

Trading Permit Guidelines

August 2021





Record of Adoption

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Final	2	2 February 2018	27 February 2018

Schedule of Modifications

No	Description	Version No	Document Date	Approval Date
1	Section 1.1 Objectives Updated City Centre Waterfront Trading Locations Modified (As per City Centre Waterfront Precinct Concept Plans)	3	3 April 2019	28 April 2019
2	City Centre Waterfront Locations Modified <ul style="list-style-type: none">WF2 to be exclusive until 30 June 2023WF3 to be removed until 30 June 2023Remove reference to Stingray Wharf Jetty (* administrative modification only)	4	23 December 2020	27 October 2020
3	City Centre Waterfront locations modified; excluded Cruise Operators who are carrying paying customers and included definition; and referred fees to the Schedule of Fees and Charges	5	30 July 2021	24 August 2021



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1. Introduction

1.1 Objectives

The objectives of these Guidelines are to:

- (a) Encourage the use of parks and reserves by commercial and aquatic operators and mobile traders, as a means of enhancing the vibrancy and community activity that flows from this activation of our public spaces, whilst managing the competing needs and interests of pedestrians, consumers and local business proprietors;
- (b) To facilitate enjoyable, interesting, unique and convenient leisure and recreational options for residents, families and other members of the community to experience in their local area;
- (c) Encourage and provide entrepreneurial, place-making and tourism opportunities that contribute to the well-being of residents, to the overall experience of visitors to Mandurah and to the growth of small businesses;
- (d) Provide guidelines and assessment criteria for the consistent decision making of applications for trading permits applications on public land.

1.2 Background

In recent years, the general community has sought to engage with public spaces in a different manner than has traditionally been the case.

The City recognises and acknowledges the presence of activity can result in competing demands on public spaces for a variety of uses. In order to effectively manage this usage, the City has identified management arrangements to address this issue.

In particular, designated locations and exclusion zones for recreation, leisure and trading activities and a trading permit application process for mobile traders and commercial and aquatic operators.

The City aims to support activity diversity in a manner that facilitates safe and enjoyable experiences for all users, whilst ensuring that the trading activities are appropriately managed and provide a high degree of community benefit for Mandurah residents, visitors and tourists.

These guidelines are prepared and adopted pursuant to Part 10 and 12 of the *Local Government Property and Public Places Local Law 2016*.



1.3 Application of the Guidelines

The City will assess applications for Trading Permits at designated sites and throughout the City of Mandurah in accordance with this Policy.

These guidelines apply in two parts:

- (a) Part 2 applies specifically to Commercial and Aquatic Operators who are not Cruise Operators carry paying customers;
- (b) Part 3 applies specifically to Mobile Traders.

1.4 Exemptions

These Guidelines do not apply to the following activities (separate approval may be required):

- (a) Buskers and raffle sales from a site approved by the City;
- (b) Swap meets/markets/fetes/fares and the like, run by an organisation which can demonstrate that its objectives are charitable, benevolent, religious, cultural, educational, recreational or sporting (no approval is required in accordance with this Policy);
- (c) Any trading associated with an event run or sponsored by the City of Mandurah;
- (d) Trading, which in the opinion of the City, is directly associated with a sporting event/competition recognised by the City;
- (e) Existing legal businesses placing stalls on the public land adjacent to their premises;
- (f) Personal Trainers utilising Public Open Space; and
- (g) Cruise Operators that are required to enter into a licence agreement with the City to use the commercial jetties located on the Eastern Foreshore.

Cruise Operators are defined as carrying paying customers that requires a jetty to be used for embarking and disembarking that is operating as a commercial vessel.

Note: Contact the City of Mandurah if you are a Cruise Operator wanting to submit an expression of interest for using the commercial jetties.



2. Commercial and Aquatic Operators

2.1 Location

For the purposes of this section, *Commercial and Aquatic Operators* have been divided into two areas:

- Commercial and Aquatic Approved Locations (City Centre Trading Locations);
- Commercial and Aquatic Operators Approved Locations (City of Mandurah Trading Locations);

Within the City Centre Waterfront Precinct, key locations have been identified (Refer Figure 1) where trading activity is encouraged. The locations are either designated for Commercial and Aquatic Operators for both land and water based activities or Commercial Operators with land based activities.

There are also a number of locations throughout Mandurah, outside of the City Centre Waterfront Precinct, which have been designated as suitable sites for commercial and aquatic operators (Refer Figure 2).

