



# OUTDOOR DINING AND TRADING DRAFT POLICY

2024

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# INTRODUCTION

Outdoor dining plays an important role in activating public space for commercial benefit to local business and in return they help foster vibrant public spaces, streets and local activity centres for the local community to enjoy.

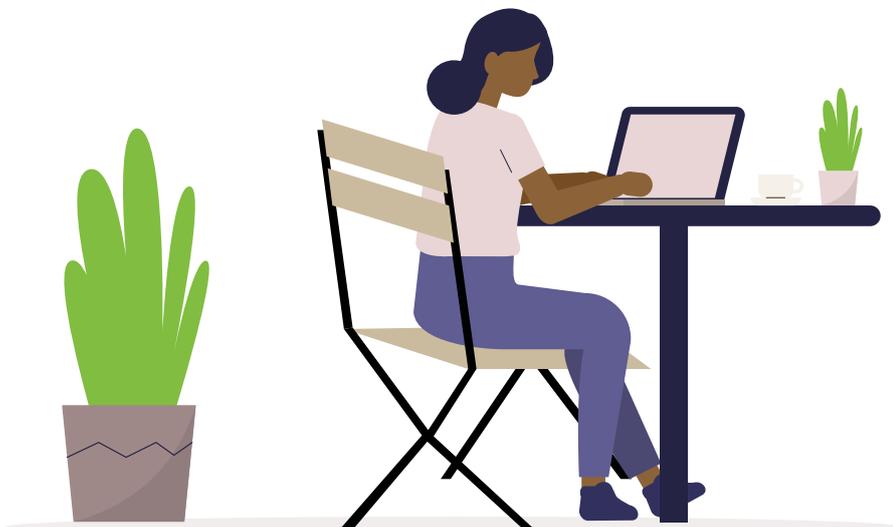
As our city continues to densify, these spaces become our everyday outdoor meeting spaces for social gatherings, help to create a sense of identity and place, and make our centres more interesting and exciting.

Darebin encourages local businesses to help activate our city with outdoor dining and footpath trading on footpaths, nature-strips and road-spaces, ensuring that it's done in a balanced way, with safety and accessibility at the forefront.

# PURPOSE OF THIS POLICY

The purpose of the Darebin Outdoor Dining and Trading Policy (the Policy) is to:

- Ensure that the objectives of Council's Local Laws No 1 are achieved in administering this Policy.
- Give effect to the relevant provisions of the legislation outlined in Attachment 1 and the applicable parts of other Council policies in Attachment 2.
- Provide clear and simple guidance to assist businesses with their applications to establish new or extend existing outdoor dining and trading areas.
- Provide Council with a clear decision-making framework for the evaluation of applications and the enforcement of Outdoor Dining and Footpath Trading permits.
- Provide a framework for Council's guiding principles on activating public footpaths and roadways for commercial purposes and for the broader community benefit while maintaining a balance between the safe passage for pedestrians and vehicles through these shared spaces.
- Support trialling short term commercial use of on-street parking bays or road space, which could inform longer-term public space priorities, projects, and investment by Council.



# POLICY STATEMENT

The Policy will ensure that Outdoor Dining and Trading in Darebin will:

- Enhance the safety and vibrancy of the public realm and encourage more pedestrians and visitors to the areas, benefiting the broader business precinct.
- Encourage more foot traffic and ongoing support for local businesses across the precinct.
- Spread activation onto the street encouraging people to pause, sit, linger, engage and gather along the street edge, blending public space with the private realm in commercial centres.
- Be designed in a way that reflects local place and identity, minimises street clutter, creates a safe environment for all users and provides dignified access for all members of the community to use and enjoy.
- Be implemented ensuring a good balance between the public and privatisation of public space is achieved.
- Facilitate partnerships with local businesses to help activate our retail precincts.

# POLICY GOVERNANCE

Council's Business Development Unit are the custodians of this Policy, holding responsibility for the implementation, education, and monitoring.

Council's Local Laws unit are responsible for ensuring compliance of this policy in accordance with Darebin Local Laws.

This Policy is to be formally reviewed every 5 years. Council may, at its discretion, review it sooner.



# POLICY PRINCIPLES

The following principles have been developed to provide guidance for successful Outdoor Dining and Footpath Trading applications. All permit applications should respond to the following principles:

## Safe and Welcoming

Outdoor dining and trade proposals must be designed with safety in mind. Darebin's streets are to remain welcoming and accessible for users of all abilities, without obstacles or hazards for walkers and wheelers. Safety and perception of safety is essential for a successful and enjoyable public realm. Outdoor dining and trading areas must be and feel safe to use to succeed.

Applicants must consider the safety of all public realm users and how they will use, perceive, interact with, and be impacted by outdoor dining and footpath trading. This includes the arrangement, design and location of street and business furniture, structural integrity of proposed furniture, services and equipment, opportunities for passive surveillance, access and conflicts between pedestrians, cyclists, and vehicles.

## Equitable and Accessible

Outdoor dining and trade proposals facilitate safe, functional, active, and inclusive public streets and spaces.

Applications must meet the access needs of all public space users and modes of transport to ensure their passage is convenient, safe, equitable and efficient. All proposals can be accessed, used, and enjoyed by people of all ages and abilities. They also prioritise access for active modes of transport like walking and cycling over motor vehicles.

## Attractive and Enjoyable

The design and appearance of outdoor dining and trade should positively contribute to the public realm experience and entice people to use these spaces.

Proposals should consider and respond appropriately to the surrounding context and preferred character of the area through considered use of material, colour, planting and furniture selection. Outdoor dining should be considered as part of the street design and incorporate and enhance existing features such as trees and verandas.

Outdoor dining approaches and furniture should be of high quality and design and make a positive contribution to the street experience. Interesting and innovative approaches which are built for purpose are encouraged. Proposals which are well designed and maintained are essential in providing comfortable spaces for people to enjoy, sit and linger without any obstructions.

## Resilient, Sustainable and Well Maintained

Furniture and materials used for outdoor dining and trade should be robust, weather resistant and easy to maintain, aligning with the Design Guidelines.

The use of locally sourced materials which aligns with Council's Environmental Sustainable Design (ESD) principles is strongly recommended. Businesses need to ensure outdoor trading spaces are maintained regularly, with furniture to be stored inside building when the business is not operating.

