



Sydney2030/Green/Global/Connected

City of Sydney Draft Footpath Gardening Policy 2011

PRIVACY PROTECTION NOTICE

Purpose of collection: Record of activity or structure placed on public footway

Intended recipients: Council staff

Supply: Required by the Footpath Gardening Policy

Access/Correction of information: Public Access Management Unit

Storage: Kept within Council's electronic document management system.

Legal status of this Policy

The Footpath Gardening Policy (the Policy) is a local approvals policy, under section 158 of the Local Government Act 1993, for residents and businesses to have approval to place planter boxes on the footway, an activity under category E(2) of the table in section 68 of the Act, and/or garden on footpaths outside their properties.

Planter box structures and gardening activity on the footpath that meet the requirements of the checklist are considered exempt development under provisions of the Sydney Local Environmental Plan 2011, and so do not require consent, in line with section 76 of the *Environmental Planning and Assessment Act 1979*.

Planter box structures and gardening activity on the footpath that comply with the requirements of this Policy are taken to have general approval from the Council under s.138 of the *Roads Act 1993*. This general approval is granted with the concurrence of NSW Roads and Traffic Authority, under s.138, where a planter box is located on the public footpath of a classified road.

This Policy has been prepared to support the Commonwealth *Disability Discrimination Act 1992*, and the City of Sydney *Inclusion (Disability) Action Plan 2007–2011*.

Cases of non-compliance

The Council may issue Penalty Infringement Notices or issue orders under the *Local Government Act 1993*, for the cessation of any gardening activity or removal of any planter box on the footpath that does not comply with this Policy.

The Council may also issue penalty notices under the provisions of the *Roads Act 1993* and clean-up notices under the *Protection of the Environment Operations Act 1997* where the planter box or gardening activity does not comply with this Policy.

Planter boxes placed by cafes, restaurants and hotels in association with their licensed footpath dining facilities must also comply with any associated licensing conditions.

Policy Review

This Policy will be reviewed 1 year after adoption and then every 5 years.

Further information is available on the City's website. and customer service centres.

Contact the City of Sydney
www.cityofsydney.nsw.gov.au

council@cityofsydney.nsw.gov.au

Telephone: 02 9265 9333

Fax: 02 9265 9222

Postal Address

City of Sydney
GPO Box 1591
Sydney NSW 2001

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Purpose

The Footpath Gardening Policy (the Policy) allows residents and businesses to put planter boxes on the pavement and/or garden on footpaths outside their properties under certain conditions.

This Policy applies to the City of Sydney Local Government Area. The Policy does not apply to the Central Sydney Area as shown on the attached map (see Appendix 4) because of high pedestrian activity there.

This Policy was adopted by the City of Sydney Council (the Council) on [date].

How this Policy works

PART 1 – EXEMPT FROM APPROVAL

You do not need Council approval to put planter boxes or a garden on a public footpath as long as they comply with the Checklist 1 or 2 which make sure they are compatible with other uses of the footpath.

A copy of the signed and completed checklist must be submitted to Council in hard or soft copy quoting the reference S055784. Council contact details are listed overleaf.

PART 2 – REVIEW BY COUNCIL OFFICERS

If the proposed planter boxes or gardens do not comply with the checklist, they are not permitted. If the checklist cannot be complied with, residents and businesses are encouraged to contact Council to arrange a site

inspection to see if the requirements can be met. Council will monitor compliance and may issue clean-up notices or removal orders.

PART 3 – OTHER MATTERS

Appendix 1 - How to request a shared zone

Appendix 2 – Dial before you dig service

Appendix 3 – Main street planter box types

Appendix 4 – Map showing policy exclusion zone

Footpath accessibility

The Policy encourages residents and businesses to green local streets and footpaths, as long as the footpath remains accessible for pedestrians and other users.

Planter boxes and nature strip gardens can impede the use of the footpath. People with limited vision usually use the building line to help them safely navigate the footpath. People with limited mobility and people with prams need sufficient space in which to manoeuvre.

Therefore planter boxes on the pavement should be positioned along the kerb line and allow enough clearance between the kerb, services and utilities, as shown in the diagrams below.

Planter boxes may have to be moved to allow access by utility service providers and the roads authority. In these cases, the resident or business will be required to help the utility service providers to arrange removal or temporary storage and return after the works have been completed.



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Council reserves the right to remove or relocate any planter box placed on the public footpath for any reason.

Further information and resources

Requests for constructing new landscaped verges

Requests for the City to construct new nature strips on the public footpath will be assessed for inclusion in the City's continuing street upgrades program.