- Alternative locations not identified within Figures 1 and 2 may be considered subject to approval by Council.
- More than one operator may be located within any of these locations, which may include operators with similar activities.

2.2 Amenity and Appearance

Commercial and Aquatic Operators are to:

- Ensure that any advertisements, placards, flags, bunting or posters, are attached to and forming part of the vehicle or trailer. One portable sign may be permitted to be displayed subject to compliance with Part 8 of the *Local Government Property and Public Places Local Law 2016*.
- Not install permanent fixtures. Following trade, all related fixtures must be removed from the site. If storage is required, applicants are encouraged to find privately owned land and negotiate use arrangements accordingly;
- Ensure that they do not cause or make noise or a disturbance which is likely to be a nuisance or annoyance.



2.3 Siting Requirements

Commercial and Aquatic Operators are to ensure that:

- they avoid encroachment on bicycle and/or pedestrian paths and must not obstruct pedestrian flow and/or vehicular traffic;
- they do not obstruct, cover, remove, relocate or modify trees, public art, benches, bins, bus shelters or other City owned infrastructure;
- their position does not compromise public access, circulation, safety or other activities.
- they do not require external power, gas or water connections;
- operator vehicles must be parked in compliance with the parking requirements for the location.

2.4 Maintenance and Cleaning

Commercial and Aquatic Operators are to:

- Ensure that any notable damage to City infrastructure is reported prior to the commencement of use of the approved location(s). Commercial and Aquatic

Operators are responsible for any damage which occurs during the use of the site(s) in accordance with Part 14 of the *Local Government Property and Public Places Local Law 2016*. This includes, but is not limited to, damage to parking bollards, piping, trees, shrubs, fences, grass, signs, lighting etc.

- Ensure that their vehicles and trailers are kept in a safe and well-maintained condition at all times;

2.5 Public Risk Management

All Commercial and Aquatic Operators must hold valid public liability insurance to the value of \$10 million dollars which indemnifies the City against all claims, losses, actions, damages, costs (including legal costs) and expenses whatsoever arising out of or in connection with the trading on the site including personal injury (including death or disease) to the operator or any invitee or third party unless and then only to the extent that the operator proves said injury was due to the negligence of the City;

Loss of or damage to any property owned by the operator, the City or any third party, and; breach or non-compliance with any statute or regulation or local law of any public, municipal or other authority.

2.6 Application Process

In the event that there is significant interest from multiple operators for specific locations, an annual 'Expression of Interest' process will be open for Commercial and Aquatic Operator approved locations in July/August of each year.

Existing permit holders will be sent renewal packages during this period. Historical preference is given to regular operators following continued use for a period of 6 months or more and if the operator has not breached any permit conditions during this period.

Proposals will be considered collectively and annually, prior to the peak summer period. All existing sites will be inspected to assess viability and condition prior to the new allocation period.

Expressions of Interest shall:

- Be made by the closing date of the advertised period (every July/August);
- be made on the prescribed form;
- provide the proposed preferred location(s), including alternatives, that they seek approval to operate from and a detailed site plan to indicate location and extent of the area required;
- provide details of the activity they wish to conduct, the equipment required and the estimated number of participants;

- provide details of the proposed means of access to the site(s). A *completed Application for Vehicle Access form* will be required if you wish to take your vehicle onto any public open space;
- provide details of the proposed hours of operation;
- provide details of appropriate management procedures relating to the activity;
- provide details of any signage proposed;
- provide evidence of consultation with relevant government agencies such as: Department of Transport, Department of Fisheries, Department of Planning, Lands and Heritage and Department of Environment and Conservation;
- provide copies of all relevant qualifications.

Applications received outside of the July/August advertised period will be considered but will only receive approval to operate until the 30 June, at which point a renewal will be required to be submitted. A pro-rata fee will be incurred.



2.7 Operations

Once approval has been granted, the following will be required prior to the commencement of operations:

- the payment of a permit fee (Refer Section 4);
- evidence provided of insurance, including but not limited to current public liability insurance for no less than 10 million dollars in respect of any one claim.

Any new permits issued will be included within the City's Parks and Reserves Booking System.

Approved trading permits for Commercial and Aquatic Traders will be for a maximum term of period of 3 years, but will be subject to an annual review and renewal process by 30 June each year.

The City reserves the right to revoke the approval, to alter the location of the site and/or vary conditions of use in relation to any approval issued.