# DEFINING ZONES FOR OUTDOOR DINING AND TRADING

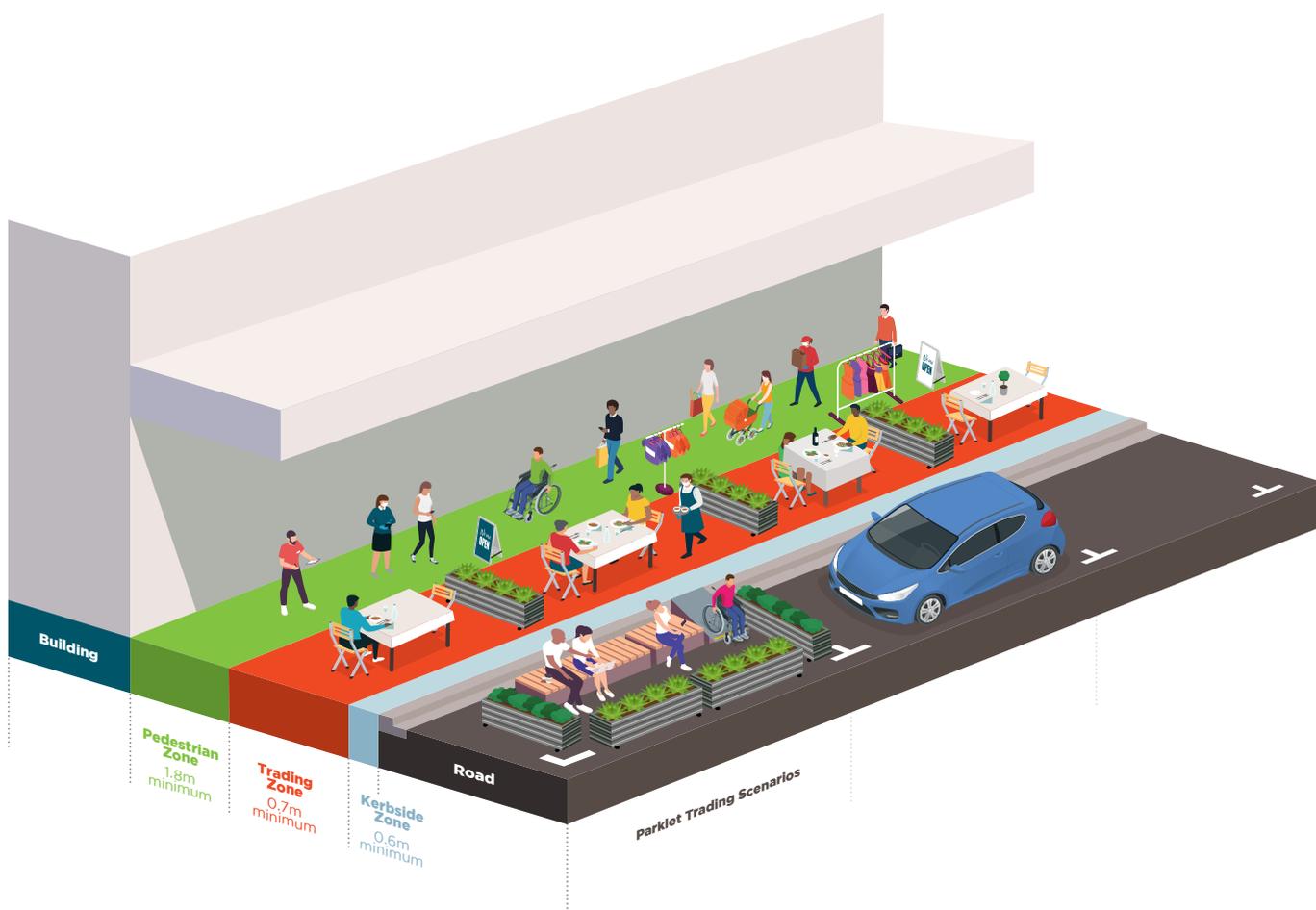
The publicly owned areas in front of shops and businesses are commonly referred to as 'Footpaths' and 'Nature Strips', and these abut publicly owned roads.

There are many competing demands for these public areas which often contain trees and landscaping, artwork, street furniture (bins, water fountains, benches, etc.), public infrastructure (bus stops, power and lighting poles, inspection pits, etc.) in addition to being spaces that provide access to shops, businesses and homes. All of these services and infrastructure may prohibit or limit opportunities for outdoor dining and trading.

While outdoor dining and trading will help activate and positively contribute to the vibrancy and activation of our retail centres and support local businesses, these benefits need to be balanced against the need to maintain clear and unobstructed access for pedestrians walking along the footpath, as well as pedestrian access from parked vehicles to the footpath area.

The footpath can be defined by four zones that govern its use, and can be identified as:

- Pedestrian Zone.
- Nature Strip or Back-of-Kerb Zones (footpaths).
- Kerbside Zone.
- Parking Spaces or Road Space.



Defining Zones for Outdoor Dining and Trading

# APPLICATION OF POLICY

As required under the Darebin General Local Law No. 1 a permit is required for the following:

- A temporary advertising sign up to 1.5 square metres in size on a road or Council land.
- Undertaking a commercial use or activity on a road or Council land to:
  - a. provide outdoor dining areas where such a use is not regulated by the Planning Scheme; or
  - b. sell goods or services, display goods for sale or hold occasional sales of goods.

This Policy applies to businesses and community non-for profit groups who wish to use publicly owned footpaths, nature strips, road reserve, on-street parking, and laneways for commercial purposes, as well as the erection of the following temporary or fixed infrastructure:

- Furniture (chairs and tables).
- Outdoor heaters.
- Temporary signage (A-Frames and pointer boards).
- Outdoor structures (i.e., pergolas, overhead structures).
- Outdoor displays.
- Planter boxes.
- Umbrellas.
- Power, lighting and speakers.
- Café screens.
- Windproof ashtrays.
- Blinds, weather blind anchors and awnings.
- Parklet infrastructure.



This Policy distinguishes between the following classes of applications:

- Temporary advertising signs, including A-Frames.
- Temporary display of goods including display cases and clothing racks.
- Temporary outdoor dining generally within the Nature Strip and/or Back-of-Kerb Zone (Footpaths).
- Temporary outdoor dining within a Parking Space, Road Zone or Laneway (Parklets).
- Temporary and Fixed Café Screens.
- Temporary and Fixed (in ground) Umbrellas.

Under the Tobacco Act 1987, smoking is banned in outdoor dining areas from 1 August 2017. This Policy reinforces this legislation.

The following criteria will be applied to the assessment of applications for outdoor dining and trading in the footpath and associated public areas. Each element of this policy contains:

- **Objectives:** An objective describes the desired outcome to be achieved.
- **Standards:** A standard contains the requirements to meet the objective.
  - A standard should normally be met. However, if Council is satisfied that an application for an alternative design solution meets the objective, the alternative design solution may be considered.
- **Decision guidelines:** The decision guidelines set out the matters that Council will consider before deciding if an application meets the objectives.

