



**MISSION AND VALUES OF COUNCIL**

*"A Sustainable Community that is inclusive, attractive, healthy and pleasant to live in, that uses our land so as to preserve our history and environment, respects the rights and equality of our citizens and manages our future growth wisely."*

**MINUTES**

**FOR THE**

**SPECIAL MEETING OF COUNCIL**

**HELD IN THE COUNCIL CHAMBERS AT 4.01PM**

**22 December 2009**

**OUR MISSION**

*"To provide a quality range of affordable and sustainable services to our community with a strong commitment to customer focus so that our citizens and visitors enjoy a quality lifestyle."*

**CORE VALUES OF THE SHIRE**

*The core values that underpin the achievement of the mission will be based on a strong customer service focus and a positive attitude:*

**Communication**

**Respect**

**Integrity**

**Transparency**

**Courtesy**

**DISCLAIMER**

The purpose of Council Meetings is to discuss, and where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the Local Government Act 1995 (Section 5.25 (e)) establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person. The Shire of Broome expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

These minutes are unconfirmed.

**SHIRE OF BROOME**  
**SPECIAL MEETING OF COUNCIL**  
**22 DECEMBER 2009**

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## NOTICE OF MEETING

Dear Council Member,

Pursuant to Section 5.4 of the Local Government Act 1995, I advise that the Shire President has called a Special Meeting of Council to be held on Tuesday 22 December 2009 at 4.00pm in the Council Chambers, for the purpose of:

- Camel licensing considerations

Regards

K R DONOHOE  
Chief Executive Officer

21 December 2009

**1. OFFICIAL OPENING**

The Chairperson welcomed members and declared the meeting open at 4.01pm.

**2. ATTENDANCE AND APOLOGIES**

Attendance:	Cr G T Campbell Cr C R Mitchell Cr D M Male Cr J Bloom Cr E Yu Cr E R M Foy	Chairperson, Shire President Deputy Shire President
Leave of Absence:	Cr R De Wit	
Apologies:	Cr R J Lander Cr P Matsumoto	
Officers:	Kenn Donohoe Darryl Butcher Denisa Konecny Neville Lavey Doug Van Bavel  Jo Durbridge Sally Reynolds	Chief Executive Officer Director Development Services Director Community Services Director Engineering Services Manager Emergency/Ranger & Beach Services Media & Promotions Officer A/Council Secretary
Public Gallery:	Samantha Cousins Janet Geappen Tony Proctor	Proprietor Ships of the Desert Red Sun Camels P/L Broome Chamber of Commerce

**3. DECLARATIONS OF FINANCIAL INTEREST**

Councillor	Item No	Page No	Item	Nature of Interest
Cr D M Male	9.2.1	7	Camel licensing considerations	Financial - Samantha Cousins is a client of Male & Co.

**4. PUBLIC QUESTION TIME**

Nil

**5. CONFIRMATION OF MINUTES**

N/A

**6. ANNOUNCEMENTS BY PRESIDENT WITHOUT DISCUSSION**

Nil

**7. PETITIONS**

Nil

**8. MATTERS FOR WHICH MEETING MAY BE CLOSED**

# 9.2

## COMMUNITY

### SERVICES



### OUTCOME

*To facilitate the social wellbeing and development of the community.*

*An extra confidential attachment was tabled at the meeting and forms part of the Confidential Minutes.*

*Cr D Male declared an interest in Item 9.2.1 due to Samantha Cousins being a client of Male & Co and departed the Council Chambers at 4.03pm.*

**9.2.1 CAMEL LICENSING CONSIDERATIONS**

**LOCATION/ ADDRESS:** Cable Beach  
**APPLICANT:** Mr Christopher Hill – Trading as “Ships of the Desert”  
**FILE:** COS11.3  
**AUTHOR:** Manager Emergency, Ranger & Beach Services  
**CONTRIBUTOR/S:** Council’s legal advisors  
**RESPONSIBLE OFFICER:** Director Community Services  
**DISCLOSURE OF ANY INTEREST:** N/A  
**DATE OF REPORT:** 21 December 2009

**SUMMARY:** A letter has been received from Mr Christopher Hill, proprietor of “Ships of the Desert” Camel Tours requesting Council approve the transfer of his Licence for Trading in Public Places (Cable Beach) to Ms Samantha Cousins.

This application was included in Council’s Agenda for Council’s 29 October 2009 meeting, however the item was withdrawn following receipt of correspondence from HFM Legal on behalf of John and Janet Geappen dated 27 October 2009 objecting to the transfer.

Since then, the Shire’s Administration has invited submissions from Ms Cousins, Mr Hill and Red Sun on all matters relevant to the exercise of the Shire’s discretion.

Submissions have been received on behalf of all of those parties, and these are dealt with below.

It is recommended that Council approve the transfer of licence from Mr Christopher Hill to Samantha Cousins, subject to all relevant conditions as detailed in the Shire of Broome Trading, Outdoor Dining and Street Entertainment Local Law 2003 and Council’s Commercial Camel Activities on Cable Beach Policy being met.

**BACKGROUND**

Previous Considerations

OCM -5 July 2007

At the OCM held on the 5 July 2007 Council resolved to approve the transfer of a commercial camel trading licence and business name from Mr Abdul Casley to Mr Christopher Hill.

Mr Hill has been trading as Ships of the Desert since that time and been issued a licence under Council’s Camel Commercial Activities on Cable Beach Policy for five years expiring in June 2013.

**COMMENT**

The Trading, Outdoor Dining and Street Entertainment Local Law 2003 paragraph 5.3.1 states that a trading licence is only transferable with the approval of the local government and on payment of the transfer fee.

Mr Hill has indicated in a letter (see attached) dated 16 September 2009 to the Shire of Broome that he is in breach of contractual arrangements with respect to the sale of the business "Ships of the Desert" from Mr Abdul Casley in 2007 and subsequently Mr Casley has reclaimed the business to sell under contract to Ms Cousins.

Mr Hill has provided a copy of this documentation to the Shire.

Should the transfer be approved Ms Cousins has indicated that all conditions currently contained on that licence will be met.