A permit does not represent exclusive use of the site. If the trading activity is likely to impact upon the operations of the City of Mandurah or its contractors or agents in terms of infrastructure maintenance, replacement or construction and/or conducting of City of Mandurah Events, then the permit may be cancelled or suspended during the period of that impact, as determined by the City.

If concerns are raised by local businesses or the community on the operation or location of the operator, the City may require the operator to relocate or cease trading temporarily or permanently from any chosen location.

A Trading Permit may be cancelled if the permit holder has not complied with the conditions of the permit or the provisions of any Local Law related to the activity.

Should an operator wish to withdraw their use of a site, this must be done in writing to the City of Mandurah.

Should an operator wish to change their regular location/hours of operation then written confirmation will be required 48 hours prior to the proposed change.



2.8 Assessment and Selection Process

In determining an application for a Commercial and Aquatic Operator trading permit, the City may have regard to:

- Any relevant policies of the City;
- The Competition Principles Agreement;
- The desirability of the proposed activity;
- The location of the proposed activity in accordance with Figures 1 and 2;
- The appropriateness of the type of activity in that location with respect to pedestrian and vehicular traffic and the safety of the public, their customers and the trader themselves;
- Any impact the business will have on the surrounding amenity;
- Any impact the business will have on the permanent retail and service base;
- The experience of the operator in conducting the proposed activity, including any previous breach of any condition of a previous permit or any previous breach of any provision of the relevant Local Law;
- The level of support from relevant government agencies;
- The suitability of the operators proposed health and safety measures;

- The suitability of the operators proposed environmental management strategies;
- The performance and reputation of an existing operator;
- Any other criteria as prescribed by the City of Mandurah.

All successful applicants will be granted a Trading Permit incorporating Council's standard conditions and any that are specific to the individual site and type of operation.

Figure 1 - City Centre Waterfront Trading Locations

Commercial and Aquatic Operators - Approved Locations

- 5 Keith Holmes Reserve
- EF1 Eastern Foreshore North (Adjacent to Car Park Station No 8)
- WF1 Western Foreshore - Adjacent to Pontoons (Available After 1 December 2021)
- WF2 Western Foreshore - South of Pontoons (Available After 1 December 2021)
- WF3 Western Foreshore - Bridge Car Park South

Commercial (Land Based) Operators - Approved Locations

- 6 Entrance Channel Foreshore
- EF2 Eastern Foreshore South

Exclusion Areas

- └─ Eastern Foreshore Central
- └─ MPAC Jetty / 'TODs & Cicerello's' Jetty

Exclusion Areas include existing exclusive lease and non-exclusive licenced areas; together with public jetties that are not appropriate for commercial use and activities