The easiest and quickest path to approval for outdoor dining and trading is compliance with the defined Standards. Alternative approaches are possible but require assessment and consideration.

## ELIGIBLE LOCATIONS

Outdoor dining and trade have many potential benefits for local retail areas – for both businesses and residents.

This includes enhancing perceptions and feelings of safety, increasing the vibrancy, attractiveness and excitement of retail areas, providing more entertainment and social interaction opportunities for residents and encouraging more visitors and economic activity.

But these benefits need to be balanced against the other community demands and expectations, including amenity impacts in residential areas, traffic impacts and access to parking and the need to ensure the continuing orderly operation of retail areas.

### Objectives

Proposed outdoor dining and trading proposals should achieve the following objectives through their location in appropriate areas and sites:

- To enhance the vibrancy, attractiveness, and excitement of retail areas through the Darebin.
- To protect the amenity of residential areas from encroachment from commercial activities.
- To enable a direct extension of trade from an existing ground floor business into the public realm adjoining the business.
- To ensure the views of adjoining ground floor businesses are considered in the assessment of outdoor dining and trade applications located in front of their premises.
- To provide flexibility to consider alternative uses of the public realm outside of normal operating hours.
- To protect the function of State Arterial roads and the operation of the tram and bus network.
- To minimise potential impacts to on-street parking and to ensure an appropriate balance of outcomes within each activity centre.

## Standards

All applications for outdoor dining and/or trade must meet the following standards, unless Council is satisfied that an alternative design solution/approach can meet the above objectives:

- Outdoor dining and trade within the public realm will only be supported for businesses that are operating on the street level of an abutting/adjacent premise.
- Applications for Outdoor Dining on Footpaths, Parklets and Road Space will be considered in the following locations:
  - All Major and Neighbourhood retail centres and commercial areas of the municipality, as defined by commercial zones and similar zones that enable a range of commercial activities in the Darebin Planning Scheme. (Refer to **Attachment 3** for a map of all retail centres in Darebin).
  - Some residential zoned areas adjoining/ adjacent larger commercial areas (subject to assessment).
- Applications for Parklets are prohibited in the following locations:
  - Within 10m from an intersection (measured from the building line).
  - Within 20m of a signalised intersection on the approach side.
  - Within 20m from a tram stop flag (sign) on the approach side.
  - Within 20m of the departure side of a signalised intersection, applications will be considered on a case-by-case basis. Due to safety reasons and vehicle access requirements, locations with the following elements are not suitable.
    - In dedicated car-spaces for delivery/ loading, essential and emergency vehicle access and parking.
    - In clearway zones.
    - In accessible and car share\* parking spaces.

*\*Carshare spaces may be considered on a case-by-case basis. Any relocation costs of the car share space will be at the applicant's expense.*

- To minimise potential impacts to the availability of on-street parking, an ideal minimum- maximum number of Parklets has been calculated for the Reservoir, Northcote Central and Fairfield commercial areas. The following upper limits have been calculated with reference to:
  - The total number of available on-street and off-street carparks servicing each centre.
  - Public transport connections.
  - Footpath widths.
  - Safe and protected bike infrastructure.

RETAIL AREA	POTENTIAL RANGE OF PARKLETS THAT MAY BE CONSIDERED IN RETAIL AREAS
Reservoir – Edwardes Street	4-7
Reservoir – Broadway	9-12
Northcote Central	10-12
Fairfield (Commercial zoned land in Station Street, Wingrove Street and Railway Place)	9-11

- Despite the above limits, balancing the need for on-street parking, economic and social impacts will need to be considered for each application.
- No maximum limits apply to retail centres outside above table, but rather decisions will be made on a centre-by-centre basis, balancing the need for on-street parking against the benefits arising from outdoor dining. This will include major retail centres such as Thornbury Village, Preston Central and Westgarth as clearways are in place for these centres, reducing the centre's capacity to house Parklets.

## Notification Requirements

- Outdoor dining and trade applications should be fully contained within the public realm area that directly aligns with the shopfront of the business applying for the permit. For these applications:
  - Notification to adjoining or nearby property owners/occupiers is required. Consent from adjoining businesses will not be sought through this notification process.
  - They will remain subject to a positive assessment against the criteria within this policy.
- Applications can be made to occupy unused footpath space and/or car spaces in front of immediately neighbouring properties. For these applications:
  - Council will give written notice to the owners and occupiers of the adjoining property of the proposed application. This applies to neighbouring premises on street level only, not residents or businesses located directly or indirectly above the business in question.
  - Notified parties will have a minimum two (2) week period to make a submission before a Council decision is made.
  - Council will consider any submissions/concerns received as part of its assessment of the application for a permit.
  - The applicant will pay an additional fee to cover the cost of notification and assessment of submissions.
  - They will remain subject to a positive assessment against the criteria within this policy.

An application can be made to temporarily occupy a laneway or road for outdoor dining and/or trade. For these applications:

- Council will give written notice to the owners and occupiers of the adjoining property of the proposed application. This applies to neighbouring residents or businesses directly impacted by the road closure and will be determined by officers.
- Council will give written notice to Department of Planning and Transport and any relevant public transport service providers.
- Notified parties will have a minimum two (2) week period to make a submission before a Council decision is made.

- Council will consider any submissions/concerns received as part of its assessment of the application for a permit.
- The applicant will pay an additional fee to cover the cost of notification and assessment of submissions.
- They will remain subject to a positive assessment against the criteria within this policy.

## Decision Guidelines

In making a decision on an application, Council will consider (as appropriate):

- The orderly planning of the area.
- Local context and amenity.
- Urban design outcome and overall contribution to the street.
- Traffic and safety impacts, including the outcomes of a Road Safety Audit if required.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.
- For applications in residential zoned areas adjoining/adjacent larger commercial areas, the protection of residential amenity is of high importance. In determining whether to allow outdoor dining and trade, the following will be considered:
  - The primary, overall balance of land use in the immediate area (i.e., does the area have a mix of uses, or is it primarily residential?).
  - The extent of any negative externalities and impacts likely to be generated by the proposed activity.
- For Parklet applications in all retail centres.
  - Views of the Transport unit on the proposed location to understand its impact on safety and transport considerations.
  - Views of the Council's Drainage Engineer for proposals in areas subject to flooding.
  - Locations where major streetscape works are scheduled.
  - View of Department of Transport and Yarra Trams where appropriate.