## Application

<b>Applicant</b>	<b>Samantha Cousins</b>
Shire of Broome Form	Received 14 September 2009
Application/Transfer Fee Paid	\$250.00
Information on Form	Completed
Appropriately zoned land	Copy of Crown Land Title lease agreement attached (in the name of Christopher Hill – to be shown as transferred in new documentation)
Approvals	Approval to keep a large animal and approval to lead, walk or ride large animal in public completed and subject to licence transfer.
Public Liability Insurance	Copy of Schedule \$10M – proof will need to be produced that insurance is transferred to Ms Cousins' name.
Details of Proposed Activity	Commercial Trading Activity on Cable Beach namely Camel rides.
Additional Information	Details of location and time of operation: 8am – 9am, 3pm – 6pm, 7 days a week; Experience in conducting the commercial camel activities: statement addressing this criteria has been provided.
Summary	Necessary copies of documentation to be submitted to the Shire: <ul style="list-style-type: none"> <li>1. appropriate lease holding documentation in the name of Ms Samantha Cousins (transfer in progress)</li> <li>2. appropriate Public Liability Insurance Schedule in the name of Ms Samantha Cousins (transfer in progress)</li> </ul>

**MATERIAL WHICH MS COUSINS WOULD LIKE SHIRE TO TAKE INTO ACCOUNT****1. The application for transfer of licence, together with the accompanying documents.****1.1 Application form.**

Under the heading ABN/GST status states:

Chairperson.....Date .....

“Application approved, awaiting documentation that I will immediately forward to the Shire”.

Comment:

A business name search of “Ships of the Desert” indicates that Ms Cousins has been registered as the person carrying on the business since 10 October 2009.

**1.2 Letter from Christopher Howard Hill “to whom it may concern” dated 16.09.09.**

1.2.1 Mr Hill requests the transfer of his trading licence to Ms Cousins.

Comment: noted.

1.2.2 Mr Hill says he bought the business “Ships of the Desert” from Mr Abdul Casley in 2007. He states that *unfortunately he was unable to meet the financial contractual obligations of the sale from Mr Casley. This has resulted in Mr Casley reclaiming the business “Ships of the Desert” and reselling it to Ms Samantha Cousins.*

“Please note that I fully support the sale of the business to Ms Cousins and will continue on as her operations manager in the short-term until I fully reassess my future opportunities”.

Comment: Red Sun asserts that it is the equitable owner of Ships of the Desert, and that various payments were made by it. Red Sun disputes the assertions italicised above. The Shire is not placed to resolve the factual and legal dispute between Red Sun and Mr Hill. Mr Hill does not commit to providing his expertise in the long term to Ships of the Desert. This is relevant to Ms Cousins’ compliance with criteria under the Commercial Camel Activities on Cable Beach Policy concerning

**1.3 Letter signed by Ms Cousins dated 16.09.09 “to whom it may concern”.**

1.3.1 This letter advised that Ms Cousins was in the process of requesting the Ships of the Desert public liability insurance policy and the lease for Lot 500 Lullfitz Drive, Broome being transferred into her name.

Comment: If there is to be an approval of the transfer, it should be conditional on proof of public liability and the lease being in Ms Cousins’ name.

**1.4 Application form for approval to keep a large animal within a townsite: 16 camels. To be kept at Lots 3106 and 3107 on Deposited Plan 36809.**

Three other persons are named as persons other than the owner who may be in control of the animal, and they are Chris Hill, Damian Hill and Tash Hathorn Waite.

Comment: Chris and Damian Hill are known to be experienced camel handlers.

**1.5 Application form to the Shire for approval to walk, lead, ride, herd or drive a large animal on local government property.**

Signed by Samantha Cousins.

The application is for the Shire approved route as per trading licence. Two other persons are named as persons other than the owner who may be in control of the animal, namely Damian Hill and Chris Hill.

Comment: Chris and Damian Hill are known to be experienced camel handlers.

**1.6 Record of certificate of Crown land title for Lot 500 (40 Lullfitz Drive, Bilingurr).**

The extract provided with the application showed Christopher Howard Hill as still being the registered lessee.

A search of the Crown land title on 17.12.09 still showed Christopher Howard Hill as the registered lessee.

Comment: If there is to be an approval of the transfer, it should be conditional on proof of the lease being in Ms Cousins' name.

**1.7 Plan showing camel yard location and roads.**

Comment: No comment.

**1.8 Document addressing each of the weighted criteria under the Shire of Broome "Commercial Camel Activities on Cable Beach Policy" adopted 14.02.08.**

**1.9 Letter from Christopher Howard Hill "to whom it may concern" dated 10.09.09 states:**

"I will be continuing to work for the business for at least a further six (6) months as Ms Cousins' operations manager. My experience as the previous owner/ operator of the business, plus my experience of over twenty years working with camels across Australia will be a clear benefit to Ms Cousins on her beginnings of operating the business.

A managing contract of employment is currently being drawn by Ms Cousins' lawyer and can be forwarded to the Shire upon its completion at the Shire's request."

Comment: The transfer sought is for the balance of the term of Mr Hill's licence, which is until 2013. The assurance of Mr C Hill's continued involvement is of some assistance to Ms Cousins' proof of compliance with the "experience" criterion of the Shire's policy, but not of absolute assurance since it is temporary.

**1.10 Letter of Mr Damian Victor Hill "to whom it may concern" dated 09.09.09, stating:**

“I’ve been working for Mr Christopher Hill (previous owner/operator of Ships of the Desert) for approximately three (3) years. I will continue to work for Ms Cousins for the foreseeable future.”

Comment: The assurance of Mr D Hill’s continued involvement is of some assistance to Ms Cousins’ proof of compliance with the “experience” criterion of the Shire’s policy, but not of absolute assurance since it is temporary.

**1.11 Default notice issued by Abdul Latif Casley to Christopher Howard Hill dated 12.08.09.**

**AND**

**1.12 Copy of Sale of Business Agreement between Abdul Latif Casley and Samantha Eileen Cousins dated 27.08.09.**

It is this default notice and this Sale of Business Agreement under which Mr Hill and Ms Cousins claim that Mr Hill lost his entitlement to ownership of the business, and Mr Casley validly sold it to Ms Cousins.

Comment: Red Sun denies that the default notice and the bringing for sale were invalid. Red Sun asserts that these transactions occurred in breach of Red Sun’s beneficial ownership of Ships of the Desert. The Shire cannot resolve this commercial dispute and should avoid being drawn in to doing so.

**1.13 Schedule of Insurance.**

The insured is “Christopher Hill trading as Ships of the Desert”.

Comment: If there is to be an approval of the transfer, it should be conditional on proof of the lease being in Ms Cousins’ name.

**2. Eagle and Partners Letter to the Shire dated 29.10.09 on behalf of Ms Cousins.**

This letter asserts:

2.1 Ms Cousins purchased the business from Mr Casley.

2.2 The previous agreement between Mr Casley and Mr Hill had been terminated due to default.

Comment: Red Sun asserts that these transactions occurred in breach of Red Sun’s beneficial ownership of Ships of the Desert. The Shire cannot resolve this commercial dispute and should avoid being drawn in to doing so.

