



Business parklet policy

Version 2, October 2021





1. Policy governance

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Relevant Legislation:

Local Law 1



Associated Strategic Directions #:

Strategy 4 – Vibrant Port Phillip

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
Council	City of Port Phillip
Parklet	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 pedestrian space.
Business parklet	Parklet used for commercial purposes and is the subject of this Guideline.
On-street parking	Designated parking spaces located on public roads that may be occupied by a vehicle for a specified period.
City Permits Panel	<p>The Panel considers:</p> <ul style="list-style-type: none"> • applications that do not meet the requirements of the Footpath Trading Guidelines, Mobile Food Vehicle Guidelines, or Business Parklet Guidelines, but the officer recommends support, or • the permit applicant seeks a review of the Council officer decision • any matters in relation to serious or ongoing breaches of permit conditions, and <p>any matters to assist the objectives and implementation of the Footpath Trading Guidelines, Mobile Food Vehicles Guidelines, or Business Parklet Guidelines.</p>
Permit	Refers to an approval issued under <i>City of Port Phillip Local Law</i> that authorises a use or activity.
Permit holder	Permit has the same meaning as the definition under City of Port Phillip's Local Law

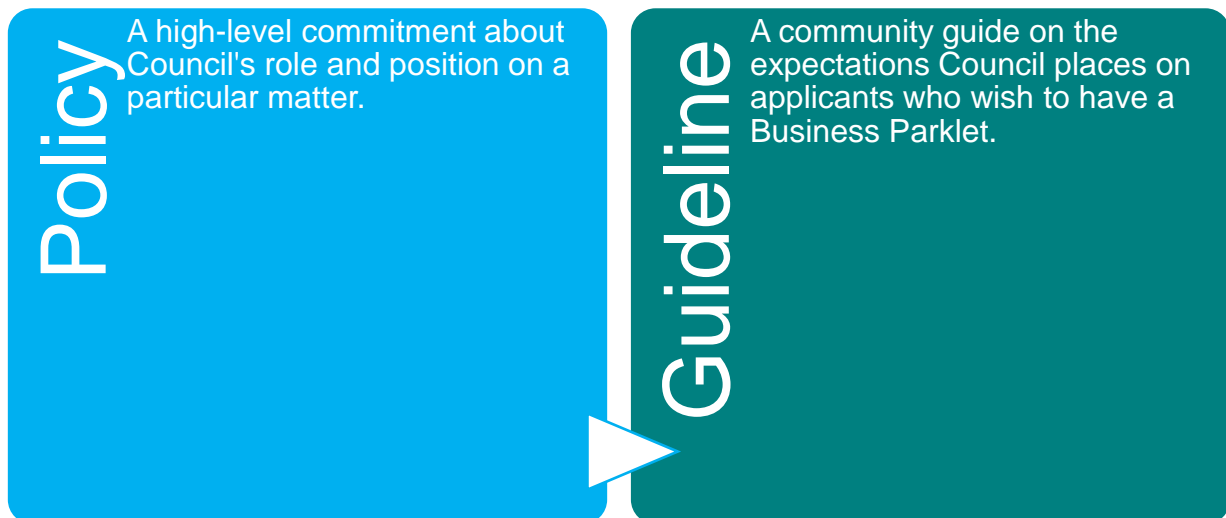
5. Purpose

- 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 trading
 - 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 the 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. Business 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 business 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 of the surrounding community.
 - Ensure activation of public space adds to the character, heritage and overall design of our city and meets public safety, accessibility and sustainability.
 - Provide additional public space for people to walk, socialise and enjoy our city.
 - Ultimately, ensure businesses that benefit from the commercial use of public space make a fair contribution through appropriate fees and charges.
 - Provide a framework for businesses, community, and Council to balance competing interests to ensure decision making is fair and consistent, with compliance measures.

- Supports trialling short term commercial use of on-street parking bays, which could inform longer-term public space priorities, projects and investment by Council.

10. Requirement for permit

- 10.1. A Business Parklet may only be erected and occupied on Council managed land if:
- The applicant has entered into an agreement with the Council in a form required by the Council
 - A permit has been issued under Local Law No. 1
- 10.2. Two permit types will be available:
- Seasonal Permits which will be issued for up to a period of six months over the summer high season
 - Annual Permits which will be issued for up to 12 months.
- 10.3. Each permit type has different design requirements, each defined within the Guidelines.

Permit types

- 10.4. Permits are issued under Local Law No.1 - Street Occupation.