The City's footpaths have variable site conditions which need careful assessment to determine their suitability for landscape planting. Requests will be assessed individually, taking into account the site's topography, soil, drainage, existing trees, access requirements and the location of underground services and utilities.

Where site conditions are favourable and funds are available, the City will upgrade the streetscape and install footpath gardens in consultation with residents and the neighbouring community.



Community Gardens

The City of Sydney is expanding the network of community gardens which allow local residents to meet and become involved in producing organic food, herbs or native plants.

Community Gardens are non-profit, community-based enterprises producing food primarily for member gardeners. They are community managed, multi-function garden spaces that can provide a wide range of environmental, social and economic benefits.

Community verge gardens may be established on the footpath verge. These are considered a type of community garden in the Community Gardens Policy (2010) when they are managed collectively by a group of local residents and decisions are made jointly.

Residents wanting to set up community gardens are referred to the City's Community Gardens Policy at <http://www.cityofsydney.nsw.gov.au>

Living Colour Program

Streets in Central Sydney and busy village shopping streets have high levels of pedestrian and vehicle traffic. The City beautifies these streets with regular upgrades, street tree planting programs and Living Colour displays.

The City's Living Colour Program provides themed floral displays for 6–12 weeks in summer and spring, creating attractive focal points at civic spaces and main village streets.

These seasonal displays beautify busy streets which are unsuitable for permanent landscaping or planter boxes.



Checklist 1

To put planter boxes on the public footpath

The City encourages diversity to reflect the different characters of the City and urban villages. However, a consistent approach to placing planter boxes along streets can improve appearance.

Planter boxes are suitable where they can contribute to the attractiveness of the street while maintaining accessibility and safety needs.

Residents and businesses are allowed to install and maintain planter boxes on the kerb side of the footpath as long as they meet the requirements of this checklist. That means all answers must be "Yes", or not applicable "N/A".

Planter boxes are not suitable for footpaths narrower than 2.6m. An exception is little-used footpaths too narrow to support pedestrian travel. Putting planter boxes on these narrow paths requires the creation of a Shared Zone, as described in **Appendix 2** of this Policy.

The City is not responsible for the upkeep, repair or replacement of private planter boxes. Clean-up notices or removal orders may be issued to owners of non-conforming planter boxes.

		N/A	Yes	No
01/ Address of property				
1.1	Is the property located outside the Central Sydney Area and in a permissible area (as indicated on the map)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
02/ Pedestrian travel path				
2.1	Will the placement of the planter box allow an unobstructed pedestrian travel path (shown in Figure 1) at least as wide as the requirements listed below?			
2.2	When on a signposted 'shared bicycle path':	2m	<input type="radio"/>	<input type="radio"/>
2.3	When on a major village street or a pedestrian area: <i>(Major village streets are listed below. Pedestrian areas include civic squares, promenades, parks, open spaces and the like.)</i>	1.8m	<input type="radio"/>	<input type="radio"/>
	For all other footpaths:	1.5m	<input type="radio"/>	<input type="radio"/>

Major village streets

Glebe Point Road

Glebe
(Parramatta Rd to Cook St/Carter Ln)

Harris Street

Pymont
(Murray St to the northern end)

Union Street

Pymont
(Harris St to Murray St)

King Street

Newtown
(City Rd to Sydney Park Rd)

Erskineville Road

Erskineville
(Wilson St to Swanston St)

Crown Street

Surry Hills
(Cleveland St to Oxford St)
William Street
(from College St to Darlinghurst Rd)

Oxford Street

Darlinghurst and Surry Hills
(Wentworth Ave to South Dowling St)

Stanley Street

Darlinghurst
(Yurong St to Crown St)

Victoria Street

Darlinghurst
(William St to Burton St)

Darlinghurst Road/ Macleay Street

Potts Point
(William St to Challis Av)

Redfern Street

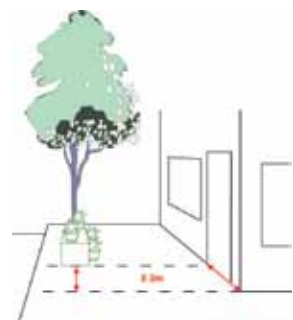
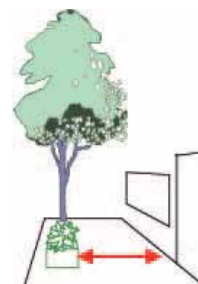
Redfern
(Chalmers St to Regent St)

