Footpath and Laneway Gardens Local Approvals Policy

Purpose

The purpose of this policy is to set out when the City of Sydney (the City) will allow residents and business operators to maintain Footpath Gardens in the City of Sydney local government area without seeking formal approval.

Scope

Footpath Gardens include Verge gardens, Laneway gardens and Road Closure gardens. Gardens are located between Property Line and Kerb Line on streets managed by the City.

This policy only applies to areas managed by the City of Sydney. This does not include:

- land managed by other authorities and corporations (Attachment A).

How this policy works

This local approvals policy is prepared and adopted under section 158 of the Local Government Act 1993 and consists of 3 parts:

Part 1 – Exempt from approval

Sets out criteria for Footpath Gardens which do not require approval from Council.

Part 2 – Criteria for approval

If a Footpath Garden does not meet the criteria in Part 1:

- no approvals are available
- the Verge garden, Laneway garden or Road Closure garden is not permitted

Part 3 – Other matters for approval

There are no other matters for approval in this Policy. The Footpath Garden must meet the criteria in Part 1 such that no approval is required from the Council and the activity is regarded as exempt.

Compliance

The City responds to community enquiries and feedback about Footpath Gardens. The City's Compliance Policy may be applied to Footpath Gardens which do not meet the criteria in Part 1 of this policy.

The City may request action to manage non-compliance.

The City may:

- take necessary action to gain access or maintain safe and accessible clearance such as trimming and removing vegetation, relocating or removing items
- remove items without notice where there is a risk to public safety. The City will not be liable for reimbursement of items removed.

Definitions

Term	Meaning
Clear path of travel	The area of the footpath maintained for safe and equitable pedestrian circulation that is free from obstructions and assists in wayfinding and navigation. The clear path of travel varies according to street type.
Footpath	The paved path between a Property Line and the Kerb Line intended for pedestrian access, separating them from vehicles and other hazards.
Footpath Garden	A garden created by a resident or business operator on the Footpath in a Verge, Laneway or Road Closure under this policy and the City's Footpath and Laneway Gardens Guidelines. Footpath Gardens include either in-ground garden beds, Pots, or Raised Garden Beds. Streetscape plantings managed by the City are not the subject of this policy.
Footpath Gardener	Someone who cultivates a Footpath Garden.
Kerb Line	A line of concrete or other material defining the edge of the road forming a kerb and or a gutter.
Laneway	Narrow (typically less than 6m wide) public road, often without a Footpath or having a very narrow Footpath. Some Laneways may be pedestrianised, some may be designated Shared Zones and others may support vehicle access.
Pot	A robust, stable and durable container where plants could be grown with features that meet the criteria in this policy and the City's Footpath and Laneway Gardens Guidelines.
Property Line	Legal boundary line of a property as shown on a deposited plan which defines property ownership. For example, the boundary line between a privately owned property and a Footpath managed by the City.
Public Space	Places owned or managed by the City that are accessible to and intended for use by the public, including parks and open space, squares, streets, Footpaths, Road Closures, leisure and community centres.
Raised Garden Bed	A robust, stable and durable garden bed elevated above ground level that is filled with soil or other medium and used for growing plants.
Road Closure	A street section closed to vehicles. See Attachment B for Road Closures in the City of Sydney local area.
Shared Zone	A street with a reduced speed limit that is shared by vehicles and pedestrians. There is often no Footpath or Kerb Line and pedestrian movement takes priority over vehicle movement.

Term	Meaning
Utilities	Public infrastructure assets and services including electricity or telecommunication cables and wires, gas, water and sewerage pipes and conduits.
Verge	Public Space between a Property Line and a Kerb Line used for Footpaths, pedestrian access and Utilities. Verges may be fully paved or landscaped with in-ground garden beds or turf (nature strips).

Policy Statement

The objectives of the Footpath and Laneway Gardens Local Approvals Policy (LAP) are to:

- encourage residents and business operators to participate in community greening by maintaining Footpath Gardens
- provide criteria for residents and business operators to establish Footpath Gardens without the need for Council approval
- demonstrate the City's commitment to sustainable and responsible management of Footpath Gardens ensuring public safety and maintaining access for everyone.

