

TITLE: **TRADING IN PUBLIC PLACES**

ADOPTED: OCM – Page

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ASSOCIATED LEGISLATION: Shire of Broome Trading, Outdoor Dining and Street Entertainment Local Law 2003

ASSOCIATED DOCUMENTS: Shire of Broome Policy 5.1.7 Events Held on Local Government Property and Public Places
 Shire of Broome Policy 4.1.13 Chinatown Signage and Advertising
 Shire of Broome Policy 5.1.3 Commercial Activities on Cable Beach
 Shire of Broome Local Planning Policy 8.3 Outdoor Dining

REVIEW RESPONSIBILITY: Manager Health Services

DELEGATION:

Previous Policy Number X.X.X

Objective:

1. To facilitate approval of Trading Licences using public places, as defined below, and therefore reducing administrative matters being placed on Council.
2. To protect existing levels of public amenity and safety from the impact of trading activities by adequately addressing potential risk management issues.
3. Maintain equity in the regulation of trading in public places by promoting fairness and certainty to traders and the community.
4. Protect the financial interest of ratepayers through appropriate management of traders in public places and support development of local small business within the Shire of Broome.

Definitions:

All words and expressions used in this Policy have the meaning as defined in the Trading, Outdoor Dining and Street Entertainment Local Law 2003, including -

- Trading
- (a) the selling or hiring or, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;
 - (b) displaying goods in any public place for the purpose of—

- (i) offering them for sale or hire;
- (ii) inviting offers for their sale or hire;
- (iii) soliciting orders for their sale or hire; or
- (iv) carrying out any other transaction in relation to them; and
- (c) the going from place to place, whether or not public places, and—
 - (i) offering goods or services for sale or hire; or
 - (ii) inviting offers or soliciting orders for the sale or hire of goods or services, but does not include;
- (d) the delivery of pre ordered goods or services to the purchaser of those goods or services, or to the person nominated by the purchaser of those goods or services to accept delivery, whether or not payment for those goods or services is made on delivery;
- (e) the taking of further orders for goods or services from the purchaser of the pre ordered goods or services, or from the person nominated by the purchaser of the pre ordered goods or services to accept delivery, when those orders are taken at the same time as the previous order is being delivered, whether or not payment is made for the further orders or the pre ordered goods or services at the time of the taking of the further orders;
- (f) the selling or the offering for sale of goods or services to, or the soliciting of orders for goods or services from a person who sells those goods or services;
- (g) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; or
- (h) the selling or hiring or the offering for sale or hire of—
 - (i) goods by a person who represents the manufacturer of the goods; or
 - (ii) services by a person who represents a provider of the services, which are only sold directly to consumers and not through a shop, and in construing this definition “public place” has the meaning given to it in clause 5.1;

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 unvested facility” within section 3.53 of the Act.

Policy:

Trading in public places allows for a variety of activities to either sell, offering for sale or hire goods and wares to the public. Before a licence can be considered, it is necessary to assess the proposed location and the impact it may have on other traders, traffic flow, pedestrians, the community and also if the proposal is likely to have a detrimental effect on established businesses close by.

Given the many unique forms and locations of products for trade proposed to the Shire of Broome, all applications for a Trading Licence are to be lodged and will be assessed in conjunction with the Trading, Outdoor Dining and Street Entertainment Local Law 2003. In addition to this, the application will be assessed on their individual

merits and the information supplied in the application, in line with but not limited to the following:

1. Applications for trading are to be accompanied by a supporting statement from the land owner and/or occupier on which the trading activity is to occur.
2. The Shire of Broome will assess suitability of proposed Trading activities utilising local government owned or management land. This assessment will consider the consistency of the proposed activity with the land use of the parcel of land and any management order issued.
3. Except in the case of an event approved in accordance with the Shire of Broome Policy Events Held on Local Government Property and Public Places, only one Trading Licence will be approved for trading per location at any one time.
4. A Trader must not attempt to conduct a business within a distance of 300m of any shop or permanent place of business that is open for business and has for sale any goods or services of the kind being offered for sale by the trader.
5. Traders are not permitted to sell offensive, illegal, prohibited, counterfeit or unauthorised goods including goods bearing trademarks for which the Trader does not have a license to sell.
6. Where a time restriction will be specified, the Trader must be removed from the prescribed locations within 15mins of closure and the area surrounding the Trader must be left in a clean and litter free condition.
7. Traders must comply with any lawful direction given by a Shire of Broome Authorised Officer.
8. Subject to approval from the land owner and existing business, trading may be undertaken in car parking areas outside hours of operation of the existing business. Should the use of the premises and hours of trade alter, the Trading Licensee will be required to notify the Shire of Broome and apply for an amendment to the Trading Licence.
9. All Trading Licence applications and renewals will be considered by the Shire of Broome in accordance with, but not limited to, the following -
 - Stationary trading is to occur on hard stand areas;
 - Except in the case of mobile traders, for example, ice cream vans, the use of Shire of Broome road reserves will not be permitted for trading unless it can be shown not to adversely impact traffic movement.
 - The licensee will be responsible for any damage to Shire property from the trading activity or customers of the trading activity.
 - Trading must not impede traffic flow or cause a traffic hazard or pose a danger to the safety of the general public;
 - Trading must not prevent access to pedestrian foot paths.
 - In accordance with the Trading, Outdoor Dining and Street Entertainment Local Law 2003, apart from displaying the name of the licensee and licence number is lettering and numerals no more than 5cm in height, no signs are to be erected or placed on display.
 - No tables, chairs or the like are to be provided for customer use by the licensee.

- Where food is proposed to be sold, the vehicle, stall or place of trading must notify/register in accordance with the Food Act 2008;
- Operators of mobile trading vehicles shall not create any noise or disturbance that is likely to cause a nuisance to any person in the vicinity of the mobile trader.
- Applicant must provide written approval from event organiser when submitting an application for a Trading Licence in relation to an event.
- Trading must not conflict with existing Shire of Broome lease agreements for Shire owned premises.
- Traders must obtain their own public liability insurance to the value of \$10,000,000 as they will not be covered by the Shire of Broome's insurance policy.

Should the application for trading be considered suitable by the Shire of Broome in accordance with legislation and the above conditions, it may be approved under delegated authority, otherwise the application will be referred to Council for determination.

All applicants for Trading Licences are to be advised of their right to object to a decision of Local Government. 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 of Broome within 28 days of the decision.