2.3 Until an injunction has been obtained by Red Sun, the mere assertion that one will be sought is of no effect and should be ignored.

Comment: This issue is discussed below under the heading “The Importance of a Continuity of Supply of Camel Tours”.

- 2.4 Mr Geappen of Red Sun was not permitted to hold an interest in any other camel licence. If Council entertain the notion of permitting him to interfere with this application, it will be tantamount permitting him to breach the terms of his Red Sun camel licence.

Comment: The Shire's Policy has not always provided that businesses must operate independently. Red Sun has not identified to the Shire when the alleged agreement was made whereby it acquired its alleged beneficial interest, and whether this was before or after the Shire's Policy.

If there was such an agreement, then clearly it could not have overridden Shire Policy, regardless of when that Policy was introduced. However just what the legal implications would be *as between Red Sun and Mr Hill* of a Shire Policy which frustrated Red Sun's desire to own two camel tour businesses, might be a point of some complexity. On the face of it, Mr Eagle's proposition 2.4 has merit, but it may be hasty to dismiss Red Sun as having no interest even as a submitter on the basis of proposition 2.4 alone.

- 2.5 The report prepared by the Director Community Services recommended approval of the transfer.

Comment: That recommendation was made before notice was given by Red Sun that amounted to an allegation of being a person with a material interest in the outcome of the application. It was then considered that Red Sun's Mr Hill's and Ms Cousins' submissions should be taken into account as a matter of procedural fairness.

- 2.6 A business name extract shows Ms Cousins as the current proprietor of "Ships of the Desert".

Comment: Noted. Nevertheless a person can conceivably be in equity, the beneficial owner of an asset without being the legally-registered owner. That is what Red Sun claims here. The Shire cannot resolve this commercial dispute and should avoid being drawn in to doing so.

- 2.7 Ms Cousins had been waiting two months already for the transfer, and it would create unnecessary hardship to make her wait any longer.

Comment: Noted.

**3. Eagle and Partners letter dated 30.10.09.**

- 3.1 HFM Legal's letter of 27.10.09 constitutes an admission by Mr and Mrs Geappen against interest, in that it shows that they claim a beneficial interest in more than one camel team, contrary to the express terms applying to each licence.

Comment: The matter before Council is not Red Sun's compliance with its conditions of approval, but rather an application for transfer of Ships of the Desert's licence.

- 3.2 Request is made that Council notify Red Sun that they are in breach of each licence, and show cause why all licences should not be revoked.

Comment: The matter before Council is not Red Sun’s compliance with its conditions of approval, but rather an application for transfer of Ships of the Desert’s licence.

**4. Letter from Ms Cousins to the Shire dated 09.11.09.**

4.1 This letter contains a number of matters deemed by Administration to be irrelevant to the present application, in that they reflect on the appropriateness of Red Sun and/or Mr Geappen continuing to be hold of a trading licence for camel tours. Passages dealing with this subject matter have been deleted, as that is not the issue before Council. The letter also contained submissions of a potentially relevant nature as follows.

4.2 Ms Cousins asserted that she purchased the business in late August from Mr Abdul Casley due to a default situation of the previous purchaser (Mr Hill) and was now the only legal owner.

Comment: Red Sun asserts that this transaction occurred in breach of Red Sun’s beneficial ownership of Ships of the Desert. The Shire cannot resolve this commercial dispute and should avoid being drawn in to doing so.

4.3 Ms Cousins is very familiar with all the licence conditions has is always ensured to meet them whilst operating her business.

Comment: Noted.

4.4 Requests understanding of confusion and concern at why a letter from Mr Geappen [sic Mr Geappen’s solicitors] halted her transfer application from being presented to Council.

Comment: Noted.

4.5 Urged that Council discuss her transfer application at earliest convenience. Asserted that she had contributed a large amount of funds to purchasing this business and wished for the trading licence to be in her name as soon as possible.

Comment: Noted.

**5. Letter Eagle and Partners to the Shire dated 27.11.09.**

5.1 Neither Red Sun nor Mr or Mrs Geappen has any standing to object to the transfer.

Comment: A person can conceivably be in equity, the beneficial owner of an asset without being the legally-registered owner. That is what Red Sun claims here. The Shire cannot resolve this commercial dispute and should avoid being drawn in to doing so.

5.2 Under the Shire’s policy, no individual or business shall hold more than one trading licence and will operate independently at all times.

Comment: The matter before Council is not Red Sun’s compliance with its conditions of approval, but rather an application for transfer of Ships of the

Desert’s licence. If what Eagle and Partners are saying is that Red Sun’s claim for beneficial ownership is not credible because Red Sun always knew that it could not have had an interest in two businesses, then it is noted that the Shire’s Policy has not always provided that businesses must operate independently.

Nevertheless, it been the case for quite some years now that camel tours need to be the subject of a trading licence under the Trading Local Law, and no entity should assume that a trading licence would be granted to it before acquiring a business. That would apply both to Red Sun in relation to its claim to beneficial ownership and to Ms Cousins in her acceptance of a transfer of the Ships of the Desert business.

- 5.3 Ms Cousins has committed substantial funds to the purchase of Ships of the Desert, and by virtue of her position as holder of an equitable licence in “Ships of the Desert” pending its transfer to her, she has commercial standing to seek the transfer to her of the trading licence.

Comment: Noted, though see second para of “Comment” to 5.2 above.

**6 Eagle and Partners letter to McLeods dated 17.12.09.**

- 6.1 Notes what Red Sun’s writ is seeking by way of court orders.

Comment: Noted.

- 6.2 Acknowledges the Shire’s reluctance to pre-empt the ultimate decision of the Court, and notes the consideration given to the idea of a transfer of the licence subject to any injunction the Plaintiff’s solicitors may obtain within seven days after the Shire decision.

Comment: Noted.

- 6.3 Red Sun has not yet sought injunctive relief.

Comment: Noted.

- 6.4 If Red Sun seeks injunctive relief, it will be obliged to give the usual undertaking as to costs.

Comment: It is assumed this means undertaking as to damages. This seems to be a point as between Ms Cousins/Mr Hill and Red Sun, not a point affecting the Shire’s position. It is not anticipated that the Shire will suffer any relevant monetary loss by either granting or refusing the application for transfer.

- 6.5 Shire Administration has previously recommended in favour of the transfer.

Comment: That recommendation was made before notice was given by Red Sun that amounted to an allegation of being a person with a material interest in the outcome of the application. It was then considered that Red Sun’s, Mr Hill’s and Ms Cousins’ submissions should be taken into account as a matter of procedural fairness.

6.6 Ms Cousins has supplied comprehensive and persuasive material.

Comment: That material has been considered within this report.