The City's Footpath and Laneway Gardens Guidelines include further guidance for setting up and maintaining Footpath Gardens and should be read and considered with this policy.

Part 1: Exempt from approval

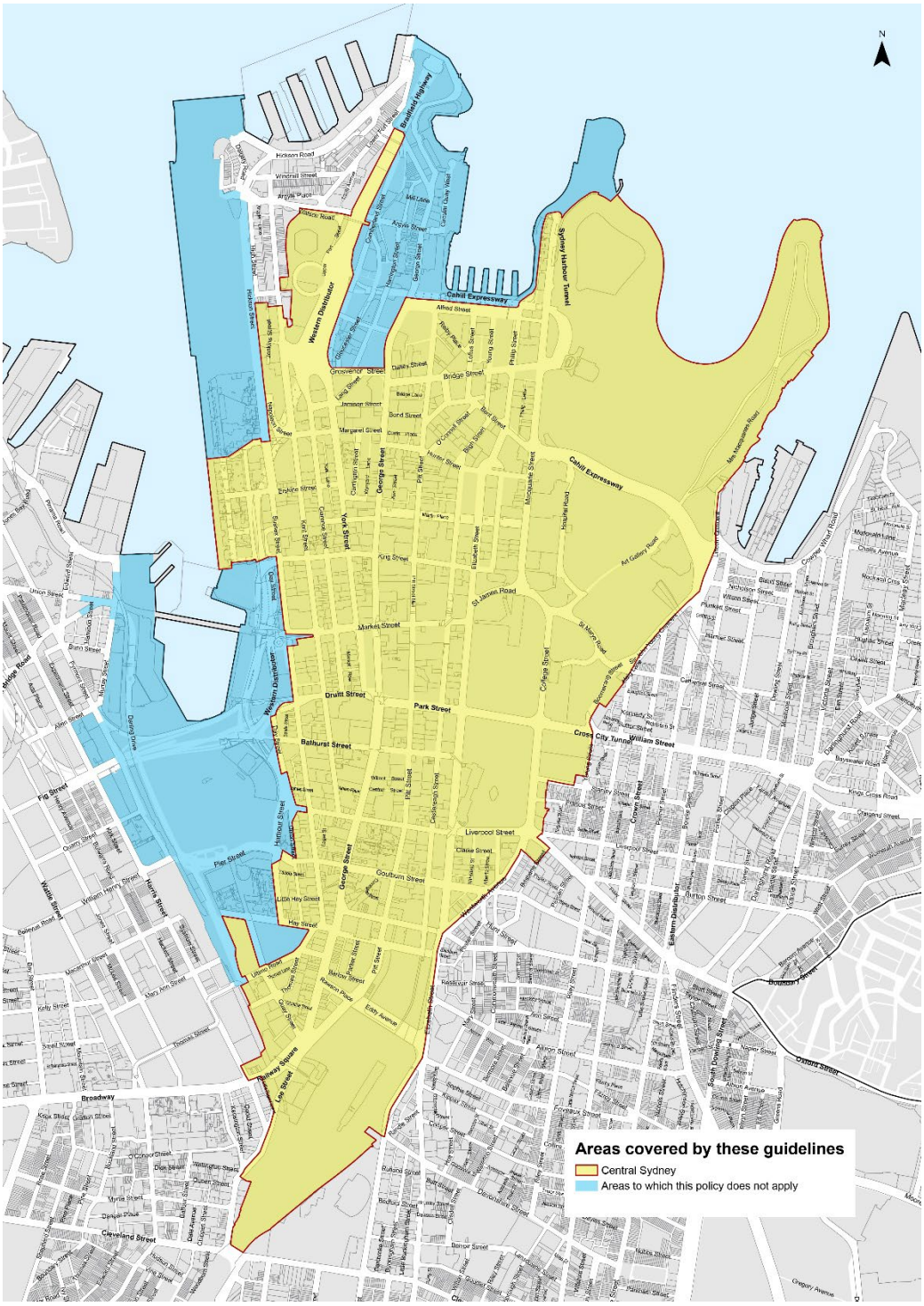
Verge gardens, Laneway gardens and Road Closure gardens are exempt from approval if they meet the following criteria.

