

COUNCIL POLICY

Trading in Public Places

Policy Objective

1. To facilitate the assessment and approval of Trading Licences in accordance with the *Trading, Outdoor Dining and Street Entertainment Local Law 2003* (the **Local Law**).
2. To provide guidance on the location and management of trading in public places activities within the district.
3. To encourage the use of parks and reserves for appropriate trading activities that enhance community activation and recreation while ensuring such activities do not adversely affect amenity, usability and public safety.
4. To protect Cable Beach and other parks and reserves within the Shire as highly valued environmental, cultural and social assets enjoyed by visitors and residents alike.

Policy Statement

1. The Local Law enables a person to apply for a licence to undertake a range of trading activities in a public place. This Policy is made under the Local Law and provides additional guidance and requirements relating to trading licences that are not specified in the Local Law that applies specifically to trading licences.
2. A person is exempt from the requirement to hold a valid trading licence when undertaking trading in a public place where:
 - 2.1 The trading is undertaken as part of an event or function approved in accordance with the Local Government Property and Public Places Local Law 2016;
 - 2.2 The trading is conducted in accordance with an approval granted by the Shire under another written law;
 - 2.3 The activity is instruction or coaching of fitness classes or similar activities; or
 - 2.4 The activity consists solely of a guided walking tour.

1. Approval of Applications

- 1.1 A trading licence may be issued by the Shire for a trading activity where the following criteria are met:

- 1.1.1 The proposed trading activity is located within an approved trading zone;
 - 1.1.2 The trading activity will not unreasonably impact public safety, traffic flow, pedestrian movement or the public's use of a public place;
 - 1.1.3 The trading activity is well presented and does not detract from the visual or general amenity of the area;
 - 1.1.4 The trading activity will contribute to the vibrancy of and enhances the use of an area by persons visiting the trading zone;
 - 1.1.5 A complete application has been submitted in the approved form and the applicable fee has been paid;
 - 1.1.6 A statement has been provided detailing the measures to ensure safe entry and exit from the trading zones;
 - 1.1.7 The applicant holds all statutory approvals and accreditations required to undertake the trading activity;
 - 1.1.8 The trading activity does not involve the operation of a bar or the sale or supply of alcohol.
- 1.2 Where the land is not under the care, control and management of the local government, the written consent of the Crown via the Department of Lands and/or relevant vesting Authority or Management Authority is required prior to processing the application.
- 1.3 Additional information may be sought from an applicant to assist with the assessment of an application for a trading licence.
- 1.4 Applications which do not meet the criteria specified in 1.1 may be considered by Council. Council seek public comment on an application for a Trading Licence where it considers it appropriate to do so. Any submissions received may be taken into account by Council when determining the application.

2. Trading Licence

- 2.1 Licences within approved zones are to be assessed by Shire Officers. Applications for trading licences outside approved zones will be referred to Council for determination.
- 2.2 An approved trading licence must be displayed in a location that is clearly visible to the public while trading is taking place.
- 2.3 A trading licence is not a lease over the land and the trader and patrons do not have exclusive occupancy or possession of the area. Trading zones remain public space. A trader cannot move members of the public on from the trading zone.
- 2.4 The Shire reserves the right to vary licence conditions at any time as required, or to cancel the licence.
- 2.5 The Shire is unable to be involved in disputes between traders.