6.7 Ms Cousins' entitlement to ownership of the business does not derive from Mr Hill but from Mr Casley.

Comment: Red Sun asserts that the transaction with Mr Casley occurred in breach of Red Sun's beneficial ownership of Ships of the Desert. The Shire cannot resolve this commercial dispute and should avoid being drawn in to doing so.

6.8 Ms Cousins is content for consideration of the transfer to wait until the regularly scheduled January 2010 meeting.

Comment: This is a point which tends to favour deferral of the application. However assuming Councillors feel well-prepared for the item, council can readily determine it at the 22 December meeting if desired.

6.9 A suggestion of limiting the duration of Ms Cousins' trading licence to 31.03.10 is not contemplated by the Rules promulgated by the Shire.

Comment: As appears below, a limited duration licence is no longer an option recommended by Administration.

6.10 That suggestion will also discriminate unfairly against Ms Cousins.

Comment: As appears below, a limited duration licence is no longer an option recommended by Administration.

6.11 The Shire would need to make another decision prior to 31.03.10.

Comment: A limited duration licence is no longer an option recommended by Administration.

6.12 Advocates the transfer of the licence to Ms Cousins, subject to any order of the Court.

Comment: The words "subject to any order of the Court" can basically be ignored, because any administrative decision is always subject to any overriding order of a court.

6.13 Is amazed that, in the face of Red Sun's clear assertions that it is entitled to hold two licences, the Shire has not required Red Sun to show cause why it should retain its licence as Red Sun Camels.

Comment: McLeods on behalf of the Shire issued a letter to Red Sun's lawyers dated 10 November 2009 which stated in part:

"As your client is aware, it is a condition of your client's trading licence as follows:

"No individual business shall hold more than one (1) trading licence at any time and will operate independently at all times."

This was a condition against which your client appealed to the State Administrative Tribunal, and that appeal was dismissed.

In the circumstances, we respectfully invite you to give a very serious consideration to how your client can hope to succeed in having the Shire transfer the Ships of the Desert licence to Red Sun Camels. At best for your client, this is a discretionary decision for Council. Council could not be bound by any of the equities which you allege to exist in your client’s favour vis-à-vis Christopher Hill.

Additionally, if, as you assert, you already have an equitable interest in the Ships of the Desert business, then we invite you to explain why the Shire should not consider your client to be in breach of the above-quoted condition of the trading licence.”

**MATERIAL WHICH MR HILL WOULD LIKE SHIRE TO TAKE INTO ACCOUNT**

**7. Eagle and Partners letter to the Shire dated 27.11.09 on behalf of Mr Hill.**

Requests that the Shire take into consideration the original application together with accompanying documentation. Confirms that Mr Hill has no objection to the transfer. Asserts that the transfer meets the requirements of the policy.

Comment: These matters are all considered in this report.

**SUBMISSIONS MADE BY OR ON BEHALF OF RED SUN**

**8. HFM Legal letter to the Shire dated 27.10.09. Asserts that:**

8.1 Samantha Cousins is Mr Hill’s de facto wife.

Comment: The procedural fairness process has enabled each party to consider the substance of the position put against them by the other party. Ms Cousins and Mr Hill have not refuted this particular proposition. Normally it might be thought to be of no relevance, however it is potentially of some relevance here. Firstly, Red Sun would say it is relevant presumably because they allege the transfer to Ms Cousins is a sham designed to deny Red Sun its claimed rights. As to this, the Shire cannot resolve this commercial dispute and should avoid being drawn in to doing so.

On the other hand it could be suggested (though Mr Hill and Ms Cousins do not say this explicitly or otherwise in submissions) that this factor gives some assurance of Mr Hill’s continued involvement in the business. It is difficult for the Shire to attach much if any weight to this. Mr Hill’s expressed commitment to the business is to six months and then to review his options: see 1.9 above.

8.2 The beneficial owner of “Ships of the Desert” is Red Sun Camels Pty Ltd.

Comment: This allegation is denied by Ms Cousins and Mr Hill. The Shire cannot resolve this commercial dispute and should avoid being drawn into doing so.

8.3 A Supreme Court writ is in the process of being prepared.

Comment: A writ has since issued.

8.4 There is reference to certain criminal charges.

Comment: The Shire is not placed to assess the veracity of these, and this consideration should be ignored by councillors.

**9. HFM Legal letter to McLeods dated 17.12.09.**

9.1 Red Sun assert that:

(a) The beneficial owner of "Ships of the Desert" is Red Sun Camels Pty Ltd.

Comment: This allegation is denied by Ms Cousins and Mr Hill. The Shire cannot resolve this commercial dispute and should avoid being drawn in to doing so.

(b) Mr Casley did not lawfully terminate the Contract for the sale of "Ships of the Desert" because he did not, after July 2009, make demand of my clients for a further instalment of the balance of the purchase price and as a result my clients were not in breach of contract. As he is aware all previous demands prior to July 2009 had been paid by my clients; had he made demand of my clients the instalment would have been paid.

Comment: Ms Cousins and Mr Hill claim that the transactions were valid. The Shire cannot resolve this commercial dispute and should avoid being drawn in to doing so

(c) Samantha Cousins was fully aware of the above and is therefore not a bona fide purchaser for value of "Ships of the Desert" with the result that the contract between her and Casley is invalid and will be set aside.

Comment: This proposition has presumably been put to Ms Cousins in previous demand correspondence and based on her denial of Red Sun's alleged entitlements, this position is obviously not accepted by Ms Cousins. The Shire cannot resolve this commercial dispute and should avoid being drawn in to doing so

(d) As Cousins is not a bona fide purchaser of the business "Ships of the Desert" for the reasons outlined above, neither Casley nor Hill is entitled to transfer the licence or business to Cousins.

Comment: The Shire cannot resolve this commercial dispute and should avoid being drawn in to doing so

(e) The Shire should not transfer the licence from Hill to anybody else until such time as the issue of who owns "Ships of the Desert" (i.e. Red Sun Camels or Chris Hill) has been resolved.

Comment: See comment at 1.3 above. This issue is further discussed below.

9.2 Red Sun Camels has issued proceedings in the Supreme Court to recover possession of the business "Ships of the Desert". It does not wish the licence issued in respect of "Ships of the Desert" to be taken off that business. On the contrary it wishes the business to continue so that it can resume operating it after the Supreme Court has found that Red Sun Camels Pty Ltd is the beneficial owner of it.

Comment: this is discussed under the heading "The Importance of Continuity of Supply of Camel Tours", below.

9.3 Accordingly, it is Red Sun's contention that the status quo should be maintained and the licence should be left with Chris Hill pending the outcome of the Supreme Court Action presently on foot.