- In determining how many Parklets will be allowed in all centres consideration will be given to the following:
  - The total number of available on-street and off-street carparks servicing each centre.
  - Public transport connections.
  - Footpath widths.
  - Safe and protected bike infrastructure.
  - Whether the number of existing Parklets has caused negative impacts on the operation of the local retail centre.
  - The turnover of carparking in the centre, (occupancy rates).
  - Business mix of the local centre (consider the percentage of hospitality vs non-hospitality).
  - Ability to share Parklets between businesses (e.g. day and night businesses).
- For applications to occupy unused footpath space and/or car spaces in front of immediately neighbouring properties, the following matters will be considered (in addition to rest of this policy):
  - The views of the adjoining parties as expressed in any submission received.
  - The nature and operating requirements of the neighbouring business/property.
  - The extent of the encroachment into the public realm in-front of the adjacent property.
  - The proposed operating hours of the proposed outdoor dining and/or trade, as compared to operating hours of the neighbouring business/property.
  - Any potential impact on trade or operation of the adjoining business/property.
  - Any other matters deemed relevant by Council.
- For Applications which seek to temporarily occupy a laneway or road the following matters will be considered (in addition to rest of this policy):
  - Impact of the proposal of the local movement network.
  - The findings of a Traffic Management Plan and Traffic Study to be submitted by the applicant.
  - View of Department of Planning and Transport and any public transport provider. The views of the adjoining parties as expressed in any submission received.



# PERMITTED USES, FEES AND RENEWAL

Outdoor dining and trade are the temporary uses of public space and are not intended to privatise the public realm. It enables businesses and community groups who wish to use publicly owned footpaths, nature strips, road reserve, on-street parking and roadspace to do so for commercial or public benefit. Any proposal which fully encloses outdoor dining or creates visual and physical privatisation of the public realm will generally not be supported.

Operators and customers can make use of these public spaces but do not have exclusive rights over the occupancy of the area. Outdoor dining is supplementary to the business' internal trade and seating. Businesses should not be reliant on outdoor dining. Additional infrastructure to support outdoor dining should be temporary, so that the area can be reinstated as public space in both appearance and function.

Permits are issued with the intent of balancing the needs of all users of the public realm in retail areas. While outdoor dining and trade has broader benefits to the general public, they also generate financial benefits for private individuals. To this end, fees for permits and renewal seek to cover the cost of administration of this policy and realise a reasonable return to the citizens of Darebin through the use of public land.

## Objectives

The assessment of applications for permits for outdoor dining and/or trade should achieve the following objectives:

- To enable the temporary occupation of publicly owned land for private commercial activities and community uses via a local laws permit.
- To distinguish between initial 'establishment' permits, and renewal permits.
- To provide longer term certainty for some forms of outdoor dining and trade in recognition of the increased investment associated with their establishment.
- To recoup the costs of implementing this policy to minimise the financial impact on Darebin ratepayers.
- To ensure that some of the financial benefits accruing to private businesses from the commercial occupation of public land is returned to the Darebin community.
- To apply a fee structure based on a fixed percentage of commercial rents for different commercial areas.
- To provide a differential fee structure to encourage the proliferation of outdoor dining in lower order activity and retail centres.

## Standards

All applications for outdoor dining and/or trade must meet the following standards, unless Council is satisfied that an alternative design solution/approach can meet the objectives of this policy:

- The following types of permits are available for the following durations:
  - Annual permits, issued for up to 12 months.
- Permits for Parklets may be issued for:
  - Seasonal permits, issued for up to 6 months (between 1 November – 30 April)
  - A period up to 2 years.
- Applications for permits must be accompanied by the following applicable **prescribed fees:**
  - A flat annual fee for the erection of signage (A-frames and similar)
  - A flat annual fee for the display of a goods calculated by reference to the method and area of display.

- A flat fee for the assessment of new applications for outdoor dining and Parklets.
- An annual fee for outdoor dining.
- The first-year value of a two-year permit for a parklet, with a subsequent payment for the remaining value 12 months later.
- An upfront transfer of ownership fee.
- Notification of Application to adjoining properties.
- The calculation and updating of fees will be undertaken annually as part of Council's budget process.

## Fees and Charges

Fees and Charges will be determined by Council at the start of each financial year in accordance with the published Fees and Charges schedule.

Fees will be calculated as follows:

- Outdoor dining on footpaths will be calculated on a square metre rate at the following percentages for different business precincts:
  - a rate of 30 % of the annual average retail rents for the centre.
- Outdoor dining on nature strips and in road spaces (Parklets) will be calculated on a square metre rate at the following percentages for different business precincts:
  - a rate of 50% of the annual average retail rents in Primary areas.
  - a rate of 40% of the annual average retail rents in Secondary area.
  - a rate of 20% of the annual average retail rents in Revitalisation areas (or a standard applicable rate as calculated by Council).
- Remove fees and charges for individual items proposed in the outdoor trading area. This does not apply for businesses who wish to only display an 'A-Frame' sign or Display Racks/Cases.
- Additional fees for fixed structures will be calculated as follows:
  - A per linear metre for fixed café screens, plus an upfront footpath reinstatement fee.
  - A per item fee for inground umbrellas, plus an upfront footpath reinstatement fee.

Footpath reinstatement fees will be determined at the start of each financial year as part of Councils annual Fees and Charges, and will be charged at the following rate:

- Fixed café screens will be charged at 25% the 'Footpath Replacement 'rate, plus an inspection fee charge.
- In-ground umbrellas will be charged at 100% of the 'Footpath Replacement rate' rate, plus an inspection fee charge.
- Applicable permit fees are paid annually by the permit holder and are non-refundable.
- Permits may be renewed the following periods, following which a new application and assessment will need to be made (and subject to an assessment fee):
  - Signage permits; display racks/cases, and outdoor dining permits (excluding Parklets): initial permit + 2 renewals (for a total of 3 years). (TBC)
  - Parklets: initial permit + 1 renewal (for a total of 4 years). (TBC)
- Permit renewals may not be granted if:
  - Non -payment of fees.
  - Businesses breaches conditions of permit.
  - For parklet applications, Council streetscape works are scheduled in area.
  - For parklets applications, there is a waiting list of parklet requests in your precinct.
  - There have been recorded incidents of non-compliance or enforcement action taken.
- Permit holders will be notified at the end of the permit period on how to renew each year.
- Permit renewal requests will require a site inspection and rectification of any permit non-compliances.
- Permit renewal notices will be issued to permit holders before end of July each year.
- Permit renewals will only be issued upon receipt of all required information, including current Public Liability Insurance and any applicable fees.
- If a permit is not renewed before expiry, a new application will be required.
- Permit fees are not refundable should the business no longer wishes to proceed with application.
- Permit holders can apply to amend the outdoor dining and footpath trading permit at any time. An amendment fee is payable for officer assessment and liaison.