Regent Street/Botany Road

Redfern to Alexandria
(Redfern St to Henderson Rd)

Broadway

(from Railway Square to Glebe Point Road)



Checklist 1 continued

	N/A	Yes	No
03/ Street clearances			
3.1 Will the planter box allow a minimum clearance of 80cm from street tree pits, street furniture (including public seats, bicycle racks, telephones, parking meters, rubbish bins, and similar), services and utilities (including light poles, fire hydrants, utility pits, grates, drains, vents, light wells and similar), and building entrances, service entrances and fire escapes?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3.2 Will the planter box be located off tree pit bases and at least 1m from the edge of a tree trunk? Note – Where planters will be aligned parallel to the kerb a clearance of 80cm is required from the edge of the tree pit base.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3.3 Will the planter box allow a minimum clearance of 60cm between the kerb edge and the planter box edge, so people can access, load and circulate around parked vehicles?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3.4 If the planter box will be next to a no-stopping zone, will the box allow a minimum clearance of 80cm between the kerb edge and the planter box edge?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3.5 Will the planter box be set back at least 2m from the edge of the property at street corners or junctions? (as shown in Figure 2)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3.6 Will the planter box be positioned well away from the following? Accessible parking bay, pedestrian kerb ramp, taxi stand, bus or light rail stop, or train, ferry or light rail station. Note – Planter boxes must not be placed in bus zones, taxi zones, loading zones, or next to Accessible Parking as shown on signs and road markings. Where signs or road markings are not evident, a bus zone measures 20m from the shelter/stop on the arrival side and 10m from the departure side. <i>Planter boxes must not be placed over tactile ground surface indicators on the public footpath, steps or ramps.</i> <i>Planter boxes must not be placed on traffic treatments (blisters and traffic islands).</i> <i>Planter boxes must not be placed to form a barrier more than 3m long. Sufficient access (1.5m) must be allowed between rows of boxes.</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3.7 Will the planter box allow a minimum clearance of 10m from a pedestrian or children’s crossing? Note – Care should be taken to ensure that the planter box with plants is not over 1m high when next to pedestrian and children’s crossing zones.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3.8 If the planter box is to be placed in a signposted “Shared Zone” (as defined in appendix 2), will it allow at least 3m clear width for the movement of vehicles?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
04/ Planter box design			
4.1 Will the planter box be less than 1.5m long (or 1m diameter if round)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4.2 Will the planter box be at least 50cm high (measured from ground to top of planter) and stable after planting out?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4.3 Will the planter box be tough enough to survive outdoors? For example, is it stable, resistant to toppling, waterproof and UV resistant?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4.4 Will the planter box have enough colour contrast with the surrounding environment to ensure that it does not present a hazard to pedestrians and others day or night? For example, a grey planter box would be unsuitable in a grey streetscape.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4.5 Will the planter box be free of sharp edges, protrusions or features which may damage the footpath or injure passing pedestrians?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4.6 Where the property is located on a major street, will the planter box conform to the appropriate style guide (see Appendix 3)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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Checklist 1 continued

	N/A	Yes	No
05/ Maintenance			
5.1 Will the planter box be regularly maintained to ensure it remains in a safe, tidy, and attractive condition?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Note – Care should be taken to avoid the use of spiky or tall vegetation which may impede the path, block lines of sight for pedestrians, cyclists or motorists using or crossing the road or public footpath.			
06/ Consultation			
6.1 Have residents of neighbouring properties been consulted and agreed to the placement of a planter box?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
6.2 If you are a resident of a strata scheme, have you consulted with the body corporate?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
07/ Insurance			
7.1 If the proposed planter box is to be installed by a business, does the owner of the planter have a current public liability insurance policy covering the planter with a minimum value of \$10 million?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Any insurance policy required by this section must be obtained before any planter is placed on the footpath, and the policy is to be made available to Council staff on request.			
Note – Council will provide public liability insurance to private individuals who place a footpath planter box or footpath garden provided it fully complies with this policy. However, Council's indemnity does not prevent a third party from making a claim against the owner for any injury, loss or damage caused by the planter box or footpath garden.			

08 Declaration

I have completed the above checklist accurately and honestly, and confirm that the planter box meets the requirements of this Policy.

Name

Address of Property

Signature

Date

Contact the City of Sydney
www.cityofsydney.nsw.gov.au

council@cityofsydney.nsw.gov.au

Telephone: 02 9265 9333

Fax: 02 9265 9222

Postal Address

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GPO Box 1591
Sydney NSW 2001

Checklist 2

For gardening on road verges

Residents are allowed to plant out and maintain nature strips outside their properties as long as they comply with this checklist. That means all answers must be “Yes”, or not applicable “N/A”.