Jetties Subject to Separate EOI & Licencing

- └─ Stingray Wharf
- └─ Eastern Foreshore Jetties

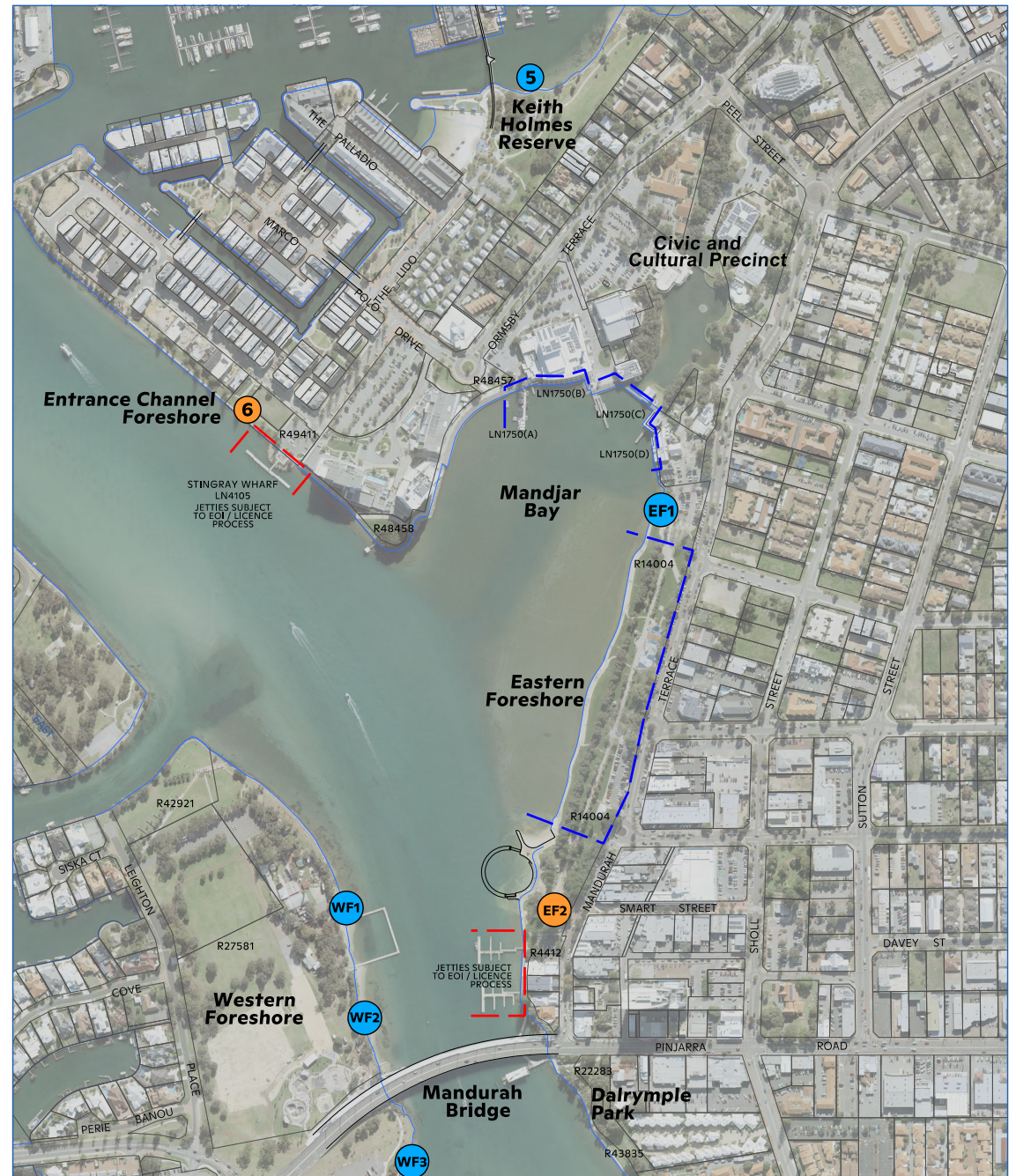
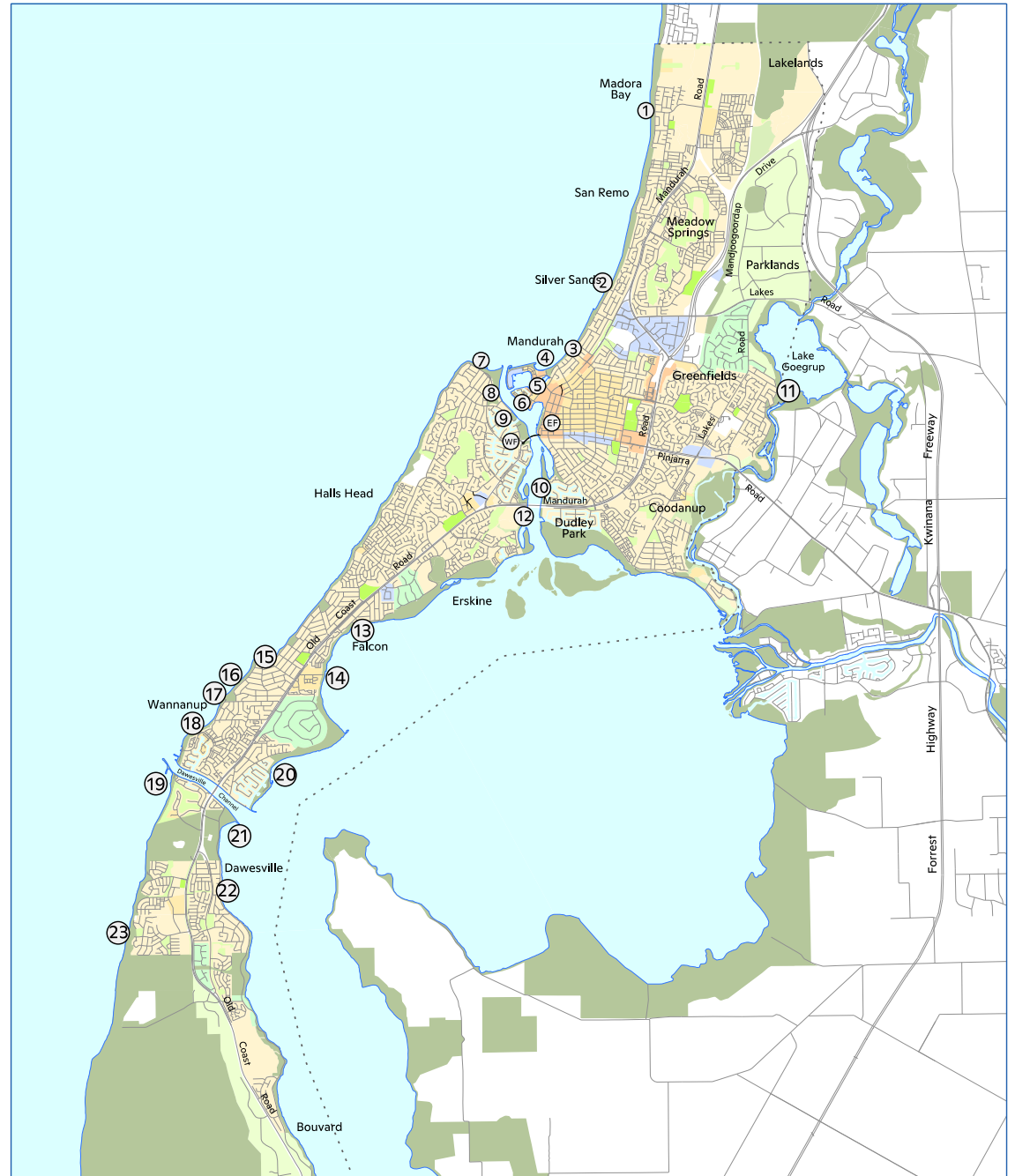