Comment: Noted.

9.4 Red Sun contends that:

- Ms Cousins is the de facto wife of Mr Hill;

Comment: See 8.1 above.

- Ms Cousins does not herself have the necessary ability to operate the business on her own and that even if Mr Hill were to transfer the Business to Cousins the fact of the matter is that Mr Hill and his brother would still be the ones to be operating it in reality.

Comment: This point is not responsive to Ms Cousins' submission.

- even if the Supreme Court were to find that Mr Hill was the owner of the Business and was therefore entitled to transfer the business to Ms Cousins, she would not, for the reasons mentioned above, be adversely affected by the transfer being delayed pending the outcome of the Supreme Court Action which has been commenced by Red Sun Camels Pty Ltd.

Comment: It seems that "the reasons mentioned above" are Mr Hill being Ms Cousins' de facto partner, and Ms Cousins being dependent on C and D Hill's expertise - for these reasons it is said that Ms Cousins would not be adversely affected by a delay in transfer to her even if Ms Cousins proves right and Red Sun is proved wrong in the final Supreme Court proceedings.

The Shire cannot infer Ms Cousins would not be adversely affected based on this reasoning.

Which party stands to suffer loss is not really a matter for the Shire. As already discussed, a party needs to make sure they have relevant licences before they make business investment decisions or make any transfer conditional on such. Nevertheless the Shire should be fully aware that it is making decisions that might have financial repercussions for other parties, so needs to make its decisions carefully and even-handedly.

9.5 There are only two potential owners of the business "Ships of the Desert", namely Red Sun Camels Pty Ltd and Chris Hill. It is Red Sun's contention that if Mr Hill does not wish to continue to operate "Ships of the Desert", the licence should be transferred to Red Sun Camels Pty Ltd to ensure that the appropriate

number of camel trains remain in operation on Cable Beach pending the outcome of the dispute. The transfer of the licence to Red Sun Camels Pty Ltd could be conditional upon my clients claim being successful and also without prejudice to the position of the Shire should my client’s claim on the Supreme Court be successful.

Comment: The idea of the Shire issuing a trading licence under which Red Sun operates Ships of the Desert is not a proposal presently before Council and should be put out of consideration in the determination of this application.

Further discussion concerning what would happen if Council refused the present application for transfer, such that Mr Hill would remain as the licensed operator, but Mr Hill indicated that he did not want to or could not legally continue Ships of the Desert, is set out below.

Unless some good reasons is shown to the contrary, however, it presently seems to Administration to be unlikely that a recommendation would be put to Council that Red Sun be licensed to operate the Ships of the Desert business. Council has a Policy that no person may have an interest in more than one camel business.

Trading licences are not property which can be traded at will or absorbed by another business by default. Trading licences are regulatory licences administered by the Shire under Local Laws and with due consideration of Council’s Policy. Any person who makes business decisions in the assumption that a trading licence is theirs for the taking does so at their own business peril.

- 9.6 It is clear from what Mr Hill and Ms Cousins have informed the Shire that Mr Casley has been paid the sum of \$80,000.00 and is no longer owed any more money for “Ships of the Desert”. Accordingly, his position will not be not affected whether the licence is left with Mr Hill or is transferred to Red Sun Camels Pty Ltd.

Comment: The idea of the Shire issuing a trading licence under which Red Sun operates Ships of the Desert is not a proposal presently before Council and should be put out of consideration.

- 9.7 My client would object strongly to the issue of even a temporary licence to a fourth person.

Comment: This issue is discussed below.

**OPTIONS**

The options for Council would appear to be as follows:

- 1. To conditionally approve the transfer.
- 2. To refuse the transfer.
- 3. To further defer the application for transfer.
- 4. To issue a short-term licence only to Ms Cousins.

Of these options, the option of a short-term licence is not at all self-explanatory so it is discussed first, though ultimately it is not recommended for further consideration.

### THE IMPORTANCE OF CONTINUITY OF SUPPLY OF CAMEL TOURS

Normally a local government should not become involved in a commercial dispute of this kind, where parties are disputing the proper legal entitlement to the ownership of assets of a business. A trading licence is a regulatory licence in the sense that it makes lawful that which would otherwise be lawful, i.e. it would be unlawful for a person to operate a camel tours business without a licence. The fact that a person receives a licence from the Shire does not, however, authorise the person to breach whatever private arrangements the person may have with a third party. Neither do the private arrangements with the third party override or allow the breach of the Shire's trading licence requirements.

Private arrangements and trading licences are separate items of law which must both be complied with, but generally a local government is interested only in the trading licence aspect. If a person with a trading licence is operating in breach of a private agreement with a third person, then the third person can sue him or her in a civil court, which would normally not be expected to involve the local government. Furthermore, normally a local government would not have an interest in whether a trading licence which it grants is actually capable of being implemented by the licence-holder having regard to all other laws. Normally all that the local government is interested in is that *if* the licence-holder is going to operate, he or she does so *with* a licence and *in compliance with* that licence.

However in the case of licensing camel tours on Cable Beach, there is an added element: the Shire is concerned, in the interests of the community, with a sufficient and reputable supply of camel tour services for consumers. If a person holds a licence but is prevented by a third party's injunction from exercising its camel tour licence, then that adversely affects the interests of the Broome community. From that point of view, an injunction or seriously-threatened injunction is potentially a relevant consideration for Council.

One possibility which Shire Administration, in the process of seeking submissions, raised with all stakeholders/alleged stakeholders for their input, was the possibility of granting Ms Cousins a trading licence until 31 March 2009. This was put forward on the following basis:

1. It would be undesirable for a situation to arise in which an interlocutory injunction is granted for a duration which becomes dependent upon the uncertainties of the timing of the steps in the litigation, and *meanwhile only two operators (Red Sun and Broome Camel Safaris) are permitted to conduct camel tours on the beach unless the Shire grants a licence to a fourth candidate.* It is considered important that there is a sufficient supply of camel tour service providers to meet demand.
2. The granting of a fourth licence might, however, then be problematical if the injunction is subsequently lifted, and four licenced operators are attempting to trade on the limited designated area of Cable Beach.
3. The Shire's concern is, therefore, with the public interest of what is in the best interest of the Shire of Broome community, whilst at the same time attempting to deal even handedly with all stakeholders.
4. At this point, the Shire does not have sufficient information to indicate whether Red Sun's claims against Mr Hill and Ms Cousins are credible or not.

5. The grant of a short term licence until 31 March 2010 should enable a further review to be undertaken in early March as to whether the trading licence should be further extended, particularly into the tourist season when assurance of supply of camel tour providers becomes particularly important from the business community's point of view.