**Permit transfer**

- 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.
- 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 Outdoor Dining and Footpath Trading Guidelines.
- Council reserves the right to reassess and amend permit conditions to ensure compliance with the Outdoor Dining and Footpath Trading Guidelines.
- It is the responsibility of the existing proprietor to include the balance of any remaining permit fees in the sale of the business.
- An upfront transfer of ownership fee is required for officer assessment and liaison.

- For the purposes of the calculation of fees, the following retail areas are categorised as follows:

PRIMARY	SECONDARY	REVITALISATION
<ul style="list-style-type: none"> <li>• Fairfield Village</li> <li>• Northcote Central</li> <li>• Preston Central</li> <li>• Reservoir: Edwardes Street</li> <li>• Reservoir: Broadway</li> <li>• South Preston</li> <li>• Thornbury Village</li> <li>• Westgarth Village</li> </ul>	<p>All other retail centres</p>	<p>To be determined by Council at the start of each financial year</p>

**Decision Guidelines**

In making a decision on an application, Council will consider (as appropriate):

- Providing a 50% discount on parklet fees for the first year, in any retail area where a parklet has yet to be established.
- Providing discounts in fees in locations affected by major works (ie Rail or Tram upgrades) in the immediate area to assist through a period of interrupted trade. Discounts would be applied on a case-by-case basis.

Refer to **Attachment 3** for a map of all retail centres in Darebin.



# DESIGN, OPERATION, MAINTENANCE, AND COMPLIANCE

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Darebin's streets and retail areas are high quality public spaces, providing opportunities for rest and shade and are layered with playful and quirky streetscape furniture and public art reflecting of the local place and community supporting them.

Outdoor dining is intended to be outdoors and should look and feel as such. Environmental and weather conditions should be accommodated without the addition of infrastructure that encloses the space. Outdoor dining and trade has the potential to create risks to the public through trips and falls. These need to be managed by applicants through the careful siting of displays and furniture, through considered design of any structures (such as parklet platforms), signage and regular maintenance, and inspection. Despite these measures, accidents can continue to happen and for this reason it is mandatory that activities in the public realm are insured.

## Objectives

The following objectives should be achieved for proposed outdoor dining and trading proposals:

- To have safety and accessible at the core of all design proposals.
- To minimise street clutter and an unattractive spaces.
- To require structures and spaces to be designed in a high quality and 'playful' way that reflects local place and identity.
- To clearly establish a range of safety and compliance expectations for proponents.
- To require applicants to hold public liability insurance.
- To provide a standard 'off-the-shelf' set of engineering designs for Parklets structures.
- To ensure sustainability measures are considered in the design of all outdoor dining and footpath trading proposals.

## Standards

All applications for outdoor dining and/or trade must meet the following standards, unless Council is satisfied that an alternative design solution/ approach can meet the above objectives:

- Outdoor dining and trade applications cannot not operate before 7am and after 10pm, in accordance with the EPA regulations. All furniture should be removed and stored by the permit holder within their premises during these hours.
- Business operators must ensure all relevant legislation, permits, licences, leases, local laws are always complied with, including obtaining planning and building permits where necessary.
- All approved permit holders must have Public Liability Insurance to the minimum amount required by Council and indemnify the Darebin City Council 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.
- Permit holders must operate with caution or cancel activities due to:
  - Extreme weather.
  - Safety concerns.
  - Identified risks.
  - Unsafe practices.
- Permit holders are required to adhere to the conditions outlined in the approved permit. If there is a failure to comply with these conditions, the Council reserves the right to undertake necessary actions without prior notice, with the associated expenses being borne by the permit holder.
- Permit holders will be responsible for addressing any identified potential risks, hazards, or incidents related to the asset or infrastructure put in place under the approved permit.
- The permit holder should ensure that the installed asset/infrastructure is maintained to the satisfaction of the Council. Defects/risks associated with installed asset/infrastructure will be reported to the permit holder with a request to rectify the defect/risk. The Council retains the authority to take appropriate measures to mitigate the identified risks if required.
- Building approval (where appropriate) and Engineering certification for the parklet structure and fixed café screens are provided.

## Permit Compliance

- All permit holders must comply with Council's Local Law and the Outdoor Dining and Parklet Guidelines.
- Council must investigate any complaints received. These are investigated by the Local Laws unit and any identified matters addressed with the permit holder.
- Council reserves the right to amend or cancel a Business Parklet permit in accordance with the Local Law.
- Once a permit has expired or cancelled, all third-party assets must be removed within seven days by the permit holder.
- If Council proposes to amend or cancel a permit the permit holder would have an opportunity to make a submission to the Permit Appeals Process on whether the amendment/cancellation should occur.
- Local Laws authorised officers may issue:
  - A written or verbal 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.
  - A Penalty Infringement notice.
- A Penalty Infringement Notice will result in the cancellation of the permit and restrict eligibility to obtain another permit for a minimum of twelve (12) months from the date the permit is cancelled.



## Permit Appeals Process

- 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 [business@darebin.vic.gov.au](mailto:business@darebin.vic.gov.au)
- A decision review will be considered by the Outdoor Dining Permit Panel, consisting of three senior Council officers, using this Policy and the Design Guidelines and any other matter deemed relevant.
- The permit applicant will be notified of the outcome of the decision review within a 14 day period.

## Decision Guidelines

In making a decision on an application, Council will consider (as appropriate):

- The degree to which any furniture or structures negatively impacts programmed maintenance and street cleansing.
- Whether the proposed parklet utilises the standard engineering design endorsed by the Darebin City Council.
- The degree to which the proposed outdoor dining structure (parklet) complies with the Darebin Parklet Guidelines.
- For applications where Local Law officer have issue warnings, consideration will be given to:
  - Conditions of the permit.
  - Local Law 1, this Policy and Design Guidelines.
  - Safety, accessibility, and obstruction of the Pedestrian Zone.
- For applications being reviewed in the 'Permit Appeals Process', application of this Policy, Design guidelines and other relevant information provided by the applicant will be considered.

# ENCROACHMENT INTO THE PEDESTRIAN ZONE

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The primary purpose of the pedestrian zone is to provide an unobstructed pedestrian footpath corridor not less than 1.8 metres in width and measured between the property line and nearest object such as table or chairs within the trading zone. It is to ensure that a continuous and accessible path of travel, no furniture, signage or displays of goods are permitted within the pedestrian zone at any time.