- 2.6 If the trader is to operate within a bookable space advertised on the Shire's website (as amended), the trader may not trade unless they have booked the applicable space.
- 2.7 The trader must display respectful and reasonable behaviour towards members of the public, other traders and authorised officers at all times.
- 2.8 Background music may only be played if the noise levels comply with the Assigned Levels prescribed in the Environmental Protection (Noise) Regulations 1997. Should justified complaints be received regarding amplified music from the trading activity, the Shire reserves the right to prohibit the emission of music at the site.
- 2.9 The trading activity will not generate noise or disturbance that is likely to cause a nuisance to any person in the vicinity of the trader.
- 2.10 No waste or litter may be disposed of in public space rubbish or recycling bins. Traders must ensure that they have sufficient bins available for collection and storage of waste generated by their business. Traders must ensure that the area around their position is kept clear of rubbish and refuse at all times and all waste generated/collected by the trader is removed from site by the trader.
- 2.11 The licence holder is to take full responsibility for the care, appearance, maintenance and operation of their activity area and the effect on other street life.
- 2.12 The trading activity must not obstruct, cover, remove, relocate or modify trees, public art, benches, bins, bus shelters or other Shire owned infrastructure.
- 2.13 Permanent fixtures and elements are not permitted. Following trade, all related equipment and fixtures must be removed completely from the site.
- 2.14 The licensee must at the conclusion of each day the trading activity occurs, remove all and any refuse and litter associated with the operation of the trading activity and ensure the area in which the trading is undertaken is left in a clean and safe condition.
- 2.15 A trader must have a valid vehicle access permit issued by the Shire's Chief Executive Officer in accordance with the Control of Vehicles (Off Road Areas) Act 1960. The licensee must at all times comply with the requirements of that Act.
- 2.16 Parking for towing vehicles is not permitted at the same site as the trader. The trailer or equipment must be dropped off at the location and a legitimate carpark found for the towing vehicle.
- 2.17 A towing vehicle may only enter a reserve for the purpose of dropping off or picking up a trailer or the like. Towing vehicles may therefore not enter or exit a beach, park or reserve on more than two occasions on any day, unless a case of emergency or otherwise approved.
- 2.18 Traders must not arrive to the trading site more than one hour before trading commences and must not remain on site for more than one hour after trading ceases.

- 2.19 When a community event approved by the Shire is being held within the Trading Area (for example, Town Beach Night Markets, Shinju Events), any Licence Holders allocated to that area will be rendered void for the duration of that Event.
- 2.20 The licensee is responsible for the repair, restoration or reinstatement of any damage to Shire property arising from the trading activity or caused by the customers of the trading activity. Such repair, restoration or reinstatement of damage must be carried out as directed by the Shire and to the Shire's satisfaction.
- 2.21 The licensee obtains public liability insurance in accordance with subclause 8.6.1 of the Local Law, except that the value of the public liability insurance must be \$10,000,000.
- 2.22 The placing of signs occurs only within the area approved for the trading activity and consistent with the requirements of Part 9 of the Local Government Property and Public Places Local Law 2016, unless otherwise approved by Council.
- 2.23 A trading activity must not involve the sale of offensive, illegal, prohibited, counterfeit or unauthorised goods, including goods bearing trademarks for which the person does not have a licence to sell.
- 2.24 The trading activity must not prevent access to a footpath or adversely impact on traffic movement, traffic safety, traffic flow, or cause a traffic hazard.
- 2.25 The trading activity must not involve the connection to or utilisation of any Shire utilities without prior approval, unless otherwise approved as a condition of the trading licence.
- 2.26 An authorised person may direct the holder of a trading licence to stop doing anything which is contrary to the Local Laws or a condition of the trading licence. A person who is given such a direction by an authorised person must comply with that direction.
- 2.27 The trader must allow Shire officers to, upon request, inspect and verify that the plans, procedures, policies, licences and accreditation are current and are being complied with.
- 2.28 Mobile food traders must be takeaway only. Table and seating arrangements are not permitted at the trading site. Exemption to this is the Town Beach South trading zone where the following can be undertaken:
- a) Each approved trader (max. 5 at any time) can place a maximum of six chairs or stools in close proximity to their food van utilizing available shade;
 - b) The placement will not obstruct pathways or car park bays.
- 2.29 Additional provisions that apply to itinerant traders, trading activities undertaken on Cable Beach, camel operators and activities not conducted from a vehicle or trailer are listed in Schedules 1, 2, 3, & 4 respectively.
- 2.30 A ten (10) metre exclusion zone is to be maintained around marked and unmarked turtle nests, turtles and hatchlings. Traders are to ensure that staff and customers do not encroach on the exclusion zone.