1.1 Excluded areas

The city centre with high pedestrian traffic is not suitable for Footpath Gardens. Figure 1 shows the city centre exclusion zone for Footpath gardens.

Footpath Gardens in the light rail corridor may require a permit from Transdev.

Figure 1 Exclusion zone for Footpath Gardens in Central Sydney



1.2 Clear path of travel

Footpath Gardens should allow for a consistent and predictable clear path of travel. Footpath Gardeners must keep Footpaths clear of obstructions and trip hazards so they can be safely used by everyone, including people with disability.

Streets with narrow Footpaths may not be suitable for Footpath gardening.

Required width for consistent and predictable clear paths of travel depends upon the street type, see Sydney Streets Code map (Attachment C).

The minimum clear path of travel width for Sydney Streets suitable for Footpath Gardens are:

- 2.0 metres for high streets (Village Main Streets)
- 1.5 metres for Neighbourhood Hub, Connecting Main streets, Local streets
- 2.8 metres in Shared Zones.

Clearances around Footpath Gardens

To maintain access and allow for a clear line of sight, Footpath Gardens should maintain clearances in all directions around the following items:

- service objects and street furniture including power poles, fire hydrants, rubbish bins, utility pits, vents, drains, public seats, bike racks or rings, pay phones, parking meters, and mailboxes
- pedestrian crossings, access ramps, and tactile ground surface indicators
- bus zones, public transport access points and taxi stands
- property entrances and doorways.

Where to position Pots and Raised Garden Beds

Footpath Gardens created with Pots and Raised Garden Beds are required to:

- be positioned along the Kerb Line and adequately set back to allow pedestrian access to parked vehicles
- be set back from street corners and pedestrian crossings to maintain clear sightlines
- provide openings to allow pedestrian circulation between groupings of Pots
- allow clearance for access to entrances, parking spaces and loading zones
- allow space for safe placement, transfer, collection and storage of rubbish bins and other waste from residential and commercial properties.

Preference is for Garden Pots and Raised Garden Beds to not be placed along the building line.

Footpath Garden Pots and Raised Garden Beds are considered temporary installations, maintained by Footpath Gardeners.

Footpath Gardeners must consider the size and eventual weight of Pots and Raised Garden Beds once filled with soil, to ensure they can be moved if necessary.

The City is unable to move or relocate Pots and Raised Garden Beds on behalf of Footpath Gardeners, or to provide temporary or other storage.

Allow access for services and Utilities

Footpath Gardens are required to:

- keep drains and gutters free of obstructions
- retain access for road cleaning
- retain access to Utilities and access points

- be positioned at least 1m from small trees (less than 300mm trunk diameter) and 2m from large trees (greater than 300mm trunk diameter) to maintain access for tree inspections and pruning.

1.3 Establishing Footpath Gardens

The City allows Footpath Gardeners to cultivate Footpath Gardens next to their residence or business property, as long as they meet the requirements of this policy.

Footpath Gardens may be established either:

- on the street Verge outside the Footpath Gardener's property, or
- in a Laneway along the Property Line of the Footpath Gardener's property, or
- in a Road Closure neighbouring the Footpath Gardener's property.

Road features such as traffic islands, pedestrian platforms or Footpath extensions (where the Verge or Footpath is widened and the road narrowed to slow vehicle speeds) are not suitable for Footpath Gardens.

Footpath Gardeners are required to:

- fund and maintain all Footpath Garden Pots, plants and materials.
- dispose of their green waste, and any unwanted, damaged or unsafe Pots and other garden materials
- ensure Footpaths are not damaged or removed
- carry out Footpath gardening activities in a safe and responsible manner, including keeping areas around Footpath Gardens clean and tidy.

The City is not responsible for the upkeep, repair or replacement of items installed in Footpath Gardens.

Verge gardens

Verge gardens are created either:

- in existing landscaped in-ground garden beds or turf (nature strips) or,
- if fully paved, using Pots and Raised Garden Beds positioned along the Kerb Line.