Landscaped road verges are on the public footway and may be used by pedestrians, people accessing vehicles, or for putting out waste bins for collection. The City takes no responsibility for damage to verge gardens or their contents.

Health and Safety

Health and safety precautions are your responsibility. Consider these basic safety precautions – appropriate clothing, appropriate and safe use of tools and being sun smart.

The free Dial Before You Dig Service must be used prior to undertaking any digging.

If you don't, you are taking the risk of damaging underground pipes and cables and putting lives in danger.

Underground pipes and cables carry vital services such as water, electricity, communications and gas – damaging them can cause widespread disruption. Digging into an electricity cable or gas pipe with a misplaced stroke of a shovel can be a fatal mistake.

There are many incidents of damage to underground networks throughout Australia each year, costing millions of dollars. Most of this damage results from ignorance, carelessness or even blatant disregard for the networks. Individual and company liability for cable and pipe damage has been introduced by many utilities to make individuals take responsibility for avoiding such damage. Legal action may be taken against individuals or companies where negligence can be proved.

Maintenance

The City has set high standards for the appearance of its public open spaces. Well-maintained public spaces and streets look better, are more appealing to use and visit, provide environmental benefits and improve property values. Residents and businesses must commit time and effort to maintaining footpath gardens if they install them.

Residents assuming responsibility for the care of landscaped verges must ensure they are kept in a safe, clean, healthy and attractive condition free of disease, foreign matter, dead plant material and hazards.

Plantings must not obstruct pedestrians or infringe minimum standards for accessibility and clear lines of sight.

Council officers regularly inspect public open spaces and may issue clean-up notices to residents who fail to maintain verge gardens in a safe and satisfactory condition. Council may reassume responsibility for maintaining verges that have been abandoned, or are unsafe or untidy. This may mean removing the footpath garden.

Resource Conservation

Residents are encouraged to use native or water-wise plants where possible.

Where watering is needed, residents should consider watering planters or road verges by hand with collected rainwater or recycled water. Irrigation systems are not permitted.

Water must not flow on to the public footpath or into street drains. Mulch is recommended to retain soil moisture.

Consider using organic products rather than synthetic fertilisers and chemicals.



Checklist 2 continued

	N/A	Yes	No
01/ Location of road verge			
1.1 Is the verge you wish to plant out and maintain outside the Central Sydney Area and in a permissible area (as indicated on the attached map)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
1.2 Is the verge an existing grass verge or nature strip that has not been designed as a raingarden? (Image and description of raingarden are in Appendix 3)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
1.3 Is the verge located on the public footpath outside your property?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
02/ Gardening on the road verge			
2.1 Will the verge garden be free from raised edgings such as bricks and fences which may cause a trip hazard to pedestrians or vehicles?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2.2 Will the verge garden be free of stakes, guide wires, protruding stems and the like which may cause a hazard to other users of the footpath and road? Note – Care should be taken to avoid the use of spiky or tall vegetation which may block lines of sight for pedestrians, cyclists or motorists using or crossing the road or public footpath.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2.3 Will all planting be carried out by hand with no excavation deeper than 30cm? Note – All landscaping and maintenance works must be undertaken by hand. Mechanised tools and equipment are not permitted. Care should be taken as the stormwater drains of some properties may be at shallow depths.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2.4 Has the person performing the work contacted the Dial Before You Dig Service before starting work – refer to Appendix 3 for contact details and important information before you start any excavation. <i>Make sure you know what underground utilities are near the site (such as sewage pipes, power lines and the like) to avoid any damage. The City is not responsible for damage to or the repair of private stormwater lines or other utilities.</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2.5 Will gardening avoid the planting, pruning or removal of trees? Note – Only Council staff are permitted to plant, prune or remove trees on a road verge or on the footpath.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2.6 Will a distance of 2m be left around tree trunks to ensure the continued health of trees and their root systems? Note – Gardening is unsuitable within tree pits with tree grates, Terrabond, crushed granite, or granite setts. Residents may submit a request to Council to enlarge tree pits to allow gardening at such places.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2.7 Will the plantings ensure enough pedestrian access (minimum 1.5 m) across the planted area to the public road at least every 6m?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2.8 Will the footpath garden be constructed to prevent the runoff of materials such as soil, debris or water onto the pavement or road or into drains?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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Checklist 2 continued