- 2.31 Trading activities must not alter the sand dunes or vegetation in any manner and must not approach within 5m of the sand dunes. No equipment may be stored on the sand dunes at any time.
- 2.32 The trading activity will be categorized by intensity, in accordance with Schedule 6 of this policy. Schedule 6 is a guide only.
- 2.33 A person must not hold more than one trading licence for a trading activity under this Policy.
- 2.34 The Shire may impose additional operational conditions on a licence as required.
- 2.35 All applicants for Trading Licences are advised of their right to object a decision made by the Shire. In accordance with section 9.4 of the Local Government Act 1995, an affected person may object to a decision of local government and lodge an appeal to the decision by lodging an objection to the Shire within 28 days of the decision.

3 Trading Licence Renewal

- 3.1 All trading in public places licences expire at the end of the financial year, unless otherwise approved.
- 3.2 All trading in public places licences are to be renewed before 30 June. There is to be no expectation of continuation of a licence.
- 3.3 Payment of the annual licensing fee prescribed under the financial budget of that year must be paid prior to a new licence being issued.

4 Compliance and Enforcement

- 4.1 The Shire's Authorised Officers may conduct inspections with or without notice, to assess compliance with the conditions of the Trading Licence and any applicable legislation.
- 4.2 A trading licence may be amended, suspended or cancelled in accordance with Part 2, 2.7 of the Local Law. Where a non compliance is identified, the Shire will generally seek to achieve compliance using the following graduated enforcement approach:
 - 4.2.1 A verbal warning outlining the nature of the non- compliance. The date, time and nature of the warning will be recorded by the Shire;
 - 4.2.2 A written warning outlining the nature of the non-compliances will be, the actions required to achieve compliance and the timeframe for doing so; and
 - 4.2.3 Where the non-compliance continues, or where repeated serious non-compliances occur, the Shire may amend, suspend or cancel the Trading Licence, or commence enforcement action, in accordance with the Local Law.

5 Trading Zones

Trading activities may be established within the following trading zones and subject to the site specific conditions listed. Trading zones are outlined in blue. Yellow arrows indicate points of access and egress:

5.1 Broome Recreation & Aquatic Centre (Reserve 42502)

5.1.1 Skate Park



5.1.2 Glenn & Pat Medlend Pavilion and Pump Track



5.1.3 BRAC Outdoor Basketball Courts



5.2 Cable Beach Foreshore (Reserve 36477)

5.2.1 Surf Life Saving Club

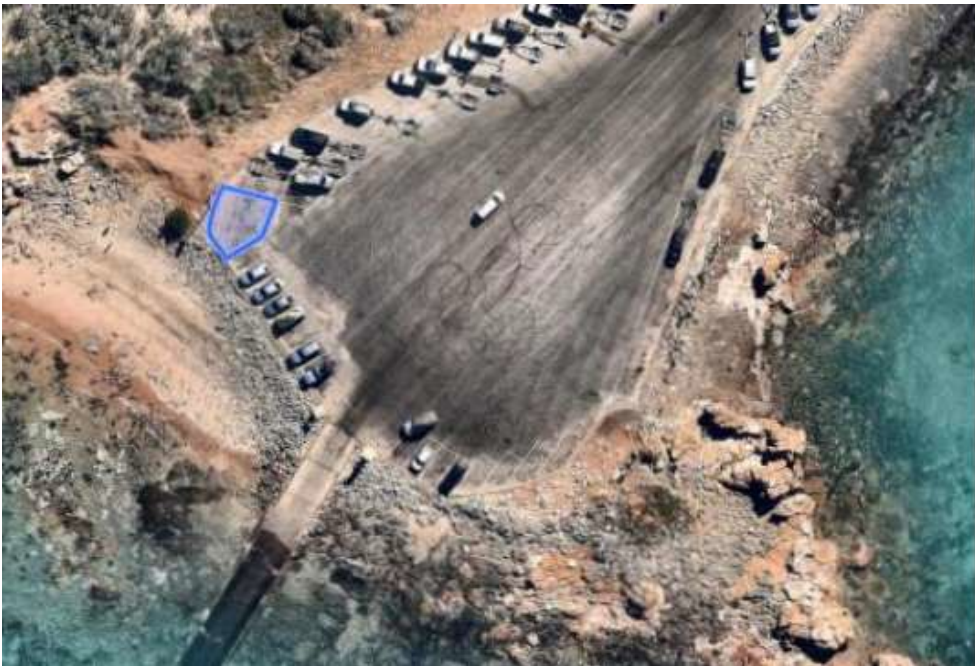


Conditions:	
Permitted trading days/hours	Trading zone is only to operate while Surf Life Saving's Club Bar is open
Other	• Approval from the Surf Life Saving Club obtained • Food vendors only

5.3 Demco Beach Carpark



5.4 Entrance Point Carpark



Conditions:	
Other	Approval from the Kimberley Port Authority obtained

5.5 Peter Haynes Reserve



Conditions:	
Other	• This location cannot be used during school hours, unless permission has been granted by Broome Senior High School.