Verge gardens must be set back from the Kerb Line to allow clearance for vehicle access.

Footpath Gardeners are not permitted to plant in raingardens, which are designed to capture and filter storm water from roads and other paved surfaces. Raingardens are usually established below the paved surface level, allowing runoff to drain into the garden, and may also include rocks, gravel and drainage structures.

Utilities including water, gas, electricity and telecommunications cables may be buried at shallow depths in Verge gardens.

Footpath Gardeners in Verges are required to:

- consult the free online enquiries service before you dig to confirm the location of any underground Utilities
- use hand tools and only dig to a depth of 30cm in existing landscaped Verge garden beds. Power tools are not permitted.

Laneway gardens

Laneway gardens may be established with Pots positioned along the Property Line in Laneways too narrow for regular Footpaths.

Footpath Gardeners must consider the safety and access needs of all Laneway users, including the neighbours opposite their property.

Laneway gardens must:

- maintain at least 3.2m wide road clearance to provide access for emergency services vehicles
- maintain clearance for vehicles to enter/ exit driveways including access to the properties on the opposite side of the Laneway
- not include Pots placed on the road surface, where the Laneway has a paved Kerb Line.

For Laneways without a paved Kerb Line, position Pots along the Property Line and clear of any drains.

Pots are considered temporary installations and should be lightweight and moveable.

Closed Laneways are closed to vehicle traffic. Where possible, Laneway gardens in closed Laneways must also maintain access for emergency services vehicles.

Road Closure gardens

Road Closure gardens may be established in the communal Public Space created by Road Closures. These may be maintained by neighbouring residents as a community initiative.

Road Closure gardens are created either in existing landscaped in-ground garden beds constructed by the City or, where the Road Closure is fully paved, established with Pots and Raised Garden Beds.

Road Closure gardens must not obstruct Footpaths or bike access through the Road Closure.

See Attachment B for a list of Road Closures in the City of Sydney area.

1.4 Footpath Gardens design and materials

Footpath Gardeners must keep Footpath Gardens safe, tidy, and attractive.

Footpath Gardens must:

- minimise uneven surfaces
- avoid creating trip hazards with loose materials such as raised edges and fences, walls, bricks or stones and guide wires
- be free from hazards such as stakes, sharp edges or protrusions
- avoid spiky or tall vegetation which may block sight lines or impede people using the footpath, especially for pedestrians who are blind or have low vision
- avoid run-off of materials such as water, soil, mulch or debris onto the Footpath, road or into drains
- ensure gardening activities do not encroach onto the clear path of travel
- not include artificial plants or turf
- not include promotional signs or logos

Pots and Raised Garden Beds

To comply with this policy, Pots and Raised Garden Beds are required to be:

- robust, durable, stable, and free of sharp edges and protrusions

- of sufficient colour contrast to Footpath material to be visible at night and during daytime to people with low vision
- a minimum height of 40cm and maximum height of 90cm
- a maximum length of 1.5m, and for round containers a maximum diameter of 1m
- of a weight able to be moved by hand when filled with soil and plants
- designed to minimise entrapment of rubbish.

Footpath Gardeners should ensure that Pots and Raised Garden Beds remain stable and in good condition.

Part 2: Criteria for approval

If a Footpath Garden activity does not meet the criteria in Part 1:

- no approvals are available
- the Verge garden, Laneway garden or Road Closure garden is not permitted.

Part 3: Other matters for approvals

There are no other matters for approval in this Policy. The Footpath Garden must meet the criteria in Part 1 such that no approval is required from the Council and the activity is regarded as exempt.

Further information

A. Insurance

The City extends its public liability insurance to residents who comply with this policy and the Footpath and Laneway Gardens Guidelines. If the Footpath Garden does not fully comply, the person who created or maintains the garden could be held liable if someone else is injured or their property is damaged.

The City does not provide personal accident insurance if someone injures themselves while gardening on the Footpath.

The City is not liable if a resident experiences any damage or loss by the act, default, omission or neglect of any other person or by reason of the City, its members, agents and contractors for failing to do something on or to the Public Space used.