Note the emphasised assumption in para 1 above. There was a concern on the part of Administration and the Shire's legal representatives that Red Sun was asserting that it alone was the proper person legally entitled to the Ships of the Desert business and was requiring the immediate handover of the business. However it is now apparent from HFM Legal's submission point 9.2 above that Red Sun does not wish for the Ships of the Desert business to cease pending the Supreme Court proceedings. Red Sun wishes for the business to continue, but for Mr Hill to continue to be the person with the trading licence pending the outcome of the Supreme Court proceedings, assuming that Mr Hill does not concede to Red Sun's demand for recognition as the beneficial owner of Ships of the Desert. Therefore *Red Sun* is not saying that the Ships of the Desert business will be forced to stop if there is an interlocutory injunction against the transfer of a trading licence. (The Shire's solicitor contacted Ms Cousins' and Mr Hill's solicitor following receipt of HFM's submission of 17 December, and checked whether his understanding was also as underlined above. He agreed that that was his understanding.) The apprehension that Red Sun expects Ships of the Desert to shut down if an interlocutory injunction is granted, is therefore not correct.

It is possible that *Mr Hill or Ms Cousins would say* that Ships of the Desert would have to shut down if there is an interlocutory injunction against the transfer. The reason that they might say that is that Ms Cousins alone is the registered person carrying on the business, and it might then be said that only she can lawfully carry on the business, as a matter of Business Names legislation or the like. If that is the case, then it should be noted that a transfer of a trading licence under the Shire's Trading Local Law is not a right, but a discretion for the Shire. Therefore it would have been prudent for Ms Cousins, to have made any acquisition of the business, conditional on obtaining the Shire's prior agreement to a transfer of the trading licence. Therefore if the Ships of the Desert business is forced to close because:

- (a) an injunction is issued against the transfer to Ms Cousins; but
- (b) only Ms Cousins is legally entitled to carry on the business, not Mr Hill –

then that outcome could be seen to stem from a business decision made by Ms Cousins.

In view of this, there is really no longer any value perceived in a short-term licence to operate in favour of Ms Cousins until 31 March 2010. That is an option which is no longer recommended by Administration for further consideration by Council.

There is considered to be no risk that, by reason of any Red Sun injunction, Broome would be left in limbo as to whether it has two or three licensed camel teams. Broome would have three licensed camel teams. The named licensee of the third would remain as Mr Christopher Hill. If that causes a problem under business names legislation or the like, then that is not a consequence of the injunction or of the Shire trying to resolve the dispute as between Red Sun and Mr Hill/ Ms Cousins. Rather, it would be a consequence of Ms Cousins presuming that a transfer of the trading licence is a *fait accompli* upon the transfer of a camel tour business.

In that scenario, if the holder of that third licence, Christopher Hill, were to say that he could not continue to operate Ships of the Desert tours, then in order to fill the demand, a fourth licence would probably need to be invited by the Shire and issued.

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It would certainly not follow that Red Sun would be entitled to the Ships of the Desert trading licence. If Red Sun were to seek the issue of the fourth licence, Red Sun would need to make a case for holding an interest in more than one business, contrary to the Shire's Policy. That Policy was upheld on its merits in a State Administrative Tribunal decision to which Red Sun was a party.

If Council approves the transfer, one of the three following outcomes will occur:

1. Red Sun does not apply for an injunction;
2. Red Sun applies for an injunction but fails to obtain one; or
3. Red Sun applies for an injunction and succeeds in obtaining one.

In scenarios 1 and 2, Ms Cousins would be able to operate pursuant to the trading licence as she wishes. In scenario 3, only Mr Hill would be able to operate under the trading licence, provided it is lawful for him to do so under business name legislation and the like.

If Council refuses to grant the transfer, then only Mr Hill can operate under the trading licence, provided it is lawful for him to do so under business name legislation and the like. If therefore, if it is not possible under business name legislation for Mr Hill to operate the camel tours, then the only decision by Council which would help maintain a continuing supply of camel tour services, would be to agree to the transfer. There would then be a risk of an injunction, but that would place the parties into the same position for the immediate future as a refusal of the transfer would.

In view of the two preceding two paragraphs, it is considered that the threat of our injunction is a neutral factor so far as Council's discretion is concerned. Council should leave it to the arm of government equipped to make decisions or interim decisions about the rights of private parties, that is Courts, rather than buy into that debate itself. Having considered all of the competing submissions of the parties, it is recommended that the application for transfer should be considered in the same way as it would have been if there was no threat of injunction. The only qualification to this is that a holding period will be recommended for the implementation of any Council resolution for transfer – this is discussed under the heading "Holding Period Pending Issue of Licence" below.

However, any transfer application still needs to show satisfaction of the criteria under the Policy. An applicant cannot be in a better or worse position as regards compliance with the Policy than they would have been if they had made the transfer of the business conditional on transfer of the licence. Therefore the criteria need to be considered on their merits in the usual way.

**CRITERION: EXPERIENCE**

Council's attention is drawn to Ms Cousins' statement addressing experience within her application.

Council is also entitled to take into account that Christopher Hill has expressed a written commitment to staying with Ships of the Desert for at least six months. Damian Hill has indicated he intends to stay with Ships of the Desert for the foreseeable future.

Although these are not absolute guarantees of long-term commitment to the business, they do give Council some basis for being satisfied that their experience will at least carry Ships of the Desert over for the next few months. As Ships of the Desert is a well established operator on Cable Beach, Council is also entitled to consider the prospects of Ships of the

Desert attracting other qualified staff in the event that Chris and/or Damian Hill were to leave the business. Whilst it would be better, in relation to the "experience" criterion for experienced camel handlers themselves to be contractually committed to the business for the long term, Council cannot have any watertight means of ensuring this in any case, so some reliance on the good name and goodwill and reputation of Ships of the Desert is able to be taken into account.

Therefore there is sufficient material for Council to be satisfied that the experience criterion is met. If councillors think that the material doesn't sufficiently demonstrate the Applicant's experience, then two other options remain:

1. Council could refuse the application on the ground of insufficient demonstrated experience; or
2. Council could further defer the application to allow further material to be produced.

In relation to the latter, it is noted that Administration's recommendation for the 29 October 2009 meeting was for approval of the application, so an additional opportunity for further materials is a possible option, although there is no obligation on Council to give that further opportunity.

### **OPERATIONAL PLANNING**

Council's attention is drawn to Ms Cousins' statement addressing the criterion of "operation planning" within her application.

It is considered that the basis exists for Council to be satisfied that the application has sufficiently addressed the "operational planning" criterion.