5.6 Turf Club Carpark

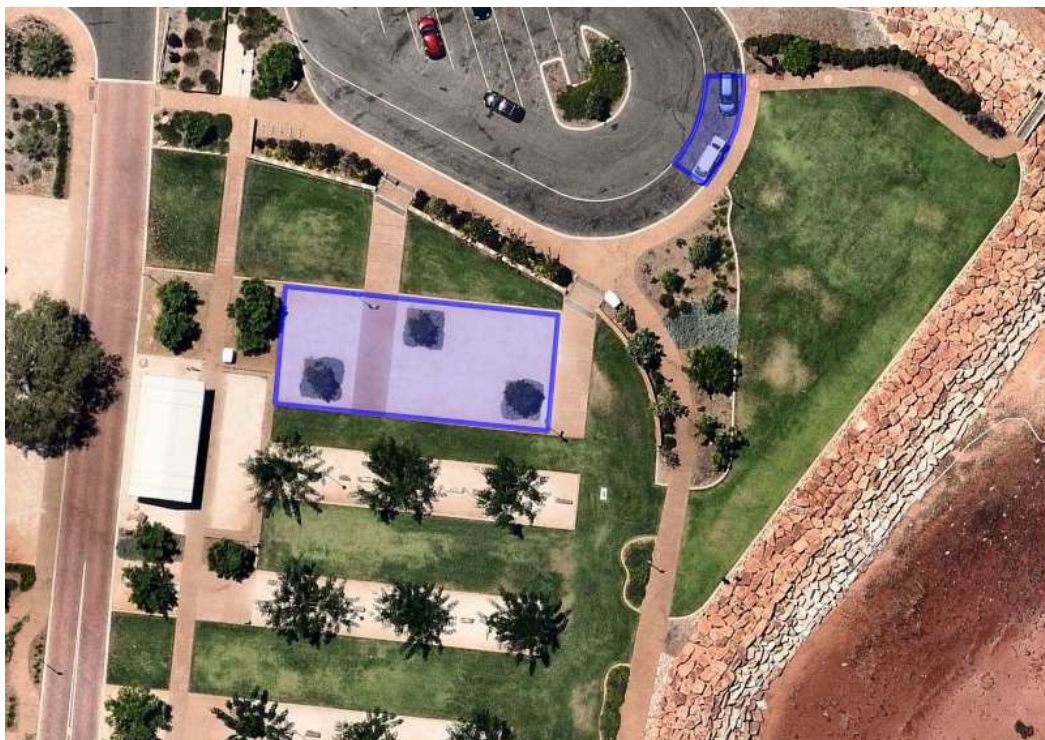


Conditions:

Other	Trading cannot occur the day before, during or after a Turf Club Race event, unless permission has been granted by the Broome Turf Club.
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5.7 Town Beach Reserve (Reserve 31340)

5.7.1 Town Beach Reserve North



5.7.2 Town Beach Reserve South



Conditions	
Trading Zones	Maximum of 5 traders
Other	Traders cannot set up before or during the following: • Reticulation Checks – Every Wednesday 6:00am – 8:30am • Mowing – Every Tuesday 6:30am – 11:30am

5.8 Golf Club



Conditions:	
Other	• Approval of the Broome Golf Club required.

5.9 Fishing Club



Conditions:	
Other	• Approval of the Broome Fishing Club required.