This requires consideration of Disability Discrimination Act (DDA) requirements to ensure people of all abilities enjoy equal access to Darebin's retail areas.

In general, the Pedestrian Zone extends a minimum of 1.8m from the property boundary to the potential Trading Zone. Council will consider a reduction of the footpath width to 1.5m where narrow footpaths exist (as identified in **Appendix 3**) following a case-by-case assessment.

## Objectives

The following objectives should be achieved for proposed outdoor dining and trading proposals within the pedestrian zone:

- To balance the use of footpath space.
- To create a safe environment for all users.
- To minimise street clutter.

## Standards

- For streets greater than 3.5m in width, a minimum width of 1.8m is achieved for the pedestrian zone.
- For streets narrower than 3.5m in width, a minimum 1.5m is achieved for the pedestrian zone.

## Decision Guidelines

- DDA access requirements are met.
- Clearances from existing streetscape infrastructure is met.
- Continuous and accessible path of travel is maintained in the pedestrian zone at all times.



# OUTDOOR DINING/TRADING WITHIN THE NATURE STRIP / BACK-OF-KERB ZONE (FOOTPATH)

The primary purpose of the Footpath and Nature Strips are to provide clear pedestrian access and house public amenities and infrastructure including street furniture, street trees, landscaping, infrastructure and public amenities.

The Kerb Zone is the area between the face of the kerb and the Trading Zone. It is in place to provide clearance for parked vehicles allowing passengers to alight without obstruction.

The Trading Zone on the footpath includes the remaining area of the footpath between the Pedestrian Zone and the Kerb Zone. It is the only section of the footpath which may be used for commercial activity in accordance with a permit.

## Objectives

The following objectives should be achieved for proposed outdoor dining in Nature Strip and Footpath spaces:

- To support outdoor dining and trade in Darebin's retail centres.
- To provide safe and accessible streets.
- To provide accessible outdoor dining spaces in footpath and nature strips.
- To provide high quality design that positively contributes to the local character.
- To help activate streets and the perception of safety.
- To ensure that public amenities such as bins and seats are provided within the retail centres, servicing the broader community.

## Standards

- For ALL **outdoor dining and trade applications on existing footpaths and nature strips.**
  - All Clearances from streetscape infrastructure are satisfied as outlined in section 14.
  - Existing street trees are to be retained and protected.
  - Clear and accessible pedestrian paths of travel are retained to a width of 1.8m
- For **outdoor dining and trade applications which seek to expand into nature strips,**
  - DDA compliant surface is proposed for the subject area, whilst still meeting Council ESD principles.
  - Applications which seek to convert nature strip to outdoor dining space, replaces the 'access zone' with a 500mm landscape/vegetated buffer to the road and/or plant a new street tree. This is a mandatory requirement for large corner sites, with no overhead restrictions.
  - All existing street trees are protected with a 1m offset in place from all proposed furniture.
  - Road Safety Audit is undertaken for applications to repurpose nature strips for outdoor dining.
  - Applications which seek to remove nature strip are located in locations where future streetscape improvements are planned are encouraged.
  - Clear and accessible pedestrian paths of travel are retained to a width of 1.8m on the adjacent footpath
  - Accessible paths of travel are provided within the proposed space.

## Decision Guidelines

- Application for outdoor dining and trade applications on existing footpaths
  - DDA access requirements are met.
  - Clearances from existing streetscape infrastructure is met.
  - Continuous and accessible path of travel is maintained in the pedestrian zone at all times.
  - The proposal is a high-quality design, responding to local place.
- Applications to expand commercial activity into nature strips will be considered on a case-by-case basis due to the complexity of city streets, speed limits, traffic conditions, accessibility and associated safety considerations.
- Consideration will be given to any adopted streetscape masterplans or improvement plans for the retail area, or proposed street tree planting (aligning with the Darebin Urban Forest Strategy) where applications to expand commercial activity into nature strips.
- Works may be required to be undertaken at the expense of the businesses to ensure a safe and accessible Trading Zone is achieved (ie providing a DDA compliant surface). Council expects the remediation of the site back to its original condition if outdoor trading is discontinued (unless a nominated project in a Master plan).
- If Council works are scheduled in the area.
- The views of Council's Parks and Tree Planting unit.
- Results of a *Dial Before You Dig* submitted by the applicant.

# OUTDOOR DINING/ TRADING WITHIN ON-STREET PARKING, LANEWAY AND ROADS (PARKLETS)

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The Trading Zone may occupy the on-street parking in-front of a business, laneway and roads and is commonly referred to as 'Parklets'. Council will support applications for Parklets where it is safe to do so.

## Objectives

The following objectives should be achieved for proposed outdoor dining in Parking Space and Road Space:

- To support repurposing of on-street parking for outdoor dining in activity centres across Darebin.
- To provide accessible outdoor dining spaces in Parklets.
- To increase 'greening' of retail centres.
- To provide high quality design that positively contributes to the local character.
- To help activate streets and the perception of safety.
- To test public appetite for permanent streetscape improvements.



## Standards

- For applications with Darebin's Major Activity Centre, the parklet quotas are met.
- The Outdoor Dining and Trade Design Guidelines – which focus on section 2 in relation to Parklets.
- For applications on key Tram Corridors, compliance with the Yarra Trams Parklet Guidelines.
- For application on State Arterial Road, compliance with Department of Transport and Planning (DTP) Parklet guidelines.

## Decision Guidelines

- Applications must consider the safety of all public realm users and how they will use, perceive, interact with and be impacted by Parklet. This includes the arrangement, design and location of street and business furniture, structural integrity of proposed furniture, services and equipment, opportunities for passive surveillance, access and conflicts between pedestrians, cyclists and vehicles.
- The recommendations of a Road Safety Audit submitted by the applicant.
- Advice from Council's drainage Engineer should the parklet be in an area subject to flooding.
- Advice from DTP or Yarra Trams, should the parklet be located on a State arterial road or tram corridor.
- Consideration will be given to any adopted streetscape masterplans or improvement plans for the retail area, or proposed street tree planting (aligning with the Darebin Urban Forest Strategy) where applications to expand commercial activity into laneways and local roads.

# CLEARANCE AND ACCESS – ALL ZONES

Darebin Council is committed to providing street furniture that is accessible, safe and comfortable.

The provision of public seating gives people the opportunity to rest and take time out. Public seating also provides a place for people to pause along busy walking routes and creates informal meeting places.

Well maintained public places improve the perception of how safe a place is and support the public's desire to occupy and use those places.