B. Access requests

Footpath Gardeners may be asked to temporarily or permanently remove, relocate or reposition Footpath Gardens to maintain accessibility, or to enable maintenance, repairs or emergency access, including to adjacent properties.

This may include access to Utilities such as pit lids, electrical poles, lights, signposts and underground pipes or cables, or for the City and contractors to access and carry out works on the Footpaths and any assets beneath.

Footpath Gardeners are required to take action as soon as practicable, and work directly with neighbours or Utilities to meet their access needs.

C. Vandalism, theft and other damage

Footpath Gardens may be affected by vandalism, theft or other damage. Footpath Gardeners are responsible for repairing or replacing stolen or damaged items. The City cannot repair or replace stolen or damaged Footpath Garden items.

D. Laneway gardens in narrow Laneways

This policy does not apply to narrow Laneways with less than 3.2m road width.

Footpath Gardeners should be aware there may be insurance implications where Laneway gardens in narrow Laneways obstruct emergency access.

If a group of property owners, residents and business operators support Laneway greening which may restrict or remove their vehicle access, the City may consider proposals to close the Laneway to vehicles. The City will consider broader access impacts, cost, public Utilities, legal requirements, and undertake further community and stakeholder consultation.

Written evidence of support for the proposal and the associated removal of vehicle access must be obtained from all affected parties before contacting the City. To request a feasibility investigation into closing a narrow Laneway, contact the City's customer service team by email: council@cityofsydney.nsw.gov.au or call 02 9265 9333.

E. Establishing Road Closure gardens

To discuss setting up a garden in an existing Road Closure, contact the community greening team by email: communitygreening@cityofsydney.nsw.gov.au or call 02 9265 9333.

Requirements to establish Footpath Gardens in existing Road Closures include:

- consulting and getting written support from neighbouring property owners, residents and business operators
- nominating a convenor to liaise with the City
- taking on the ongoing management responsibility and associated costs for the Footpath Gardens, Pots and Raised Garden Beds

A list of Road Closures in the City of Sydney area is provided in Attachment B.

If the City is carrying out Road Closure works, residents can apply for creation or extension of landscaped Verge gardens by contacting the City's customer service team by email: council@cityofsydney.nsw.gov.au or calling 02 9265 9333.

The City will donate a limited supply of plants, potting mix, manures and mulch to support setting up a new Road Closure garden, subject to community need, community greening priorities and available funding. The City may consider installing and maintaining sturdy Raised Garden Beds suitable for Public Spaces, provided there is community interest and a clear path of travel is maintained.

F. Other structures

Street libraries are permitted if they maintain safe and equitable access to the Footpath and retain a clear path of travel. Street library structures must be robust, waterproof, durable, stable, free of sharp edges and protrusions.

This policy does not apply to permanent placement of unattended street furniture, compost bins and rainwater collection items in Footpath Gardens. Refer to the City's Footpath and Laneway Gardens Guidelines for information on approvals and management.

Responsibilities

Responsibility for drafting, reviewing and updating this policy lies with the community greening team.

Consultation

The draft policy was open for public comment from ***day date month*** to ***day date month year*** on the City of Sydney website.

References

Laws and Standards
• Australian Standard AS1428.2 Design for access and mobility Part 2
• Local Government Act 1993
• NSW Road Rules (2008)
• Public Spaces (Unattended Property) Act 2021 No 38
• Protection of the Environment Operations Act 1997
• Roads Act 1993

Policies and Procedures
• Compliance Policy
• Community Greening Framework
• Footpath and Laneway Gardens Guidelines
• Inclusive and Accessible Public Domain Policy
• Sydney Streets Code 2021

Review period

To satisfy the provisions of the *Local Government Act 1993*, this policy must be reviewed and a revised version adopted within 12 months of a new Council being elected.

Approval Status

The Chief Executive Officer / Council approved this policy on [DD MONTH YYYY].