SCHEDULE 1

Additional Provisions for Itinerant Traders

Itinerant Traders that stop on public property to serve customers upon request, are permitted to trade outside of approved Trading Zones under the following conditions:

1. Hold a valid Trading in Public Places Licence;
2. Comply with the overall provisions and intent of this Policy;
3. Only sell food and beverages requiring minimal onsite preparation;
4. Trade between the hours of 7am to 7pm, Monday to Sunday;
5. Must not trade within 300 metres of a fixed food premises offering substantially the same primary goods and services;
6. Remain at a particular location only for as long as customers are being served or waiting to be served. Where no customers are present, the trader must depart the location within a reasonable period following completion of last transaction;
7. Only stop in lawful parking bays or on roads with a speed limit of 50km/hr; and
8. Must not play music or use any other form of amplified sound for the purpose of attracting customers while stationary.

SCHEDULE 2

Additional Provisions for Trading on Cable Beach

1. Trading activities proposed to take place on Cable Beach are to be approved by Council.
2. A maximum of six trading licences will be granted for trading activities on Cable Beach.
3. Trading licences, except for commercial camel activities, will only be issued for:
 - 3.1 Trading activities which support and are directly related to the recreational use and enjoyment of Cable Beach and its adjacent waters; and
 - 3.2 The section of Cable Beach:
 - (a) between a point formed by the westerly prolongation of Murray Road to the low water mark and a point located 500 metres north of the vehicle entry ramp adjacent to the Broome Surf Club; and
 - (b) between the high and low water mark.
4. Council may decide to grant a trading licence for an activity even though it does not meet the provisions of this Schedule if Council decides there is sufficient merit in the proposed trading activity to justify its approval.
5. The Shire may close Cable Beach to all activities, including trading activities, at any time.
6. Consistent with a resolution of the Yawuru Park Council passed on 20 November 2019, the Shire of Broome Council will not approve commercial trading licences for quad bikes or all-terrain vehicles (ATV) in the Yawuru Conservation Estate, as these activities are not considered consistent with the cultural and environmental significance of the areas.

Advice Notes for Cable Beach Operators

It is recommended that traders hold current tourism accreditation to support a high standard of trading on Cable Beach.

SCHEDULE 3

Additional Provisions for Commercial Camel Activities on Cable Beach

1. A maximum of three trading licences will be granted for commercial camel activities on Cable Beach.
2. A person must not hold more than one trading licence for a commercial camel activity at any time, and must not have a Related Entity Interest in respect of the holder of another trading licence for a commercial camel activity.
3. Each camel operator must operate independently, unless otherwise approved as part of an event or function approval issued in accordance with the Local Government Property and Public Places Local Law 2012.
4. Each trading licence will allow a maximum of 18 camels per operator on Cable Beach at any time, unless otherwise approved by the Shire for extraordinary circumstances, eg. cruise ships and corporate/conference functions.
5. Trading licences for commercial camel activities on Cable Beach will be approved for ten years.
6. The conditions of a trading licence issued for a commercial camel activity will be consistent with the provisions in Part 4 in Schedule 2 of the Local Government Property and Public Places Local Law 2012.
7. Commercial camel activities may be conducted on Cable Beach:
 - 7.1 between:
 - (a) a point formed by the westerly prolongation to the low water mark of the northern boundary of Reserve 36477;
 - (b) a point formed by the westerly prolongation to the low water mark of the Northern Boundary of Lot 405 Lullfitz Drive; and
 - (c) the high and low water mark, and
 - 7.2 within the set down/pick up area allocated or approved by Council, including land required to traverse from the area identified in subclause 7.1 to this allocated or approved set down/pick up area.
8. Camel operators must only set down/pick up customers for their camel train at the set down/pick up area allocated to the operator in the operator's trading licence, except where otherwise approved by the Shire due to adverse environmental or other conditions making the designated set down area unsuitable. A portable sign may be placed in the set down/pick up area allocated in the operator's trading licence as follows:
 - 8.1 the sign must not exceed one metre in height;
 - 8.2 each advertising panel on the sign must not exceed 0.8 square metres;
 - 8.3 the sign must only contain details relevant to the commercial camel activity;
 - 8.4 the sign must not be placed in a way that causes interference or is hazardous to vehicular traffic or pedestrians;
 - 8.5 the sign must be of sound construction and maintained in good condition; and
 - 8.6 The sign must be removed at the end of each trading session.
9. No commercial camel activities can be undertaken on Cable Beach between 10am and 2.30pm, unless otherwise approved by the Shire for extraordinary circumstances e.g. cruise

ships and corporate/conference functions. Any request to conduct commercial camel activities in between 10am and 2.30pm must be made in writing, and if approved will be for a maximum period of two hours between 10am and 2.30pm.