Footpath trading must not compromise the ability for the general public to access street furniture or public infrastructure.

## Objectives

The following objectives should be achieved for proposed outdoor dining and trading proposals in all four trading zones:

- To facilitate pedestrian access to the kerb and road from the footpath and entries to shops/ businesses.
- To ensure access to street furniture and to ensure it can continue to be used and maintained.
- To minimise street clutter.
- To create a safe environment for all users and avoid the creation of trip hazards.
- To provide dignified access for all members of the community to public areas in retail centres.
- To balance the benefits of outdoor dining and trading against the needs of different communities for safe, dignified access to commercial areas and civic infrastructure.

## Standards

The following setbacks from public infrastructure should be achieved.

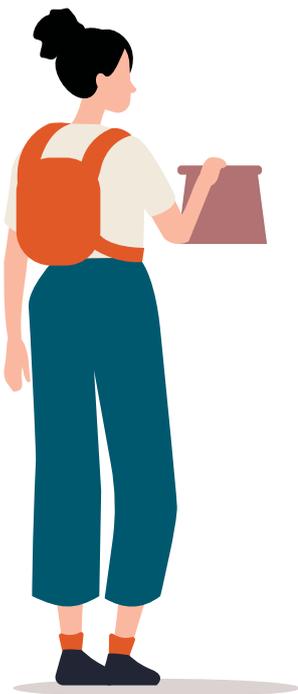
ELEMENT	SETBACK REQUIREMENT
Setback of footpath trading items from public infrastructure including: <ul style="list-style-type: none"> <li>Bins.</li> <li>Public seating.</li> <li>Bike hoops.</li> <li>Fire hydrants.</li> <li>Payphones.</li> <li>Wayfinding signage / centre signage.</li> <li>Bus stop shelters.*</li> <li>Post box.</li> </ul>	1,000mm
Setback from the public infrastructure: <ul style="list-style-type: none"> <li>Service pits (underground infrastructure).</li> <li>Street trees and tree pit edge.</li> <li>Planters installed by Council.</li> <li>Electricity boxes.</li> <li>Electricity poles (500mm).</li> <li>Street light poles.</li> <li>Traffic signage poles (electronic signs) – doesn't not apply to static signs (not including council carparking).</li> </ul>	1,000mm
Setback from Disability Parking Bay	1,600mm
Setback of Trading Zone from Bus Stops	Prohibited in the area from the bus flag to 9 metres on the approach to the bus flag/totem
Setback of Trading Zone from Tram Stops	Prohibited in the area from the tram flag to 20 metres on the approach to the tram flag/totem*
Setback of Trading Zone from Loading Zones	0.6m* No permanent or temporary café screens permitted
Setback of Trading Zone from Taxi Ranks	Prohibited in the area from the taxi totem/flag to 6 metres on the approach to the taxi totem/flag*
Required Clearances for properties adjacent to intersections and crossovers (may affect 2-3 properties near an intersection)	To be assessed by Council's Transport Management Officer
Public Transport Super stops and kerb outstands	To be assessed by Council's Transport Management and Planning officers
Setback of Trading Zone from adjoining property boundary (referred to as 'Access Section')	450mm
Setback of Trading Zone from Roadway (where trading zone is located in the road space)	450mm

- Outdoor dining and footpath trading applications on footpaths exceed 10m in length, clearance breaks of 1500mm are required.
- The following clearances between dining/trading areas is required to prevent a continuous line of outdoor cafés:
  - Fixed furniture clearances - Glass screens are considered fixed furniture. A 900mm clearance is required between neighbouring outdoor café boundaries, where furniture such as screens are fixed in place. A minimum of 450mm clearance is required from the boundary of each outdoor café giving a total of 900mm.
  - Non-fixed furniture clearances - A 500mm clearance is required between neighbouring outdoor cafés, where furniture such as screens are not fixed in place. A minimum of 250mm clearance is required from the boundary of each outdoor café giving a total of 500mm.
- Businesses may apply to have Council infrastructure (seats, bins and bike hoops only) removed, relocated, or modified to assist applications in meeting the requirements of this Policy.

## Decision Guidelines

In making a decision on an application, Council will consider (as appropriate):

- Safe access is retained within the pedestrian zone.
- Contribution to visual clutter on the street.
- The degree to which proposed activities pose a trip hazard or impede the safe flow and movement of pedestrian traffic.
- The removal, relocation or modification of Council infrastructure (seats, bins and bike hoops only) will be considered on a case-by-case basis subject to the applicant:
  - Identifying opportunities to provide an appropriate alternative location/s for existing street furniture to maintain streetscape amenity and align with the benchmarks in Council's Streetscape Policy.
  - The degree to which the removal, relocation or modification results in an equal, if not a better outcome for the community.
  - Any removal, relocation or modification of Council infrastructure will be at the cost of the applicant.
  - Should a new location be found, approval in writing from the landowner and business owner must form part of the application.
  - Where the infrastructure does not belong to Council, the business owner should contact the relevant infrastructure manager / Service Authority to discuss their application.



# ATTACHMENT 1: OTHER RELEVANT LEGISLATION

In granting an Outdoor Dining and Footpath Trading Permit, Council will also adhere to the following legislation:

<b>Commonwealth Disability Discrimination Act 1992</b>	All outdoor dining arrangements must be accessible and DDA compliant.
<b>Liquor Control Reform Act 1998</b>	If alcohol is to be consumed within a tenancy including within a Footpath Area.
<b>Tobacco Act 1987</b>	All outdoor dining areas which serve food are to be smoke free.
<b>Planning and Environment Act 1987</b>	If alcohol is to be consumed within a tenancy including within a Footpath Area or if buildings or works to the retail premises are proposed.
<b>Council's local laws</b>	
<b>Food Act 1984</b>	Permits for Outdoor Dining are available to a registered food and drink business with a compliant working kitchen or food preparation area under the Food Act 1984.
<b>Building Act</b>	Building permits for awing extensions.
<b>Road Management Act 2004</b> <b>Local Government Act 2020</b>	This legislation defines public road status and is relevant to the general rights of the public for use and access, which is on a non-exclusive basis; any permissions to individuals for use must be subject to public rights.
<b>Health and Wellbeing Plan 2017-2021</b>	

