

Maroondah Extended Outdoor Dining Policy

Date adopted: 18 September 2023

Responsible Service Area: Business & Precincts

Purpose

This policy guides Maroondah City Council’s decision making in relation to hospitality businesses expanding outdoor dining areas into public spaces such as on-street parking under Council’s Local laws, planning and engineering requirements.

Background / Context

The extension of outdoor dining into public spaces, including car parking spaces, was introduced by the Victorian Government and local councils in late 2020 to assist hospitality businesses to expand trading into public areas as part of the recovery from the COVID-19 pandemic.

One permanent community parklet was constructed at Ryland Avenue Shopping Centre, Croydon, utilising funding provided by the Victorian Government.

As at 30 August 2023, six extended outdoor dining areas remain in place throughout Maroondah.

This policy incorporates the learnings and feedback from business owners during the trial. It also formalises Council’s approach to the longer-term activation of outdoor public space to increase the vibrancy of our local centres.

This policy ensures that opportunities for outdoor dining are implemented across Maroondah in a balanced way and that businesses make an appropriate monetary contribution for the use of public space.

Scope

This policy defines Council’s position in relation to outdoor dining for hospitality businesses across the City, where the outdoor dining area extends into adjacent public space or car parking spaces.

This policy does not apply to the following:

- Footpath trading
- Road and/or laneway closures
- Events

This document should be read in conjunction with the *Maroondah Street Activities Policy and Maroondah Street Activities Policy Guidelines*.

Policy Control Schedule

Policy Title: <i>Maroondah Extended Outdoor Dining Policy</i>		Policy type: <i>External</i>
Current version approved: 18 September 2023	Current version number: 3	Policy review date: <i>September 2025</i>
Parent policy: <i>N/A</i>	Child policy/policies: <i>N/A</i>	Policy responsibility: <i>Business and Precincts</i>

Objectives

1. To create a policy framework that balances competing interests to enable a consistent and equitable assessment of existing outdoor dining areas and future applications for expanded outdoor dining
2. Encourage activation in our neighbourhoods and activity centres, making them more enjoyable and safer for our community
3. Support our local businesses to be more resilient to future economic challenges and changes to operating regulations made by other levels of government
4. Balance the activation of public space with the amenity of the surrounding community
5. Ensure that businesses that benefit from the commercial use of public space make a fair contribution through appropriate fees and charges.

Policy Principles

This policy supports the creation of thriving, activated and safe liveable neighbourhoods. The policy balances the needs of business owners and the community, ensuring fair and equitable decision making, while improving the economic viability of local activity centres.

Maroondah's *Street Activities Policy Guidelines* sets out Council's position in relation to some of the key street dining and trading requirements for both businesses and the community.

Each business may have different preferences or requirements for street dining and trading based on its particular location, character and function. The Guidelines give certainty and balance the needs of all users and to provide a unified approach for the appearance, character and day to day functioning of the City.

While Council will consider each application on a case-by-case basis, the *Maroondah Extended Outdoor Dining Policy* reflects Council's position on relevant issues and should be used as a guide for business owners and traders looking to establish or modify an outdoor dining area.

Key issues for consideration include:

- Suitability of the business location
- Seasonal impact of outdoor dining, i.e. weather
- Support of the majority of adjacent business owners
- Improvement to the amenity of the business and/or centre
- Public land licence arrangements
- Construction and ongoing structural engineering certification of structures on public land
- Safety and public liability
- Payment of an appropriate fee for the use of public land
- Provision of car parking and the benefit to, or potential detrimental effect, on adjacent businesses.

Relationship to the Maroondah 2040 Community Vision

Community Outcome: A thriving and well-built community

Key Directions:

- Work towards a network of local liveable neighbourhoods across Maroondah where everyone can live, work and play
- Coordinate and advocate for the increased utilisation, longevity and availability of fit for purpose community facilities and spaces that meet local needs and act as key places for neighbourhood connection
- Facilitate a vibrant day and night-time economy through development of high-quality public spaces.