### **HOLDING PERIOD PENDING ISSUE OF LICENCE**

The Shire's CEO and the Shire's legal representatives have recommended that, in order to avoid the potential need for an injunction, that any decision of the Council to agree to the transfer to Ms Cousins should be suspended for a period to allow Red Sun to bring any interlocutory injunction application it thought fit. It should be noted that Ms Cousins and Mr Hill are not opposed to a fourteen day holding period. The reason for the holding period is that there would have otherwise been the likelihood of the Shire being drawn into an interlocutory injunction already even if Council was minded to refuse the application. Red Sun would have needed to have assumed that the Shire would grant the licence without further notice. It is noted that the Supreme Court will shortly go into its "Long Vacation" from 24 December 2009 to 7 January 2010. It is considered reasonable that an additional period of seven days from the re-opening of the Court is reasonable, thus, no licence should actually be issued by the Chief Executive Officer until 18 January 2010.

### **CONSULTATION**

McLeods Barristers & Solicitors

### **STATUTORY ENVIRONMENT**

Local Government Act 1995

*"3.5. Legislative power of local governments"*

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- (1) *A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.*
- (2) *A local law made under this Act does not apply outside the local government's district unless it is made to apply outside the district under section 3.6.*
- (3) *The power conferred on a local government by subsection (1) is in addition to any power to make local laws conferred on it by any other Act.*
- (4) *Regulations may set out —*
  - (a) *matters about which, or purposes for which, local laws are not to be made; or*
  - (b) *kinds of local laws that are not to be made, and a local government cannot make a local law about such a matter, or for such a purpose or of such a kind.*
- (5) *Regulations may set out such transitional arrangements as are necessary or convenient to deal with a local law ceasing to have effect because the power to make it has been removed by regulations under subsection (4)."*

Shire of Broome Trading, Outdoor Dining and Street Entertainment Local Law 2003  
*"Licence restrictions*

*5.3.1 A trading licence is only transferable with the approval of the local government and on payment of the transfer fee."*

**POLICY IMPLICATIONS**

Trading Licence transfer and conditions set in accordance with Council's Commercial Camel Activities on Cable Beach Policy.

**FINANCIAL IMPLICATIONS**

Transfer of Licence Fee of \$250 applies and has been paid in full.

**STRATEGIC IMPLICATIONS**

**People**

Actively contribute to well-being and safety and support community initiative.

**Place**

Engage with the community and other agencies to provide land use planning that protects and enhances the natural and built environment to support a quality lifestyle and the local economy.

**Prosperity**

Support business and economic development

**VOTING REQUIREMENTS**

Simple Majority

REPORT RECOMMENDATION

*That Council:*

*Authorises the Chief Executive Officer to issue, no sooner than 18 January 2010, (unless restrained beforehand by injunction from doing so), an approval of the transfer of Trading Licence from Christopher Hill to Samantha Cousins, subject to:*

1. *This transfer is only effective upon satisfactory proof to the Shire’s Manager Emergency, Ranger & Beach Services of:*
  - (a) *the lease held by Christopher Hill over property for the purpose of the penning and grazing of camels or permission to use such property designated for this purpose, having been transferred to Samantha Cousins;*
  - (b) *Provision of public liability insurance cover with Samantha Cousins as the named insured, to the value of \$10,000,000; that insurance to be thereafter maintained at all times;*
2. *All relevant conditions as detailed in the Shire of Broome Trading, Outdoor Dining and Street Entertainment Local Law 2003 and Council’s Commercial Camel Activities on Cable Beach Policy being met that is:*

General

1. *No individual or business shall hold more than one (1) Trading Licence at any time and will operate independently at all times.*
2. *Each Trading Licence shall allow each Licensee to have a maximum of sixteen (16) camels on Cable Beach at any one time.*
3. *Only gelded male camels and/or cow camels are permitted for commercial camel activities on Cable Beach.*
4. *At the morning session, all camels must be removed from Cable Beach by 10.00am. No camels shall enter Cable Beach before 2.30pm in the afternoon.*
5. *No commercial camel activities are to take place on Cable Beach between the hours of 10.00am and 2.30pm.*
6. *All commercial activities, including the placing of signs are to occur within the area approved for the specific activity to be conducted as detailed on a plan of the area.*
7. *Each Operator will at all times identify their own Camels with the same coloured and patterned blankets. Each Operators colours and patterns must be significantly different from each other so as to obviously distinguish each Operator apart.*

8. *A licensee must immediately comply with any lawful direction given at any time by the Chief Executive Officer of the Shire of Broome or his or her delegate, or an Authorised Officer, including the Shire of Broome Rangers and Lifeguards.*
9. *A licensee may place only one portable sign within the set down/pick up area of activity carried out by the licensee. That sign must comply with the following:*
  - (a) *not exceed 750 mm in height;*
  - (b) *not exceed 0.9 square metres double sided area (eg: 750mm x 600mm each face);*
  - (c) *not indicate or display any matter other than the name of the owner or occupier of the premises to which it relates and the nature of the business carried on therein;*
  - (d) *be placed so as not to cause interference or be hazardous to vehicular traffic or cause any interference or hazard or impede pedestrians;*
  - (e) *be of sound construction, maintained in good condition, neatly sign written and fixed in position to the satisfaction of the Surveyor;*
  - (f) *be removed from the land in the event of a cyclone threat;*
  - (g) *be removed at the end of each trading session.*
10. *A licensee must, at the conclusion of business each day, remove all and any refuse and litter associated with the operation of their activity and ensure the site is left in a clean and safe condition.*
11. *The Shire of Broome reserves the right to close Cable Beach to all activities, including commercial activities at any time.*
12. *Council approved access route, allocated pick up and set down area and operating area noted on each licence must be adhered to at all times.*
13. *All camels are to be fitted with manure collection devices; any manure that may escape the manure collection devices is to be collected immediately along the Shire approved access route and along the entire distance of the tour.*
14. *Front and rear Camels are to be fitted with lights facing to the front and the rear, every second camel to have a reflective tape to each saddle and/or stirrup.*
15. *A minimum of two (2) competent staff must be in attendance when led by walking, a camel train of two or more camels, one staff member is to lead holding the reins at all times, the other is to be positioned toward the rear of the camel train.*

