



# DRAFT Business parklet policy

Version 1, June 2021





City of Port Phillip **DRAFT Business parklet policy**

## 1. Policy governance

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**Relevant Legislation:**

Local Law 1



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**Associated Strategic Directions #:**

Strategy 4 – Vibrant Port Phillip

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**Associated documents:**

Business Parklet Guidelines, Public Space Strategy, Local Law 1, Footpath Trading Guidelines, Activating Laneway Strategy, Placemaking Action Plan 2018-21, Draft Public Space Strategy, Parking Management Policy, Move, Connect, Live, Integrated Transport Strategy 2018-28

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## 4. Glossary and general terms

Table 1 Definition of terms

Term	Definition
<b>Council</b>	City of Port Phillip
<b>Expression of Interest</b>	An opportunity to demonstrate your business or organisation's interest, suitability and plans to host a business parklet.
<b>Parklet</b>	Re-purposed on-street parking spaces which are designed to extend public space to provide an additional place for congregation, accessible public seating, street greening and additional footpath space.
<b>Business parklet</b>	Parklet used for commercial purposes and is the subject of this Policy.
<b>Community parklet</b>	Parklet used by the general community without the expectation of having to purchase anything. These are Council owned and managed.
<b>On-street parking</b>	Designated parking spaces located on public roads that may be occupied by a vehicle for a specified period of time.
<b>Parklet Panel</b>	A decision-making body within Council consisting of subject matter experts that make decisions on Business Parklet permits in line with Council policy, guidelines and procedures.
<b>Permit</b>	Refers to an approval issued under <i>City of Port Phillip Local Law No. 1 (Community Amenity) 2013</i> (amended November 2017) that authorises a use or activity.
<b>Permit holder</b>	Refers to the person or business who has been issued a Permit.



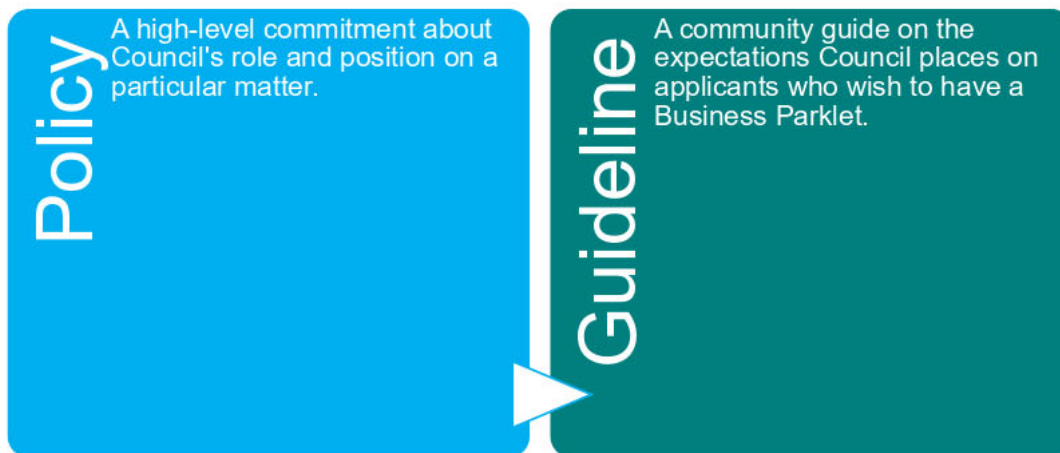
## 5. Purpose

- 5.1. To set out how the City of Port Phillip will manage the provision of Business Parklets across the municipality under Local Law No. 1.

## 6. Scope

- 6.1. This policy applies to all outdoor Business Parklets on Council managed car parking spaces within the municipality.
- 6.2. This policy does not apply to the following:
- Community Parklets
  - Events
  - Footpath trading
  - Itinerant traders
  - Street parties
  - Trading on or in the foreshore or reserves
  - Road and/or laneway closures
- 6.3. This document should be read in conjunction with Business Parklet Guidelines.

Figure 2 Related documents





## 7. Relevant Council Policies

7.1. The following City of Port Phillip documents are relevant to this policy:

- Local Law 1
- Footpath Trading Guidelines
- Activating Laneway Strategy
- Draft Public Space Strategy
- Parking Management Policy
- Integrated Transport Strategy

## 8. Background

- 8.1. Parklets are a well-established form of activation of public spaces in Australia and world-wide.
- 8.2. In September 2020, for the first time Council began allowing businesses to trial the expansion of their outdoor dining footprint via a range of outdoor activations. This was in response to the adverse impacts COVID-19 was having on local businesses and the increased pressure being placed on public outdoor spaces.
- 8.3. This policy takes on board what was learnt through the trial to formalise parklets as part of our municipality given the positive impact they have on the vibrancy of our local activity centres and businesses more broadly. It ensures that parklets are implemented in a balanced way and that businesses make an appropriate contribution for the use of public space.

