

Kingston Parklet Policy

May 2022

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Document Information

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RESPONSIBLE GENERAL MANAGER	General Manager Planning and Place
RESPONSIBLE MANAGER (Policy Owner)	Manager City Economy & Innovation
APPROVED/ADOPTED BY	Council
SIGNATURE	
APPROVAL DATE	Select date
EFFECTIVE DATE (If different from approval date)	1 June 2022
REVIEW DATE	
CM REF AND VERSION	
VERSION HISTORY	N/A

1. Purpose

This Parklet Policy has been developed to:

- Outline the key requirements for businesses to host a Parklet.
- Describe the technical and safety requirements that must be met in the implementation of each Parklet.
- Outline an equitable process for the evaluation and selection of businesses to host a Parklet.
- Enable Council to grant permission for the use of a road for a Parklet under the Local Law, and where an Arterial Road is proposed to be occupied by a Parklet, to grant a sub-licence through the Department of Transport.
- Support Council's decision-making process to balance the competing demands for use of on-street car parking spaces for parking, with the demand to use those car parking spaces for private purposes.

2. Definitions

Yearly Parklet Permit Applicant	Means a Parklet Permit issued for a 12-month period. A hospitality business that is applying to become a Parklet host
Arterial Road	Has the meaning in the <i>Road Management Act 2004</i> (Vic) and is a road managed by the Head, Transport for Victoria
Council Land	Has the meaning given to it in Local Law
Council Road	Means a road owned or managed by Council
Footpath Activities Permit	Means a permit to use the footpath for trading in accordance with the Local Law.
Local Law	Kingston Community Local Law 2015 as amended from time to time
Major Activity Centre	Refers to the commercial areas of Cheltenham, Mentone, Chelsea, Moorabbin and Mordialloc. For the purpose of this Policy only, the location of Major Activity Centres and the extent of car parking subject to this Policy are defined in the Parklet Design Guidelines.
Parklet	Refers to the temporary occupation of an area of road for the purpose of increasing usable pedestrian space for public and business-related activities. Parklets specifically relate to the occupation of kerbside car parking spaces within a road
Parklet Design Guidelines	A document prepared by Council outlining standards for design, location and assessment of Parklets. The Parklet Design Guidelines may be amended from time to time.
Parklet Host	A hospitality business that has been issued a Permit by Council to install, maintain, and utilise a Parklet for a certain duration during that hospitality business' opening hours

Permit	Refers to: <ol style="list-style-type: none"> 1. The permission to temporarily occupy an area of road for a Parklet issued under the Local Law. 2. The issue of a temporary sub-licence if the Parklet is located on an Arterial Road. <p>A Permit can be a Seasonal Parklet Permit, a Transitional Parklet Permit or a Yearly Parklet Permit</p>
Seasonal Parklet Permit	Means a Permit granted for a Parklet during a particular season or period of time
Transitional Parklet Permit	Means a Permit granted to operate a Parklet for a period between 1 July 2022 and 31 October 2022.

3. Application of Policy

This Policy applies to all applications, amendments, and renewals for a Transitional Parklet Permit, a Seasonal Parklet Permit or a Yearly Parklet Permit for the use of a Parklet on a Council Road or an Arterial Road.

This Policy should be read in conjunction with the Parklet Design Guidelines and Footpath Trading Policy.

Council will consider the Policy Objectives outlined in Section 5 of this Policy when evaluating applications for a Seasonal Parklet Permit or a Yearly Parklet Permit.

This Policy does not apply to:

- Events on Council Land
- Commercial use of Council Land
- Trading in or on the foreshore or reserves
- Road and/or laneway closures

4. Policy Background

The City of Kingston first trialled the implementation of Parklets in late 2020 in response to Victoria’s Hospitality Roadmap to Reopening, a State Government initiative to support local hospitality businesses following on from COVID-19 Pandemic closures.

The Parklet program trial identified the need to develop a policy for the future continuation of the program. Council acknowledges that Parklets have operated successfully through the trial period and there is considerable appetite among current Parklet Hosts to continue to participate in hosting Parklets to support their businesses within the municipality.

This Policy deals with the occupation of Council Roads and Arterial Roads for Parklets for short term periods of between 6 months and 2 years (subject to an Annual Parklet Permit being renewed). This Policy does not consider the longer term or permanent occupation of road space. Longer term occupation of road space (exceeding a period of 2 years) may be more appropriately considered through the delivery of infrastructure or streetscape improvements or through the application of Council's Commercial Use of Council Land Policy where these are more appropriate to the long-term vision for the Parklet Host business or commercial area.

