## **Partnership Funding Model**

### **Establishment Phase – Partnership Agreement**

Approved community gardens would have an establishment phase. In this initial phase, the Committee is required to enter into a Partnership Agreement (“**Agreement**”) with the City covering the roles and responsibilities of each party. During the establishment phase, the City may also provide support including but not limited to public liability insurance cover, payment of water costs up to an agreed limit, and City officer time to provide guidance, support and internal liaison as required.

Any budget allocated by Council for the development of the community garden would be held and managed by the City on behalf of the Committee. Expenditure of the funds would be subject to the City’s Procurement Policy.

At a minimum, the establishment phase would include the completion of:

- a) A Community Garden Design Plan and Construction Plan which demonstrates sustainable food growing practices or designed native gardens;
- b) A detailed budget or funding plan;
- c) Required plans and documentation including for Asset Management and Health and Safety;  
and
- d) The construction of the community garden and essential infrastructure.

The establishment phase would be finalised when construction has been completed and the required documents are developed, in accordance with the Partnership Agreement. The construction of the community garden may be separated into stages to allow for each stage to be rolled out at a later date. The establishment phase has a maximum period of three (3) years unless otherwise agreed in the Partnership Agreement.

The Committee may choose to Incorporate and request to change to the Grant Funding Model during the establishment phase. If construction of the initial phase has not been completed and budget allocated by Council for the community garden project has not been fully expended, the remaining funds may be awarded to the Incorporated Committee as a grant with the same requirements as the Grant Funding Model.

### **Community Garden Licence**

Once the Establishment Phase is completed, the Committee would be required to work towards obtaining Incorporation under the *Association Incorporation Act 2015* (if not already), and would be required to hold public liability insurance (\$10 million), enter into a Licence Agreement (“**Licence**”) with the City, and pay costs for the management and maintenance of the community garden.

The standard term for a Community Garden Licence is five years. After this period the Licence may be renewed for another 5-year term. Any further term under the Licence is subject to the approval of the City of Stirling, Council and other relevant authorities in accordance with relevant legislative and statutory provisions.

### **Grant Funding Model**

A Committee may request access to any funds allocated by Council for the development of the endorsed community garden in the form of a grant subject to completing the following requirements:-

#### Stage 1:-

- a) Develop of a Community Garden Design Plan and Construction Plan which demonstrates sustainable food growing practices or designed native gardens;
- b) Develop of a detailed budget or funding plan;
- c) Develop required plans and documentation including for Asset Management and Health and Safety; and
- d) Become an Incorporated Association under the *Association Incorporation Act 2015* (if not already).

#### Stage 2:-

Enter into a Licence Agreement with the City as described in the Partnership Funding Model.

#### Stage 3:-

Enter into a Financial Agreement for the administration of the grant. It would be in place until the grant is acquitted or for a maximum period of three (3) years.

During the duration of the Financial Agreement, the City may also provide support including but not limited to public liability insurance cover, payment of water costs up to an agreed limit, and City officer time to provide guidance, support and internal liaison as required.

The Committee would proceed with the construction of the initial phase of the community garden. Once completed, the Committee would be required to acquit the grant with the City.

### **Activities on Community Garden Sites**

#### Access

Community Gardens must remain open and accessible to the general public at all times. Whilst a fee may be charged by the Committee for community garden membership and for the sole use of a garden bed, no fee can be charged for use of the premises or land upon which the community garden is located.

#### Vegetation

The City will determine which vegetation will require protection and management during the establishment phase and ongoing function of the garden.

City Trees (“**City Trees**”) are trees that existed on the community garden site before the Agreement or Licence was established. In addition, any newly planted native or non-edible trees that would eventually grow over four (4) metres tall are also considered to be City Trees. All City Trees remain under the control of the City.

All maintenance and management of City Trees can only be done by the City. The City must be notified and permission granted, before any works occur, above or below ground, within five (5) metres of a City tree.

### **Termination**

The City and Committee will take all reasonable steps to resolve any issues or disputes that may arise, however, the City reserves the right to terminate an Agreement or License for a breach of conditions by giving 30 days’ written notice of termination.

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## **Definitions**

**Community Garden** means a defined area of land made available to groups of people with the aim of growing and maintaining food, trees and other plants, and other associated activities, in an environmentally sustainable manner. Community Gardens may include areas for individuals to grow food and areas for people to garden together. Other examples of Community Gardens may include community orchards, bush tucker gardens, and designed native gardens.

**Bush or Native Garden** means a garden which is planned, constructed, operated and maintained by the community, but which includes only natural elements and native plants inclusive of edible gardens consisting of native only ‘bush tucker’ plants.

**Incorporated Association** means a registered group that is not for profit and holds a current Certificate of Incorporation in accordance with the *Associations Incorporation Act 2015*.

**City Owned or Managed Land** includes present and future City freehold land (land owned by the City of Stirling) and Crown land (land owned by the State, under the care and control of the City of Stirling, usually by way of a management order). It excludes privately owned or controlled land, and land owned or controlled by State Departments.

**Financial Agreement** means an agreement to establish the terms and conditions governing the duties and responsibilities of the Committee and the City with respect to funding for the construction of the initial phase of the community garden.

**Partnership Agreement** means an agreement to establish a new community garden on city-managed land. The agreement between the City and a third party covers roles and responsibilities in the establishment phase.

**Licence Agreement** means a legal agreement entered into between the City and an Incorporated Association and provides access and occupancy to operate a community garden on City owned or managed land.

**City Tree** means any native or non-edible tree that is over four (4) metres tall or that would grow to over four (4) metres tall and is located within a park, reserve or natural area on City owned or managed land.

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## **Relevant management practices/documents**

Sustainability Policy  
City of Stirling Local Planning Scheme No. 3  
City of Stirling Public Open Space Strategy  
Street and Reserve Trees Policy  
Procurement Policy  
Grants and Funding Policy

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## Legislation/local law requirements

*Local Government Act 1995*

*Land Administration Act 1997*

*Associations Incorporation Act 2015*

Building Code of Australia

City of Stirling Health Local Law 2009

City of Stirling Thoroughfares and Public Places Local Law 2009

City of Stirling Local Government Property Local Law 2009

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<b>Relevant delegations</b>	Not Applicable		
<b>Initial Council adoption</b>	<b>Date</b> 6 February 2018	<b>Resolution #</b>	0218/013
<b>Last reviewed</b>	<b>Date</b> 8 June 2021	<b>Resolution #</b>	0621/022
<b>Next review due</b>	<b>Date</b> 2023		