## 9. Policy objectives

9.1. This policy will:

- Encourage activation and vibrancy in our neighbourhoods and activity centres, which makes them more enjoyable and safer for our community.
- Encourage a sense of community through the creation of safe gathering spaces.
- Support our local businesses and economy to be more resilient to future economic challenges and changes to operating regulations (made by other levels of Government).
- Balance the activation of public space with amenity requirements of surrounding businesses and the community.
- Ensure activation of public space adds to the character, heritage and overall design of our city and meets accessibility, public safety and sustainability requirements.
- Provide additional public space for people to walk, dwell and enjoy our city.
- Ensure businesses that benefit from use of public space make a fair contribution for this use through appropriate fees and charges.
- Provide certainty to businesses, community, Councillors and officers on the way requests to use public space in new ways will be managed (and any fees, charges



and engagement required) to ensure applications can be considered efficiently, effectively and with speed.

- Ensure appropriate oversight and compliance measures are established to provide our community and Councillors with confidence that legislative and road safety requirements are being achieved and the policy objectives described above are being met.
- Test and trial new uses of public space, which could inform longer-term public space priorities, projects and investment by Council.

## 10. Requirement for permit

- 10.1. Any Business Parklet may only be erected and occupied on Council managed land if:
- A permit has been issued under Local Law No. 1
  - The applicant has entered into an agreement with the Council in a form required by the Council
- 10.2. Generally, two permit types will be available:
- Seasonal Permits which will be issued for a period of six months over the summer high season
  - Annual Permits which will be issued for a period of one year.
- 10.3. Each permit type has different infrastructure requirements and is defined within the Guidelines.

### Permit types

- 10.4. The Permit type will be a Street Occupation Permit - Parklet – Issued under community Amenity – Local Law No.1, Clause 14: <https://www.portphillip.vic.gov.au/planning-and-building/get-building-and-construction-permits/construction-permits/street-occupation-permit>

### Permit transfer

- 10.5. A permit applies only to the premises for which it is issued and is not transferable from one premises to another on the sale or transfer of ownership. There is no legal attachment to the sale or transfer of ownership of a business.
- 10.6. To ensure a permit remains valid, the new proprietor must apply to transfer the ownership of the existing permit within 28 days and must ensure that the current permit complies with the Business Parklet Guideline.
- 10.7. Council reserves the right to reassess and amend permit conditions to ensure compliance with the Business Parklet Guideline.
- 10.8. It is the responsibility of the existing proprietor to include the balance of the remaining permit fee in the sale of the business.
- 10.9. An upfront transfer of ownership fee is required for officer assessment and liaison.





## Period of permit

- 10.10. Annual permits expire one year from the date of issue at which time the permit holder must apply for a renewal.
- 10.11. Seasonal permits expire six months after the approved start date. Seasonal permits cannot be renewed.

## Renewal of permits

- 10.12. Annual permits can seek a maximum of two renewals (for a maximum occupation of a parklet for three years), provided they are in good standing. After this a new application must be made.
- 10.13. Preference will be given to renewal requests over new requests due to the level of investment required in setting up a parklet.
- 10.14. Renewal requests will require a site inspection and rectification of any permit non-compliances.
- 10.15. Seasonal permits may not be extended or renewed with a new application required the following year.
- 10.16. Permit renewal notices will be sent to permit holders before expiry.
- 10.17. Permits will only be renewed before expiring.
- 10.18. Renewals will only be processed when the renewal notice, required identification and applicable fee is received by Council prior to the expiry date.
- 10.19. If a permit is not renewed before the expiration date a new application will be required including all necessary documents and fees.

## Cancellation and refunds

- 10.20. Permit fees are non-refundable.