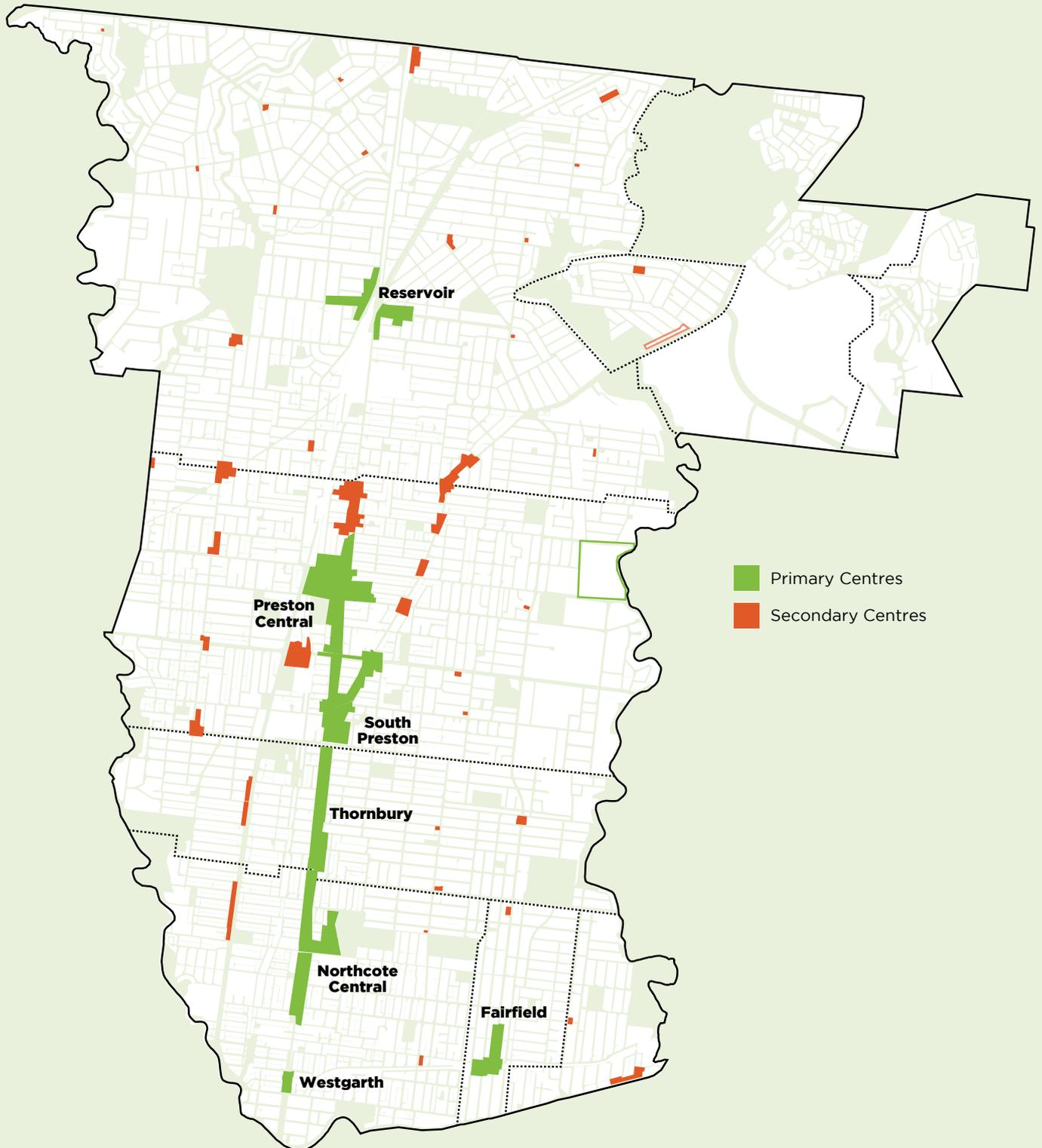
# ATTACHMENT 2: OTHER RELEVANT COUNCIL POLICIES

The following City of Darebin documents are relevant to this Policy:

- Darebin Local Law 1
- Transport Strategy 2017-2027
- Walking Strategy 2018-2028
- Draft Parking Permit Policy
- Breathing Space - Darebin's Open Space Strategy
- Towards Equality: Equity, Inclusion and Human Rights Framework 2019-2029
- Access and Inclusion Plan 2021-2026
- Road Management Act 2004
- Darebin Economic Land Use Strategy



# ATTACHMENT 3: DAREBIN RETAIL CENTRES



Note: Primary centres include centres classified as Principal, Major or Primary Neighbourhood Retail Centres in Darebin's Economic Land Uses Strategy 2014.

# ATTACHMENT 3 (CONTINUED): DAREBIN RETAIL CENTRES

PRIMARY CENTRES	SECONDARY CENTRES
Preston Central	Plenty Road/Tyler Street
Northcote Central	Gertz Ave
Reservoir - Edwardes Street	Hughes Parade/McFadzean Ave
Reservoir - Broadway	Massey Ave
Westgarth Village	Gellibrand Crescent
Thornbury Village	Banff St/Invermay Street
South Preston	Broadhurst Ave/McFadzean Ave
Fairfield Village	Strathmerton St/Orrong Ave
	Boldrewood Parade/McMahon Road
	Link Street/Dunne Street
	Boldrewood Parade/Yarra Avenue
	Elizabeth Street/McNamara Street
	Carson Street
	Spring Street
	Crevelli Street
	Albert Street/Enfield Avenue
	Bell Street/Gilbert Road
	St Georges Road/Normanby Avenue
	Victoria Road/Gooch Street
	Darebin Road/Victoria Road
	Station Street/Darebin Road
	Victoria Road/Clifton Street
	Victoria Road/South Crescent
	Johnson Street
	Gilbert/Miller
	Regent Village
	Rossmoyne Village
	St Georges Road
	Regent
	Alphington Village

# ATTACHMENT 4: DEFINITIONS

COUNCIL	CITY OF DAREBIN
<b>Parklet</b>	Re-purposed on-street parking spaces designed to extend public space to provide an additional place for outdoor dining, congregation, accessible public seating, street greening and additional pedestrian space.
<b>Footpath</b>	Includes a footpath, mall, square, court or other public place specified to be a footpath in a subordinate local law.
<b>Footpath Trading</b>	The use of footpath for commercial activities.
<b>Footpath Width</b>	The distance from the face of the kerb to the outside edge of the property line.
<b>Kerbside Zone</b>	The area between the kerb and the outer edge of the trading zone.
<b>Pedestrian Zone</b>	The area between the property line and the inner edge of the Trading Zone.
<b>Outdoor Dining</b>	Outdoor dining provided on Council owned or managed land.
<b>On-street Parking Zone</b>	Designated parking bays located on public road reserve that may be occupied by a vehicle for a specified period.
<b>Permit</b>	in relation to a use or activity, means a written permit issued under this Local Law which authorises that use or activity.



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