Double-Click to insert Initials
Monica Barone PSM, Chief Executive Officer
(To be completed by Office of CEO on approval or deleted if Council approved policy)

Approval History

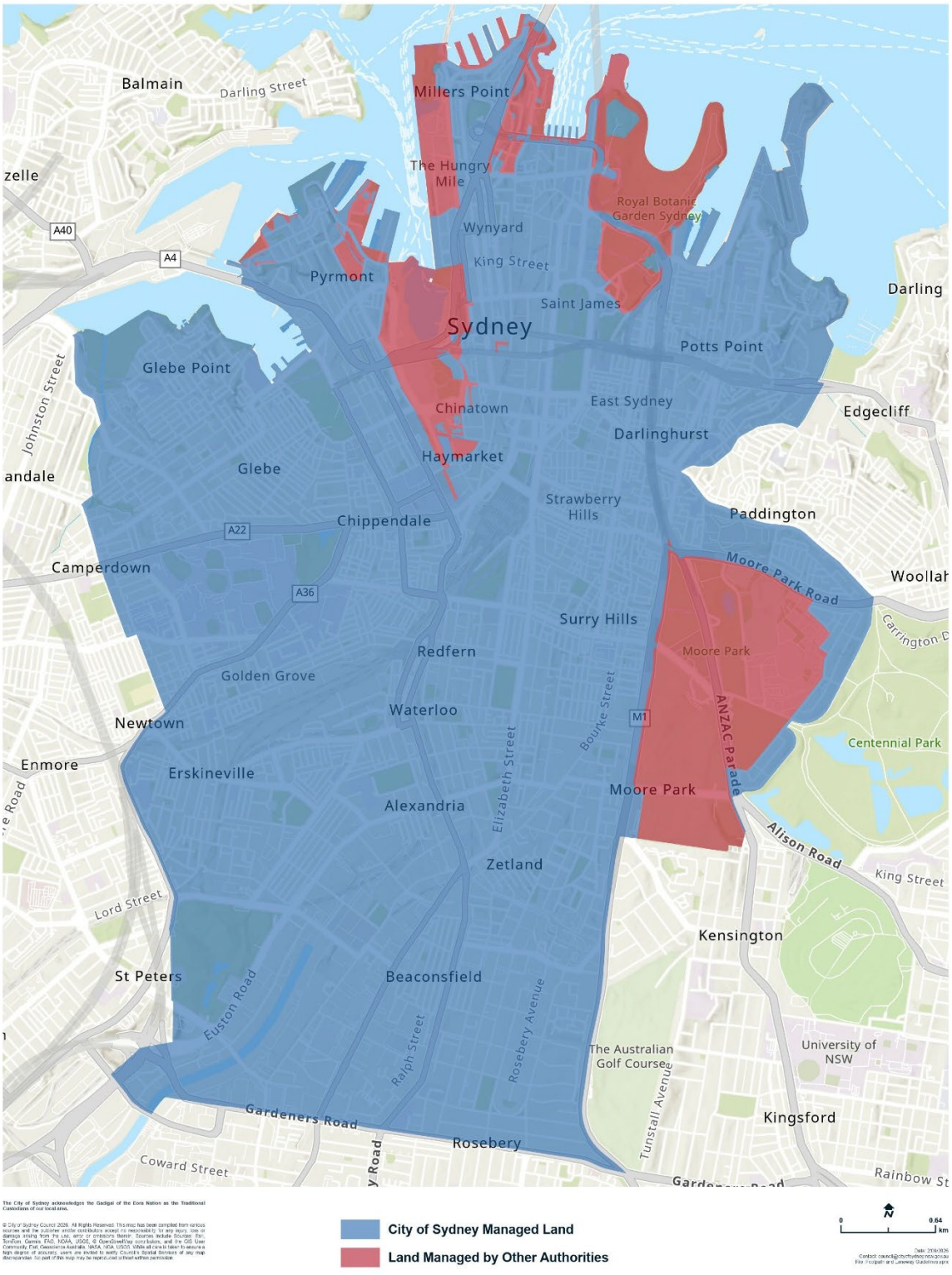
Stage	Date	Comment	TRIM Reference
Original Policy	(Date, month, year)	Approved by CEO/Approved by Council	20XX/XXXXXX
Reviewed	(Date, month, year of when it was approved by CEO or Council)	Briefly summarise key changes	20XX/XXXXXX (Governance to populate)
Commence Review Date	(Date, month, year – should be 9 months prior to the end of the next review period)		
Approval Due Date	(Date, month, year of when the next review of the policy is due to be finalised/ approved)		