## Permit compliance

- 10.21. Council must investigate any complaints received. These are investigated by the local laws unit and any relevant matters are addressed with the permit holder.
- 10.22. Council reserves the right to amend or cancel a Business Parklet permit in accordance with the Local Law.
- 10.23. Once a permit is terminated all third-party assets must be removed within seven days.
- 10.24. If Council proposes to amend or cancel a permit the permit holder would have an opportunity to make a submission on whether the amendment/cancellation should occur.
- 10.25. Local Laws authorised officers may issue:
  - A warning on behalf of Council to a business or Business Parklet permit holder who is operating without a permit or not upholding permit conditions.
  - A notice to comply if the warning has been ignored.
  - A cancellation of permit/infringement notice.Refer also to Council's Complaint Handling Policy visit <http://www.portphillip.vic.gov.au/complaints.htm>



## 11. Application process

### Method of application

- 11.1. Applications for permits are required to be in writing on the prescribed forms via an Expression of Interest. Complete documentation and payment are required to accompany the application.
- 11.2. The application process and the submission requirements are outlined in the Business Parklet Guidelines.
- 11.3. The applicant will be required to acknowledge acceptance of the Rules of this Policy by signing the application form.
- 11.4. Permits are not guaranteed. Permits may not be available due to site availability or if limits on permit numbers have been reached.
- 11.5. Applications will be evaluated against location and site design criteria, including any maximum limits that apply within the area.
- 11.6. The permit does not override or negate any other permit requirements under other legislation.
- 11.7. Any permit issued must be kept on hand by the business at all times.
- 11.8. All Business Parklets must be implemented at the approved site, time and for the duration stipulated on the permit.

## 12. Assessment criteria

- 12.1. Assessment criteria are outlined in the Business Parklet Guidelines. Please refer to this document for further details.

## 13. Operational and safety requirements

- 13.1. Port Phillip is committed to sustainable practices and requires Business Parklet operators to adopt sustainable practices where possible.
- 13.2. All operators must use equipment and infrastructure that is well maintained, structurally sound and has the ability to withstand exposure to climatic conditions.
- 13.3. Safety checks must be undertaken to evaluate and eliminate any risks/ hazards that may harm customers, employees or the community including those from vehicle impacts.
- 13.4. All Business Parklet structures must be designed in strict accordance with the Business Parklet Guidelines to ensure that pedestrians are safely separated from moving vehicles.
- 13.5. Business Parklet operators must accept any Council approved major events, minor events, capital projects or maintenance works. These activities will take precedence and Business Parklet permit holders.
- 13.6. The operator of a Business Parklet must provide a permit to an authorised officer when requested while conducting activities on Council owned and managed land.



- 13.7. Council may require approvals from other relevant regulatory bodies, such as Victoria Police, WorkSafe, Department of Transport, or VCGLR, as relevant.
- 13.8. A detailed list of operational and safety requirements is outlined in the Business Parklet Guidelines.

## **14. Appeal process**

- 14.1. Appeals regarding the Business Parklet permitting process are to be addressed in writing to the Coordinator, City Permits or the Senior Public Space Coordinator.
- 14.2. Appeals will be assessed against this Policy and the Business Parklet Guidelines.
- 14.3. Appeals will be considered by Officers where applicable with the input of external regulatory bodies.
- 14.4. The outcome of the appeal will be issued in writing.

## **15. Fees and charges**

- 15.1. Council charges for the commercial use of its land and the income from this is used to administer the policy and for a range of services, including maintenance and operations of our streets.
- 15.2. Fees are set through the annual Council budget process, or as varied by Council resolution. Please refer to the fee structure.
- 15.3. An application fee is payable upon submission of the form. Failure to pay within the allocated time will result in a new application and new application fee. Fees are payable to the Council.
- 15.4. Operators are required to reimburse Council for the cost of any restoration or repairs which are required as a result of the Business Parklet and/or its associated activities. All repairs will be undertaken by approved Council contractors.
- 15.5. A bond in advance may be required.

## **16. Discretion of Council**

- 16.1. Council reserves the right to make adjustments to permits or revoke a permit at its discretion.

## **17. Special conditions**

- 17.1. All Business Parklet permit holders that wish to utilise space heaters, a marquee or other enclosure to support their business functions must request authorisation. Council officers will review the application and consider suitability. Additional fees may apply.

## **18. Compliance**



- 18.1. All Business Parklets must comply with Council's Local Laws, relevant laws, legislations or any other authority having jurisdiction over the area where the commercial use of public space is to take place.

## 19. Liability

- 19.1. All approved Business Parklet operators must;
- Have Public Liability Insurance (minimum \$20 million).
  - Indemnify the City of Port Phillip from any claim or demand arising from or in relation to any act, omission, damage, loss, charge, liability, outgoing, payment, expense or cost. The approved permit holder is responsible for managing risks associated with the activity at its permitted location / site.
- 19.2. Operators must operate with caution or cancel activities due to:
- Extreme weather
  - Safety concerns
  - Identified risks
  - Unsafe practices

## 20. Attachments