10. A camel operator must hold current approval from the Shire to keep a large animal in accordance with the Health Local Laws 2006.
11. A single temporary shade structure can be erected for each commercial camel activity, no more than 3 metres by 3 metres in size and erected soundly and securely so as not to cause a hazard.
12. All camels must be fitted with manure collection devices. Any manure that escapes a manure collection device must be collected immediately.
13. Camel operators must ensure that there is at least 30 metres between each camel train at all times.
15. The following activities may be undertaken in accordance with a trading licence issued for a commercial camel activity:
 - 15.1 camel tours;
 - 15.2 the taking and sale of photographs and camel memorabilia associated with the commercial camel activity to customers undertaking camel tours; and
 - 15.3 the sale of bottled water.
16. A camel operator must not facilitate the provision by any other business of any goods or services (eg. provision of food or drinks) to the operator's customers on Cable Beach or any other public place, except for:
 - 16.1 to facilitate the provision of medical or other emergency services to customers where required; and
 - 16.2 as part of an event or function approved as in accordance with the Local Government Property and Public Places Local Law 2012.
17. Council may, at any time, direct that access to Cable Beach be obtained from an alternative location to that approved in the trading licence, subject to a permit being obtained to take a vehicle in the vehicle prohibited area of Cable Beach.

Advice Notes for Camel Operators

The following advice notes are provided as recommendations to assist camel operators in providing for a safe and professional service to customers. It should be noted that in providing this advice, the Shire accepts no responsibility for non-compliance of any occupational health and safety requirements or any other legislation.

- A. Informative introductory talks should be provided to customers covering all aspects of safety prior to clients commencing a camel ride.
- B. Camel operators should have a maintenance schedule to ensure all equipment used in association with the riding of camels is kept at a high standard.
- C. Camel operators should have a system for the recording of any incidents or accidents that may occur in operation of the commercial camel activities.
- D. An employee induction process should be introduced for all employees.
- E. It is recommended that first aid training be provided to employees and that first aid kits are carried on the camel tours.

- F. A mobile phone should be carried on all camel tours to ensure communication in the event of an accident, or contact with Shire Officers if necessary.
- G. It is recommended that camel operators hold current tourism accreditation to support a high standard of practice within the camel industry in Broome.
- H. Camel operators should endeavor to meet with Shire Officers prior to each new tourist season to discuss both the previous and upcoming season's activities and other matters relevant to the operation of camel tours.

DISCLAIMER: The above information provides readers with advice, guidance and/or recommendations regarding specific operational conduct. The advice, guidance and/or recommendations contained herein do not constitute legal advice, and are not intended as an exhaustive statement of measures that should be undertaken to discharge the operator's duty of care to clients and the public.

SCHEDULE 4

Additional Provisions for not Operating from a Vehicle or Trailer

Trading activities which do not operate from a vehicle or trailer, may be issued a trading licence under the following conditions:

1. The trading activity occurs within one of the following bookable spaces advertised on the Shire website (as amended):
 - 1.1 Cable Beach Amphitheatre;
 - 1.2 Cable Beach Foreshore;
 - 1.3 Cable Beach South of Surf Club;
 - 1.4 Cable Beach South of Ramp;
 - 1.5 Cygnet Park;
 - 1.6 Ibasco Park
 - 1.7 Tanami Park Reserve;
 - 1.8 Town Beach Reserve;
 - 1.9 Solway Park.
2. A maximum of 20 customers are permitted at any one time;
3. Area to be used is no larger than 15m x 15m;
4. The activity may only be set up for a maximum of 4 hours, including bump-in and bump out requirements and it is not to be sectioned off from use by the public.