5. Policy Objectives

Council seeks the following outcomes for Parklets approved via a Seasonal Parklet Permit or a Yearly Parklet Permit:

- Parklets are constructed and operated in a manner which is safe for road users and patrons alike.
- Parklets are approved within a framework which promotes fairness and equitable outcomes for business and the community.
- Parklets are attractive and contribute to the visual amenity of the shopping strip or activity centre in which they are located.
- Parklets provide additional opportunities for public open space in appropriate locations within shopping strips and activity centres.
- Parklets increase opportunities for 'day to night' activation in Kingston's shopping strips and activity centres.
- Parklet Hosts provide evidence of support from neighbouring businesses.
- Parklets are approved in locations which balance the activation of public space with the amenity of the surrounding community.
- Parklets support short term commercial use of on-street parking bays, which could inform longer-term public space priorities, projects, and investment by Council.
- Parklets are managed and operated responsibly by Parklet Hosts.
- Businesses working in collaboration to bring vitality to a shopping precinct.

Before deciding to grant a Parklet Permit, Council officers may consider any history of previous enforcement action or documented concerns relating to a Parklet Host's ability to manage a Parklet responsibly that in Council's view, would reflect negatively on the Parklet program.

6. Requirements for a Permit

6.1. For a Parklet on a Council Road

A Parklet may only be erected and occupied on a Council Road if:

- The Applicant has completed the relevant form for the Permit under the Local Law; and
- A Permit has been issued under the Local Law; and
- The Applicant has obtained a Footpath Activities Permit in accordance with the Local Law where required.

6.2. For a Parklet on an Arterial Road

A Permit may be granted to use an Arterial Road for a Parklet if:

- The Applicant has completed the relevant form for the Permit under the Local Law; and
- A Permit has been granted by a sub-licence pursuant to the Road Management Act 2004 (Vic); and
- the Applicant has obtained a Footpath Activities Permit in accordance with the Local Law where required.

7. Parklet Permit type

7.1 Seasonal Parklet Permit

A Seasonal Parklet Permit is issued to a Parklet Host and is valid from 1 November to 30 April (six-month period). This Permit expires at the end of the six-month period. It is not renewable or extendable.

A new application for a Seasonal Parklet Permit can be made each year. Each application will be subject to a fresh assessment process.

7.2 Yearly Parklet Permit

The Yearly Parklet Permit provides the Parklet Host with a permit to activate a Parklet throughout the year commencing 1 November through to 30 October the following year.

Yearly Parklet Permits can seek a maximum of one renewal (for a maximum occupation of two years), provided the Parklet Host meets the requirements for the 'Renewal of Yearly Parklets' (Section 10.2). After this period, a new application and assessment must be made.

7.3 Transitional Arrangements

Parklet Hosts with a valid Parklet Permit current on the date of the commencement of this Policy may apply for a Transitional Parklet Permit. The Transitional Parklet Permit would allow approved Parklets to operate from 1 July 2022 to 31 October 2022.

An application for a Transitional Parklet Permit will be subject to an assessment by Council officers. In granting a Transitional Parklet Permit, Council officers will have regard to the eligibility requirements outlined in Section 9 of this Policy. This will include requiring written confirmation from both neighbouring businesses adjoining the Parklet that they consent to the Parklet use continuing.

Where relevant, Council officers assessing an application for a Transitional Permit may have regard to the Objectives of this Policy when deciding whether to grant a Transitional Permit.

A Transitional Parklet Permit may be issued under the Local Law as per Section 6.1 or 6.2 of this Policy, as relevant.

8. Amendment to an existing Permit

Parklet Hosts can apply to amend a Parklet Permit at any time but not to extend the Permit if the timing of the Permit has reached its maximum under this Policy.

9. Eligibility to become a Parklet Host

Applications for Permits are open to hospitality businesses operating from commercial premises in the City of Kingston.

An application will be eligible if the business:

- meets the location criteria (refer to Clause 12);
- has a commercial lease agreement for the business premises for the duration of the parklet permit period, or owns the property; and
- has provided all requested information in the application form.

An application is ineligible if:

- the Applicant is not a hospitality business;
- it does not meet the location criteria (refer to Clause 12);
- the Applicant does not have letters of support from neighbouring local businesses (refer to Clause 17);
- the Applicant is a home-based business;
- the Applicant does not provide evidence of a commercial lease or assurance of trading at the premises for the duration of the Parklet Permit period;
- the parking spaces out the front of the business are not Council or Department of Transport managed (i.e., privately owned roads);

or

- the application is incomplete.