Alignment with Council's mission and values

Fostering vibrant and connected local centres supports Maroondah Council's mission of working in partnership to enhance community wellbeing and our value of being brave, bold and ensuring that every voice is heard.

Policy position

1. Council will support extended outdoor dining into public spaces for local business owners and operators, provided that:
 - a. Specific amenity, public liability and safety requirements are met, as detailed in the *Maroondah Street Activities Policy Guidelines*
 - b. A road occupation licence agreement to occupy the specified outdoor area has been endorsed by Maroondah City Council
 - c. That the business holds a current public liability 'Certificate of Currency' and provides a copy of the certificate to Council
 - d. All planning permit requirements are met, including a liquor licence if applicable, and
 - e. The required fee has been paid to Council.
2. Each application for extended outdoor dining will be assessed on a case-by-case basis on its merits
3. Council has the right to refuse applications in unsuitable locations, including where the proposed location may have an adverse impact on businesses within a centre and where the proposed extended outdoor dining area might:
 - a. Compromise public safety, access and circulation or significantly reduces sight lines
 - b. Negatively impact on neighbouring uses (noise, amenity, safety)
 - c. Be adjacent to a road managed by VicRoads
 - d. Interfere with the safe functioning of bus zones and taxi zones or designated accessible parking spaces.
4. Equity and amenity for all businesses will be assessed at each location as part of the application process
5. Council has the right to revoke a consent, if deemed appropriate, or licence agreement conditions are not being met.

Policy implementation

- Approval by CMT
- Direct notification to business owners with existing outdoor dining areas
- Notification to relevant internal service areas
- Update of internal documentation
- Update to the SmartNet and relevant Council web pages
- Media release/social media posts.

Roles and Responsibilities

The Business and Precincts team will lead the policy implementation and liaise with internal service units as required through the Business Concierge.

Procedural Flowchart

Applications for extended outdoor dining will be assessed, having regard to the following:

- New applications for extended outdoor dining will be subject to community engagement in accordance with Council's Community Engagement Policy 2021. Online engagement with the community will be undertaken via Council's YourSay website.
- Applicant will be required to display a public notice on the premises for a defined period of time.

- Applicant to seek endorsement by majority of traders in shopping centres where outdoor dining exists or is proposed. Note that adjacent businesses must be in favour of the activation, except in instances where Council deems that the use of public land is beneficial to public safety or amenity
- Agreement by the applicant to pay an annual fee for use of adjacent car spaces or public land in line with the endorsed valuation report
- All conditions details in the road occupation licence agreement to be met by applicant
- Agreement by the applicant to have pay an annual fee for use of adjacent car spaces or public land in line with the endorsed valuation report
- Structural engineering certificate for any structure over public land submitted to Council
- Applicant to advise Council of any changes to the approved structure/s on Council land
- Evidence of public liability insurance provided by applicant
- Payment of associated planning, building and local laws fees
- Applicant to be responsible for maintaining outdoor infrastructure in a safe manner, at their cost
- A review of road occupation licence agreements to be undertaken by Council's Property and Business and Precincts teams every two years
- Fees to be increased every two years by 3% at the time of review.

Related legislation

The Maroondah Planning Scheme and Council's Part 2 - Community Local Law 2023 guide decision-making in relation to this policy.

Related policies, strategies, procedures and guidelines

1. *Maroondah 2040*
2. *Maroondah Parking Framework (March 2019)*
3. *Maroondah Street Activities Policy Guidelines 2020.*

Definitions

Council	Maroondah City Council
Parklet	Re-purposed on-street parking space/s which are designed to extend public space to provide an additional place for congregation, accessible public seating and landscaping.
On-street parking	Designated parking spaces located on public roads that are generally occupied by a vehicle for a specified period.
Permit	An approval issued under the Maroondah Local Law that authorises use of public land for a specific purpose.
Licence agreement	A legal agreement for the use of public space entered into by a business owner and Maroondah City Council.

Supporting documents

The *Maroondah Street Activities Policy and Street Activities Policy Guidelines* were developed in late 2020 to provide guidance to businesses wishing to extend outdoor dining into car parking spaces and onto unused or under-utilised public land.