SCHEDULE 5

Definition of Related Entity Interest

A person has a Related Entity Interest in relation to another commercial camel activity if any of the following applies:

Where both parties are natural persons	Where both parties are corporations	Where one party is a natural person and the other is a corporation
(a) Partnership or joint venture. (b) Trustee/beneficiary. (c) Trustee/potential object of a discretionary trust. (d) Spouses or de facto partners living together. (e) Parent/child living together. (f) A person's spouse, de facto partner or child living with the person, has a relationship of any categories (a)-(c) to the other party.	(a) Related corporations including parent/subsidiary companies and companies in the same corporate group. (b) Corporations in partnership or joint venture. (c) Except in the case of a publicly-listed company, corporations (other than community associations or clubs) with any degree of common membership. Membership means: (i) Directors; (ii) Shareholders; (iii) Unit holders; (iv) Beneficiaries of trusts administered by unit holders; (v) Potential objects of such trusts; (vi) Spouse, de facto partner or child of any of categories (i)-(v) Persons need not be members of the two corporations in the same capacity.	(a) Partnership or joint venture. (b) Trustee/beneficiary. (c) Trustee/potential object of a discretionary trust. (d) Directorship. (e) Shareholding. (f) Unit holding. (g) Spouse, de facto partner or child living with the natural person party is in any of relationships (a)-(f) with the corporate party.

SCHEDULE 6

Trading Intensity Matrix

The following matrix is intended as a guide only. Categorisation of traders remains at the discretion of the Shire.

Section 1 – Customer Base		
30 or less customers per day	10	
31 – 100 customers per day	20	
Over 100 customers per day	30	
	Score	
Section 2 - Activity		
Educational, community, fitness/exercise	-10	
Other	10	
	Score	
Section 3 - Location		
Less than 25sqm	10	
26-100sqm	15	
More than 100sqm	30	
	Score	
Score		
High	56-80	
Medium	31-55	
Low	0-30	
	TOTAL	

Definitions

Cable Beach means the section of beach as defined in Schedule 2, Part 3, subclause 3.2 of this policy.

Camel operators means those persons associated with commercial camel activities, either as the owner, the licensee or an employee.

Commercial camel activities means those activities associated with camel tours/rides on Cable Beach.

Council means the Council of the Shire of Broome.

Event has the definition given in the Shire of Broome Events Policy (as amended).

Itinerant Trader means a person who travels along a road looking for customers and who sells, hires or provides a product or service from a vehicle which is parked temporarily to customers who stop the trader or come to the trader while the vehicle is so parked.

Public place means any thoroughfare or place which the public are allowed to use, whether the thoroughfare or place is or is not on private property and includes parklands, squares, reserves, beaches and other lands set apart for the use and enjoyment of the public, including all land which belongs to or of which the local government is the management body under the Land Administration Act 1997 or which is an 'otherwise invested facility' within section 3.53 of the Local Government Act 1995.

Shire means the Shire of Broome.

Trading zone means an area where trading activities can be undertaken in accordance with clause 5 and Schedule 4, Part 1 of this Policy.

All other words and expressions used in this Policy have the meaning as defined in the Local Law.

Document Control Box							
Document Responsibilities:							
Owner:	Director Development Services			Owner Business Unit:	Development Services		
Reviewer:	Manager Health, Emergency and Ranger Services			Decision Maker:	Council		
Compliance Requirements:							
Legislation:							
Industry:							
Organisational:	Trading, Outdoor Dining and Street Entertainment Local Law 2016 Property and Public Places Local Law 2016 Local Planning Policy – Outdoor Dining						
Document Management:							
Risk Rating:	Medium	Review Frequency:	Biennial	Next Due:	11/2026	Records Ref:	
Version #	Decision Reference:		Synopsis:				
1.	15 December 2016		OMC – Initial adoption				
2.	12 December 2019		Review and converted to new Policy Template				
3.	18 November 2021		OMC Review and minor updates to reflect new Local Laws				
4.	30 June 2022		OMC Review Minute No. C/0622/053				
5.	27 June 2024		OMC Review and Adoption of Trial Policy				
6.	29 August 2024		OMC Amendment to Policy – Removal of 5 Trading Zones				
7.	30 July 2026		OMC Amendment to Policy – Removal of one Trading zone, update to conditions for one trading zone, expand one trading zone and include two new trading zones.				