10. Application process

An annual Expression of Interest (EOI) will be conducted for assessing new applications for Seasonal Parklet Permits and Yearly Parklet Permits.

10.1 Applications for a Seasonal Parklet Permit and a Yearly Parklet Permit

The EOI process will require all Applicants to meet the eligibility criteria in Section 9 of this Policy and the application may be required to provide information to address the objectives in Section 5 of this Policy.

Council may seek clarification from an Applicant after an application has been submitted and ask for further information to be provided.

Late applications will not be accepted.

The EOI and application period may be extended where necessary.

10.2 Renewal of Yearly Parklet Permits

A Yearly Parklet Permit is valid for a 12-month period.

A Parklet Host with a Yearly Parklet Permit wishing to continue in the program for a second year, must apply for a renewal during the annual EOI application period.

Failure to apply for a renewal will result in the Yearly Parklet Permit lapsing after the initial 12-month period.

Council reserves the right to limit the tenure of a Parklet Host through the renewal process.

A Yearly Parklet Permit may only be renewed once. At the completion of two years, a new permit application process would be required.

11. Parklet size

A Parklet may occupy a maximum of two car parking spaces for a Parklet hosted by one individual business.

If businesses collaborate on an application, and this application is supported by Council, a shared Parklet totalling a maximum of four car parking spaces may be considered.

12. Parklet location

Parklets may only be approved:

- Located directly adjacent to the Parklet Host business - unless formal collaboration between businesses is proposed as per Section 11 of this Policy.
- In locations meeting the criteria specified in the Parklet Design Guidelines relating to traffic and road safety requirements as assessed by Council officers.
- On roads managed by Council or the Department of Transport - not privately owned roads or off-street car park areas.
- Where in Major Activity Centres, in on-street parking areas identified in the Parklet Design Guidelines.

13. Arterial Roads

Separate approval may be required to use an Arterial Road for a Parklet. In this case Council will, if required, assist Applicants to liaise with the Department of Transport over application requirements and conditions related to the grant of a sub-licence.

14. Major Activity Centres

The purpose of a Major Activity Centre is to support commercial activity that draws a larger catchment than a neighbourhood or local centre. This can result in a high demand for car parking in these areas. This Policy seeks to balance competing public and private demand for car parking spaces.

Therefore no more than 10 per cent of the deemed available on-street car parking spaces in each Major Activity Centre can be used for Parklets. This assessment will be undertaken by Council's Traffic Engineering Team.

Major Activity Centres are defined in the Parklet Design Guidelines which may be amended from time to time by the officer delegated to this task.

15. Hours of operation

A Parklet is required to be utilised for a substantial period of the day that justifies the dedicated use of the car parking space for a Parklet.

Applications will be partly considered on the hours of operation that the Parklet would be activated.

An Applicant that proposes to maximise the hours of trade may be preferred over those that propose limited opening hours.

16. Business collaboration

Applications can be strengthened if adjacent or nearby businesses collaborate as Parklet Hosts.

This may be suitable for individual businesses that operate during different times of the day, therefore maximising the operating hours of the Parklet.

Collaborating businesses are required to complete a joint application to become Parklet Hosts and ensure the responsibility of maintaining the Parklet is shared.

17. Support from neighbouring local businesses

All Applicants require a minimum of three (3) letters of support for their application.

A letter of support must be provided from the occupier of each of the two businesses adjoining the Parklet Host. A third letter of support from a business within the same centre must also be provided.

Where written confirmation of support from adjoining occupiers cannot be obtained – for example, where one adjoining shopfront is vacant and there is no occupant to provide written support - this must be documented in writing and provided to Council to justify further assessment.

Council may preference Applicants who can provide evidence of support from a wider range of businesses within their centre.

If a neighbouring business withdraws their support throughout a Permit period, consideration will be given to an appropriate course of action.

18. Parklet Design Guidelines

Council will publish a set of Parklet Design Guidelines including:

- Details of any requirements to be achieved in relation to road safety and choice of location for a Parklet; specifications relating to any materials to be used in the construction of a Parklet, and the installation, maintenance and safe use of the Parklet; and
- Guidelines outlining a framework for assessing Permit applications that include consideration of the requirements and Objectives of this Policy.

19. Footpath Activities Permit

A Parklet Host must have a current and valid Footpath Activities Permit issued by Council for outdoor dining if they seek to trade from the footpath in addition to hosting a Parklet.