16. *Camel operators are to ensure at least 30 metres between each camel train at all times.*
17. *The only trading activities permitted on the area of application are:*
  - (i) *Camel tours*
  - (ii) *The taking and sale of photographs, and camel memorabilia in accordance with the following:*
    - a) *Sales are to be to the patrons of the tour at the time of the tour only*
    - b) *Sales are not to be to the general public*
    - c) *Sales are to be from the approved vehicle representing the commercial camel activity only*
18. *The licensee must maintain and adhere to, during the period of the licence, all procedures, policies, licences and accreditation outlined in its licence application and allow the Shire officers, at any time, to inspect and verify that the use and currency of those procedures, policies, licences and accreditation are current and in place.*
19. *If at the time of the inspection any of the procedures, policies, licences and accreditation are not current, in place or adhered to, then this will be deemed as a breach of the licence conditions.*
20. *This licence applies to that portion of Cable Beach between a point formed by the westerly prolongation to the low water mark of the northern boundary of Reserve 36477 to a point formed by the westerly prolongation to the low water mark of the Northern Boundary of Lot 405 Lullfitz Drive. Commercial camel activities are to be conducted in this area of Cable Beach between the high and low water mark as indicated on the approved map showing operating area, pick up and set down area and approved access route to Cable Beach.*
21. *Camel Operators are to only access the area of application (Cable Beach) via the approved route from the approved place of stabling camels.*
3. *All necessary approvals (eg planning approval) for all aspects of the operation being obtained and evidence of such approvals presented to the Shire.*
4. *Provision of public liability insurance cover to the value of \$10,000,000 at all times.*

**COUNCIL RESOLUTION**  
**(REPORT RECOMMENDATION)**

*Moved: Cr G T Campbell*

*Seconded: Cr J Bloom*

*That Council authorises the Chief Executive Officer to issue, no sooner than 18 January 2010, (unless restrained beforehand by injunction from doing so), an approval of the transfer of Trading Licence from Christopher Hill to Samantha Cousins, subject to:*

- 1. This transfer is only effective upon satisfactory proof to the Shire’s Manager Emergency, Ranger & Beach Services of:*
  - (a) the lease held by Christopher Hill over property for the purpose of the penning and grazing of camels or permission to use such property designated for this purpose, having been transferred to Samantha Cousins;*
  - (b) Provision of public liability insurance cover with Samantha Cousins as the named insured, to the value of \$10,000,000; that insurance to be thereafter maintained at all times;*
- 2. All relevant conditions as detailed in the Shire of Broome Trading, Outdoor Dining and Street Entertainment Local Law 2003 and Council’s Commercial Camel Activities on Cable Beach Policy being met that is:*

**General**

- 1. No individual or business shall hold more than one (1) Trading Licence at any time and will operate independently at all times.*
- 2. Each Trading Licence shall allow each Licensee to have a maximum of sixteen (16) camels on Cable Beach at any one time.*
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- 5. No commercial camel activities are to take place on Cable Beach between the hours of 10.00am and 2.30pm.*
- 6. All commercial activities, including the placing of signs are to occur within the area approved for the specific activity to be conducted as detailed on a plan of the area.*
- 7. Each Operator will at all times identify their own Camels with the same coloured and patterned blankets. Each Operators colours and patterns must be significantly different from each other so as to obviously distinguish each Operator apart.*

8. *A licensee must immediately comply with any lawful direction given at any time by the Chief Executive Officer of the Shire of Broome or his or her delegate, or an Authorised Officer, including the Shire of Broome Rangers and Lifeguards.*
9. *A licensee may place only one portable sign within the set down/pick up area of activity carried out by the licensee. That sign must comply with the following:*
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  - (b) *not exceed 0.9 square metres double sided area (eg: 750mm x 600mm each face);*
  - (c) *not indicate or display any matter other than the name of the owner or occupier of the premises to which it relates and the nature of the business carried on therein;*
  - (d) *be placed so as not to cause interference or be hazardous to vehicular traffic or cause any interference or hazard or impede pedestrians;*
  - (e) *be of sound construction, maintained in good condition, neatly sign written and fixed in position to the satisfaction of the Surveyor;*
  - (f) *be removed from the land in the event of a cyclone threat;*
  - (g) *be removed at the end of each trading session.*
10. *A licensee must, at the conclusion of business each day, remove all and any refuse and litter associated with the operation of their activity and ensure the site is left in a clean and safe condition.*
11. *The Shire of Broome reserves the right to close Cable Beach to all activities, including commercial activities at any time.*
12. *Council approved access route, allocated pick up and set down area and operating area noted on each licence must be adhered to at all times.*
13. *All camels are to be fitted with manure collection devices; any manure that may escape the manure collection devices is to be collected immediately along the Shire approved access route and along the entire distance of the tour.*
14. *Front and rear Camels are to be fitted with lights facing to the front and the rear, every second camel to have a reflective tape to each saddle and/or stirrup.*
15. *A minimum of two (2) competent staff must be in attendance when led by walking, a camel train of two or more camels, one staff member is to lead holding the reins at all times, the other is to be positioned toward the rear of the camel train.*

- 16. *Camel operators are to ensure at least 30 metres between each camel train at all times.*
- 17. *The only trading activities permitted on the area of application are:*
  - (i) *Camel tours*
  - (ii) *The taking and sale of photographs, and camel memorabilia in accordance with the following:*
    - a) *Sales are to be to the patrons of the tour at the time of the tour only*
    - b) *Sales are not to be to the general public*
    - c) *Sales are to be from the approved vehicle representing the commercial camel activity only*
- 18. *The licensee must maintain and adhere to, during the period of the licence, all procedures, policies, licences and accreditation outlined in its licence application and allow the Shire officers, at any time, to inspect and verify that the use and currency of those procedures, policies, licences and accreditation are current and in place.*
- 19. *If at the time of the inspection any of the procedures, policies, licences and accreditation are not current, in place or adhered to, then this will be deemed as a breach of the licence conditions.*
- 20. *This licence applies to that portion of Cable Beach between a point formed by the westerly prolongation to the low water mark of the northern boundary of Reserve 36477 to a point formed by the westerly prolongation to the low water mark of the Northern Boundary of Lot 405 Lullfitz Drive. Commercial camel activities are to be conducted in this area of Cable Beach between the high and low water mark as indicated on the approved map showing operating area, pick up and set down area and approved access route to Cable Beach.*
- 21. *Camel Operators are to only access the area of application (Cable Beach) via the approved route from the approved place of stabling camels.*
- 3. *All necessary approvals (eg planning approval) for all aspects of the operation being obtained and evidence of such approvals presented to the Shire.*
- 4. *Provision of public liability insurance cover to the value of \$10,000,000 at all times.*

FOR: 5  
 AGAINST: 0  
**CARRIED UNANIMOUSLY**

(Attachment: 77 pages – Confidential – To Councillors & Directors only)

*Cr D M Male returned to the Chambers at 4.05pm and the Chairperson read aloud the Council Resolution.*

<b>10. MEETING CLOSURE</b>
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There being no further business the Chairperson declared the meeting closed at 4.07pm.