Ownership and approval

Responsibility	Role
Author	(City of Sydney position title)
Owner	(City of Sydney position title)
Endorser	City of Sydney Executive
Approver	City of Sydney Council/Chief Executive Officer (Delete as appropriate)

Attachment A

This policy does not apply to areas outside the management of the City of Sydney including land managed by other authorities and corporations, see below.



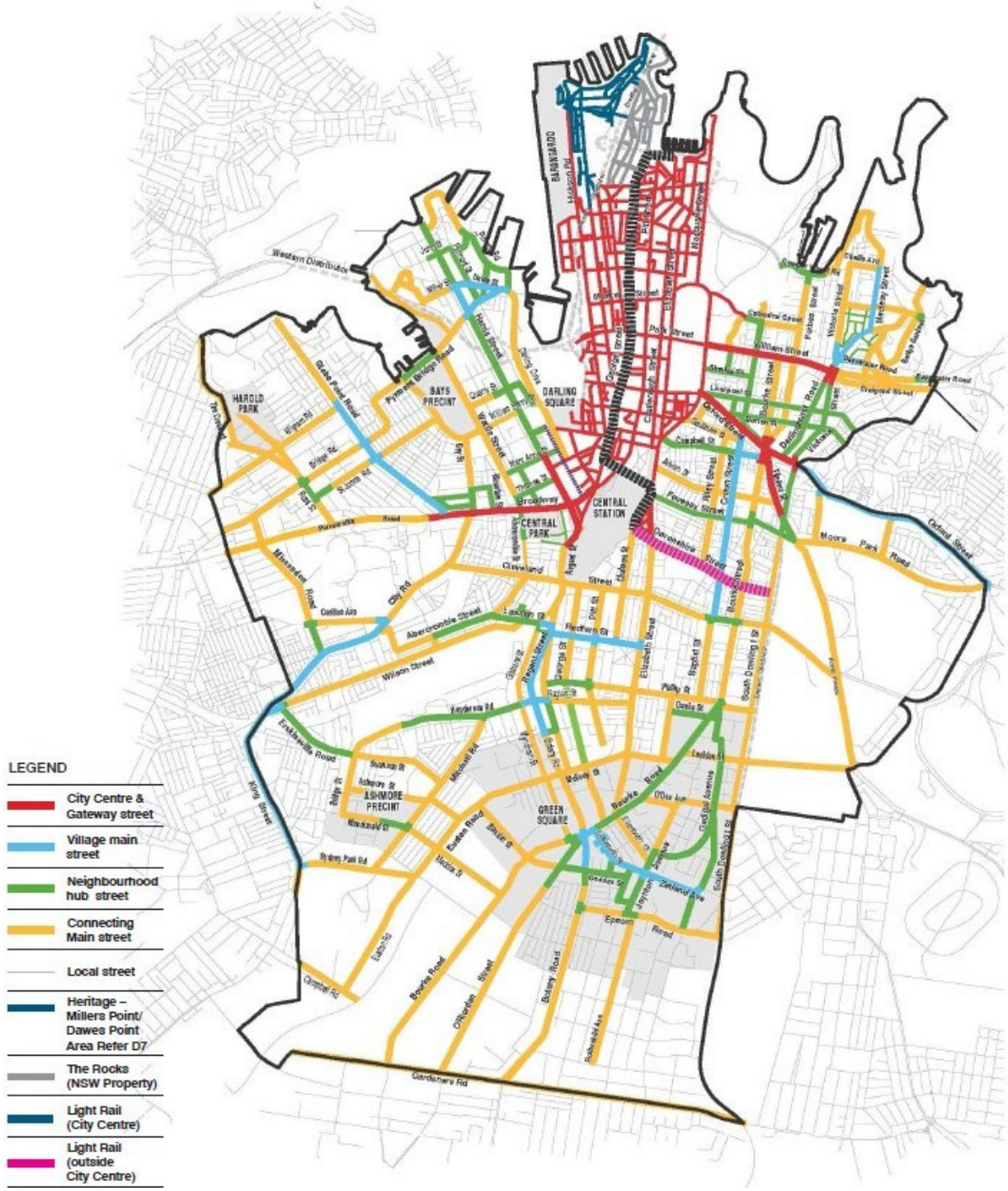
Attachment B

Existing Road Closures in the City of Sydney area.