A Parklet Permit is a separate permit issued by Council.

20. Shelter

Permanent structures covering the Parklets are not permitted.

21. Public space

Parklets are hosted on public land and must be accessible to the public.

During business hours, the Parklet can be used exclusively by the Parklet Host for the purpose of accommodating patrons to that business (and surrounding businesses as agreed in writing by Council).

The Parklet must be made safe and secure outside businesses hours.

All non-fixed furniture is required to be removed from the Parklet outside of business hours. (e.g. tables and chairs, heaters, umbrellas etc).

22. Responsibilities

22.1 Parklet Host responsibilities

A Parklet Host must at all times operate in accordance with the Permit requirements and any specific conditions of the Permit.

It is the responsibility of the Parklet Host as the Permit holder to always monitor and manage the use of the Parklet.

22.2 Council rights and responsibilities

The Council manages the approval process and issues the Permit to a Parklet Host for a Council Road and assists the Applicant for a Permit for the use of an Arterial Road.

Council reserves the right to maintain and manage the use of Council Land to reclaim access at any time for any purpose deemed appropriate by Council.

Council is responsible for the publication of Parklet Design Guidelines relating to Parklets.

Council is responsible for setting the Fees and Charges for Parklet Permits.

23. Installation and removal

A Parklet Host must engage a registered builder to complete the installation and the removal of the Parklet.

The contractor must engage with Council prior to the works being undertaken to ensure compliance.

Consent for works in a road reserve may be required by the Applicant under the *Road Management Act 2004 (Vic)* prior to the works commencing and this should be discussed with Council prior to the application for the use of the road for the Parklet.

24. Compliance

Council will monitor and evaluate all Parklets on a regular basis. Any observed breach of the Parklet Permit will result in enforcement action being taken.

Upon detection of a breach of the Local Law, this Policy, or a specific Permit condition, Council (including its staff and authorised officers) may take the following action:

- Provide advice to the Permit holder on how to comply with the conditions of the Permit.
- Issue Written Notice to Comply– a first and final written notice – must comply within the time limit stated.
- Issue Infringement Notice – fine for non-compliance.
- Issue further fines or permit suspension for a minimum period of three months and/or prosecution.
- Revoke / cancel the Permit.
- Take action for breach of contract if a licence for the use of the Arterial Road.

Council may also impound any items or Parklet infrastructure that do not comply with Local Law, this Policy or any conditions placed on the Permit.

25. Permit conditions

A Permit may be granted subject to conditions. Permit Conditions may be subject to amendment from time to time by the relevant Council officer.

25.1. Advertising signage

Advertising signage must not be attached to the Parklet unless otherwise approved by Council and is in accordance with all relevant laws including planning provisions if relevant.

25.2. Waste and litter

Hygiene and cleanliness of a Parklet must be maintained. The following standards apply:

Litter must be immediately cleared from the Parklet by the Parklet Host.

- Food scraps or other rubbish generated by Parklet trading must be immediately removed and deposited within the Parklet Host's own bins kept within the premises.
- Litter generated by Parklets must not be disposed of into street gutters, stormwater drains, adjacent footpath areas or placed in public litter bins.

25.3. Noise

A Parklet Host must ensure to operate within the hours of operation, to operate in accordance with all relevant Environment Protection Authority noise requirements, and the Permit conditions or associated Footpath Activities Permit conditions.

26. Fees and Charges

Council fees and charges will apply to a business that becomes a Parklet Host.

Council will determine the minimum fees through the annual budget process, listing in the fees and charges section or as varied by Council resolution.

27. Policy Commencement

This Policy will commence on 1 June 2022

28. Policy Review

This Policy will be reviewed by 1 June 2026

29. Delegation Authority and Decision Guidelines

The Chief Executive Officer has delegated this power duty or function under the signed Instrument of Delegation.

30. Delegations/Authorisations

Delegations under the following Acts and Regulations that apply to this Policy:

- Local Government Act 2020
- Kingston City Council Community Local Law 2015

31. Exemptions

There are no exemptions to this Policy.

32. Human Rights Charter

This Policy has been reviewed against and complies with the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

33. Related Documents and Resources

Legislation

- Disability Discrimination Act 1992 (Cth)
- Kingston City Council Community Local Law
- Local Government Act 2020 (Vic)
- Occupational Health and Safety Act 2004 (Vic)
- Road Management Act 2004 (Vic)

City of Kingston Documents

- Footpath Activities Policy
- Parklet Design Guidelines

34. Transition Arrangements

This Policy will commence on 1 June 2022