	N/A	Yes	No
03/ Maintenance			
3.1 Will the verge gardens be regularly maintained to ensure they remain safe, healthy, tidy, and attractive?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

04/ Consultation

4.1 Have residents of neighbouring properties been consulted and agreed to your footpath garden?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4.2 If you are a resident of a strata scheme, have you consulted with the body corporate?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

04/ Insurance

5.1 If the proposed footpath garden is to be installed and maintained by a business, does the owner of the planter have a current public liability insurance policy covering the planter with a minimum value of \$10 million?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Note – Council will provide public liability to individuals and community groups to cover a footpath planter box or footpath garden that complies with this policy. However, Council's indemnity does not prevent a third party from making a claim against the owner for any injury, loss or damage caused by the planter box or footpath garden.

05/ Declaration

I have completed the above checklist accurately and assume responsibility for the planting and maintenance of the footpath garden outside my property at the address below.

Name

Address of Property

Signature

Date

Contact the City of Sydney
www.cityofsydney.nsw.gov.au

council@cityofsydney.nsw.gov.au

Telephone: 02 9265 9333

Fax: 02 9265 9222

Postal Address

City of Sydney

GPO Box 1591

Sydney NSW 2001

Appendix 1

How to request a shared zone

A **shared zone** refers to a street section where pedestrians, cyclists and vehicles share the road space and drivers and cyclists must give way to pedestrians. Under current Road and Traffic Authority NSW (RTA) policy, 10km/h speed limits are placed on shared traffic zones.

To Create a Shared Zone

Residents wanting to install planter boxes on a street where pavements are not wide enough to allow the required 1.5m clearance for pedestrian movement should contact Council to see if it is possible to create a Shared Zone.

If a Shared Zone is possible, the City must obtain the endorsement of the Local Pedestrian, Cycling and Traffic Calming Committee and the approval of the RTA to create a Shared Zone.

If the Shared Zone is approved it will be placed on a list for consideration for funding in Council's capital works program.

Planter boxes can be installed once the Shared Zone has been implemented.

RTA Guidelines for Shared Zones

RTA Policies and Guidelines require the following criteria to be met for a 10km/h shared zone.

- **A shared zone should be less than 250m long.**
- **The traffic volume in a shared zone is to be less than 300 vehicles a day.**
- A shared zone road environment must be significantly changed in appearance to distinguish it from a normal road.
- A shared zone must have features, such as raised entry points, which self-enforce the low speed environment.
- **Speed zone signage must be installed by the RTA.**
- **Parking within a shared zone must be in accordance with Australian Road Rules. It must be within marked bays or regulatory signs.**



Appendix 2

Dial Before You Dig Service

Dial Before You Dig is a national referral service that takes enquiries from individuals or companies who are proposing to excavate and refers them to asset owners who may have underground services in the vicinity.

The asset owners respond by supplying plans and information about their underground network with instructions on how to protect their assets during excavation, or by advising that their plant is not near the proposed worksite. This information is provided free within two working days.

Why should I use the service before I begin excavation?

If you don't, you are taking the risk of damaging underground pipes and cables and putting lives in danger. Underground pipes and cables carry vital services such as water, electricity, communications and gas – damaging them can cause widespread disruption. Digging into an electricity cable or gas pipe with a misplaced stroke of a shovel can be a fatal mistake.

There are many incidents of damage to underground networks throughout Australia each year, costing millions of dollars. Most of this damage results from ignorance, carelessness or even blatant disregard for the networks. Individual and company liability for cable and pipe damage has been introduced by many utilities to make individuals take responsibility for avoiding such damage. Legal action may be taken against individuals or companies where negligence can be proved.

Who should use the Dial Before You Dig service

People intending to begin digging work should lodge an enquiry before starting.

Cost to obtain a location plan

The Dial Before You Dig service is free.

Type of information provided

Underground location plans provide information about plant presence only – they do not pinpoint the exact location of the cables and pipes. It is the excavator's responsibility to expose the cable or pipe manually by using hand tools. Networks may not be installed in a straight line due to obstacles when the cables and pipes were installed. Several small potholes may need to be dug manually to determine the exact locations of cables or pipes to avoid mishaps

If I use the service and advise of my plans to excavate, am I still responsible for any damage that I may cause?