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 ensure that the current permit complies with the Business Parklet Guidelines.
- 10.7. Council reserves the right to reassess and amend permit conditions to ensure compliance with the Business Parklet Guidelines.
- 10.8. It is the responsibility of the existing proprietor to include the balance of any remaining permit fees 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. Seasonal permits expire at the end of the summer high season. Seasonal permits cannot be renewed.
- 10.11. Annual permits expire within 12 months and permit holders notified how to renew each year.

Renewal of permits

- 10.12. Seasonal permits cannot be extended or renewed. A new application can be made for each summer season.

- 10.13. Annual permits can seek a maximum of two renewals (for a maximum occupation of three years), provided they are in good standing. After this period, a new application and assessment must be made.
- 10.14. Permit renewal requests will require a site inspection and rectification of any permit non-compliances.
- 10.15. Permit renewal notices will be issued to permit holders before.
- 10.16. Permit renewals will only be issued upon receipt of all required information, including Current Public Liability Insurance and any applicable fees.
- 10.17. If a permit is not renewed before expiry, a new application will be required.

Cancellation and refunds

- 10.18. Any permit fees are non-refundable.

Permit compliance

- 10.19. Council must investigate any complaints received. These are investigated by the Local Laws unit and any identified matters addressed with the permit holder.
- 10.20. Council reserves the right to amend or cancel a Business Parklet permit in accordance with the Local Law.
- 10.21. Once a permit has expired or cancelled, all third-party assets must be removed within seven days.
- 10.22. 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.
- 10.23. Local Laws authorised officers may issue:
 - A warning on behalf of Council to a business or Business Parklet permit holder who is breaching permit conditions or operating without a permit.
 - A Notice to Comply if the warning has been ignored.
 - An 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 Business Parklets are required to be submitted on the prescribed forms. Complete documentation and payment of any application fee is required.
- 11.2. The application requirements and decision-making process are outlined in the Business Parklet Guidelines.
- 11.3. By submitting a Business Parklet application, the applicant accepts and acknowledges Council's Terms and Conditions.

- 11.4. Applications will be considered against a number of factors including the location, safety, accessibility, amenity, design criteria and any business parklets limits that may apply within a precinct.
- 11.5. The permit does not override or negate any other permit requirements under other legislation.
- 11.6. The use and operation of a business parklets must be in accordance with the approved permit.
- 11.7. The permit must be kept on-site and presented to an authorised officer upon request.

12. Assessment criteria

- 12.1. The assessment criteria is detailed in the Business Parklet Guidelines.

13. Operational and safety requirements

- 13.1. The City of 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 impacts as a result of approved events, capital projects or maintenance works by Council or other service providers.
- 13.6. Council may require approvals from other relevant regulatory bodies, including Victoria Police, Department of Transport and Victoria Commission for Gambling and Liquor Regulation.
- 13.7. A detailed list of operational and safety requirements is outlined in the Business Parklet Guidelines.

14. Review process

- 14.1. A permit applicant seeking a review of an officer decision must provide a submission within 28 days of the date a decision, including all information to be taken into consideration. Submissions must be emailed to: footpathtrading@portphillip.vic.gov.au
- 14.2. A decision review will be considered by the City Permits Panel, consisting of three senior Council officers, using this Policy and the Business Parklet Guidelines and any other matter deemed relevant.
- 14.3. The permit applicant will be notified of the outcome of the decision review.

15. Fees and charges

- 15.1. Public space including parking spaces are a valuable resource for our community.
- 15.2. The long-term philosophy is that parklet fees will be set in a similar way to footpath trading which is by utilising a valuation of retail rates and charging an applicable percentage. Any income received is used to administer the policy and for a range of services, including maintenance and operations of our streets.
- 15.3. Fees will be set through the annual Council budget process, or as varied by Council resolution and an assessment of economic conditions at the time and impact on businesses will be taken into consideration as part of this process.
- 15.4. The permit-holder will be held responsible for any damage caused to Council assets. All repairs will be undertaken by approved Council contractors.

16. Discretion of Council

- 16.1. Council reserves the right to amend or revoke a Business Parklet permit at any time.

17. Special conditions

- 17.1. An applicant must obtain approval for all third-party assets including tables, chairs, lighting, signage, umbrellas, heaters and any weather protection structures prior to purchase and installation. These may require special conditions to be applied to the permit.

18. Compliance

- 18.1. All Business Parklets must comply with Council's Local Law and any other regulatory bodies.

19. Liability

- 19.1. All approved Business Parklet permit holders must;
 - Have Public Liability Insurance to the minimum amount required by Council.
 - 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 permit holder is responsible for managing risks associated with the activity at its permitted location / site.
- 19.2. Permit holders must operate with caution or cancel activities due to:
 - Extreme weather
 - Safety concerns
 - Identified risks
 - Unsafe practices



20. Attachments