Suburb	Street	Street section
Alexandria	Belmont St	Between Harley St and Maddox St
Alexandria	Belmont St	Between Maddox St and Huntley St
Alexandria	Lawrence St	Between Harley St and Maddox St
Alexandria	Lawrence St	Between Maddox St and Huntley St
Alexandria	Phillips St	at Henderson Rd
Chippendale	Beaumont St	at Dangar Pl
Darlinghurst	Darley St	at Whites Ln
Darlinghurst	Liverpool Ln	at Palmer St
Darlinghurst	Riley St	at Liverpool Ln
Darlinghurst	Yurong Ln	at William St
Darlinghurst	Yurong St	at Stanley St
Darlington	Lander St	at Abercrombie St
Erskineville	Ashmore St	at Binning St
Erskineville	Binning St	at Swanson St
Erskineville	Bridge St	at Copper Smith Ln
Erskineville	Pleasant Ave	at MacDonald St
Erskineville	Rochford St	at King St
Erskineville	Rochford St	at Munni St
Erskineville	Newman St	at Whitehorse St
Forest Lodge	Cullen Close	at The Crescent
Forest Lodge	Grattan Close	at Minogue Crescent
Glebe	Burton St	at Quarry Ln
Glebe	Hewit Ave	Between Bridge Rd and Reuss St
Glebe	Mitchell St	at Catherine St
Newtown	Angel St	at Munni St
Newtown	O'Connell St	at Carillon Ave
Paddington	Albion Ave	at South Dowling St
Paddington	Josephson St	at Flinders St
Paddington	Napier St	at Rosebud Ln
Paddington	Selwyn St	at Napier St
Paddington	Stewart St	at Regent St

Redfern	Great Buckingham St	at James St
Redfern	James St	at Marriott St
Redfern	Kepos St	at Phillip St
Redfern	Kettle St	at Elizabeth St
Redfern	Marriott St	at Cooper St
Redfern	Morehead St	Between Kettle St and Redfern St
Redfern	Telopea St	at Bourke St
Redfern	Thurlow St	at South Dowling St
Redfern	Walker St	at Phillip St
Redfern	Young St	at Boronia St
Redfern	Charles St	at South Dowling St
Redfern	Chelsea St	at South Dowling St
Redfern	Morehead St	at James St
Surry Hills	Arthur St	at Alexander St
Surry Hills	Arthur St	at South Dowling St
Surry Hills	Bedford St	at Buckingham St
Surry Hills	Collins St	at Crown St
Surry Hills	Cooper St	at Riley St
Surry Hills	Fitzroy St	at Foveaux St
Surry Hills	High Holborn St	at Cleveland St
Surry Hills	Little Riley St	Between Cooper St and Adelaide Pl
Surry Hills	Parkham St	at South Dowling St
Surry Hills	Reservoir St	at Crown St
Surry Hills	Richards Ave	at Foveaux St
Surry Hills	Riley St	at Cleveland St
Ultimo	Macarthur St	at Bulwara Rd
Ultimo	Mountain	at Macarthur St
Ultimo	Quarry St	Between Ada Pl and Bulwara Rd
Waterloo	George St	at McEvoy St
Woolloomooloo	Bland St	at Forbes St
Woolloomooloo	Dowling St	at Sydney Pl
Woolloomooloo	Sydney Pl	at McElhone St
Woolloomooloo	Wilson St	at Forbes St

Attachment C

Sydney Streets Code street types map

Sydney Streets Code Street types The following map sets out the different types of streets identified in the Sydney Streets Code, to be used to understand minimum and preferred dimensions for the clear path of travel in 1.2 of this policy.