All individuals have a duty of care when working near underground plant. A vital component of that duty of care is to use the Dial Before You Dig service before starting any digging. When observing this duty of care the following must be considered:

- It is the excavator's responsibility to expose the underground pipes and cables manually.
- Location plans provide an indication of the presence of underground plant only, they do not pinpoint the exact location, this is why manual exposure is required.
- Utilities may hold individuals and companies liable for damage to their network if negligent or careless behaviour can be shown.
- Utilities can provide engineering support and advice where necessary.

Contact Information

You can lodge an enquiry by calling 1100 or, online www.1100.com.au

Appendix 3

Main Street Planter Box Types



Oxford Street

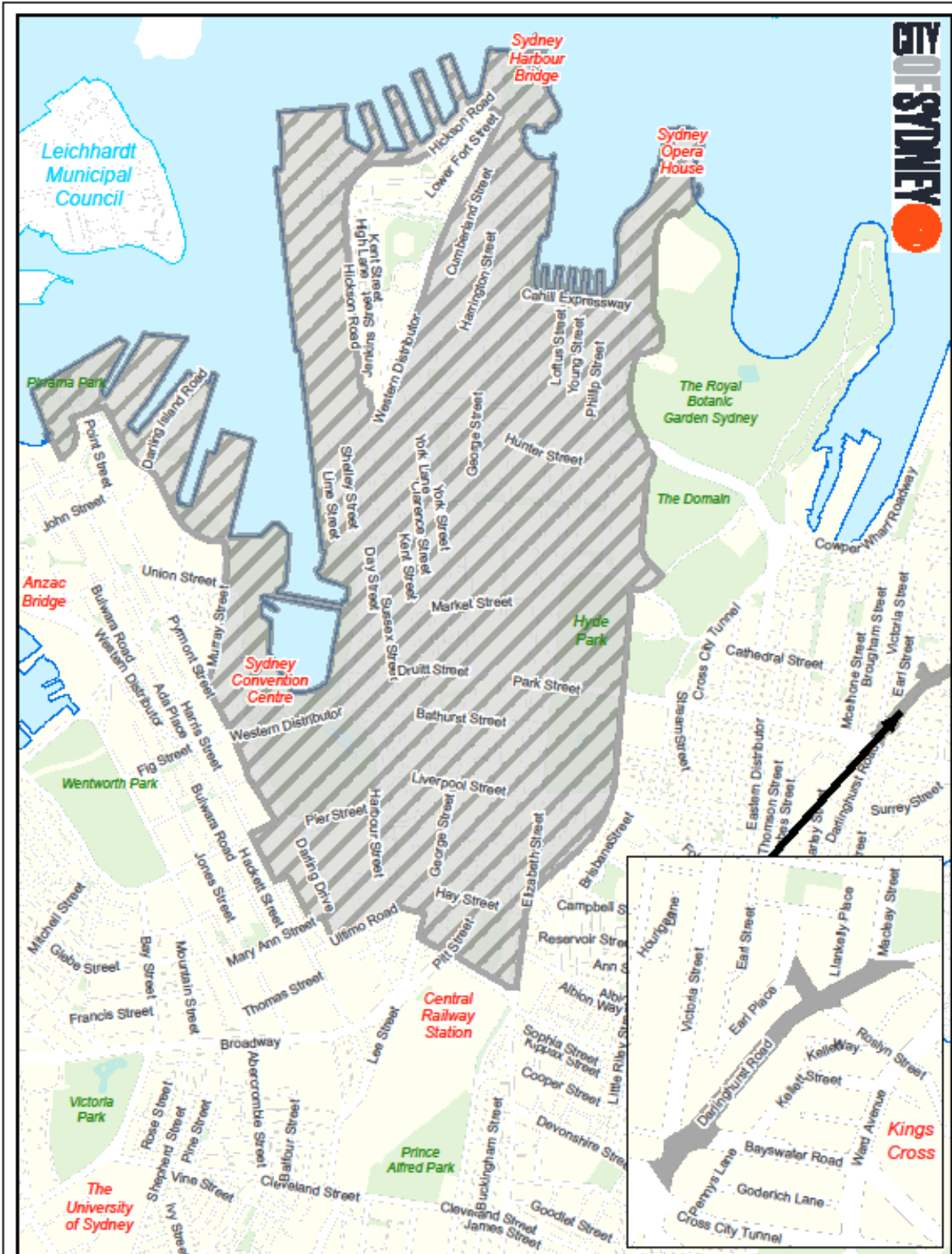


Steel type



Sandstone/Imitation Sandstone

Appendix 4 Policy Exclusion Zone



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Policy Exclusion Zone

0 125 250 500 750 1,000 Metres



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City of Sydney

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