Figure 2 - City of Mandurah Trading Locations

Commercial and Aquatic Operators (Approved Locations)

- ① Madora Bay Foreshore
- ② Wade Street Foreshore
- ③ Henson Street Reserve
- ④ Town Beach
- ⑤ Keith Holmes Reserve
- ⑥ Entrance Channel Foreshore
- EF Eastern Foreshore (See Figure 1)
- WF Western Foreshore (See Figure 1)
- ⑦ Doddi's Beach
- ⑧ Mary Street Lagoon
- ⑨ Henry Sutton Grove Foreshore
- ⑩ Waterside Foreshore
- ⑪ Riverside Foreshore
- ⑫ Osprey Waters Foreshore
- ⑬ Novara Foreshore
- ⑭ Olive Road Foreshore
- ⑮ Falcon Bay
- ⑯ Avalon Beach North
- ⑰ Avalon Beach South
- ⑱ Northport Foreshore
- ⑲ Pyramids Beach
- ⑳ Estuary Place Foreshore
- ㉑ Estuary Road / Thisbe Drive Foreshore
- ㉒ Dawesville Foreshore
- ㉓ Melros Beach

--- City of Mandurah Boundary





3. Mobile Traders

3.1 Definitions

Mobile Traders are defined as a person or persons who trade temporarily from a fixed or non-fixed location or a number of locations and vacate the location(s) once trading has ended for the day. Examples include; Flower stalls, Art sales, Ice-cream van, Food van, Coffee van. The City supports food related mobile traders when vendors practice safe food handling practices in accordance with the Food Act 2008 and consider the needs of all users of the area, including the safety of consumers and pedestrians.

Mobile Traders shall not trade in any public place until a permit has been issued by the City of Mandurah in writing for that location/s.

A Trading Permit does not represent exclusive use of a site. If the trading activity is likely to impact upon the operations of the City of Mandurah or its contractors or agents in terms of infrastructure maintenance, replacement or construction and/or conducting of City of Mandurah Events, then the permit may be cancelled or suspended during the period of that impact, as determined by the City.

If concerns are raised by local businesses or the community on the operation or location of a mobile trader, the City may require the vendor to relocate or cease trading temporarily or permanently from any chosen location.

A Trading Permit may be cancelled if the permit holder has not complied with the conditions of the permit or the provisions of any Local Law related to the activity.

3.2 Location

Mobile Traders are encouraged to locate within the pre-approved locations indicated in Figure 3.

Alternative locations may be considered subject to approval by the City of Mandurah, with the exception of:

- the Eastern Foreshore;
- the Western Foreshore;
- Mandurah City Centre (area bounded by Mandurah Terrace, Pinjarra Road, Gibson Street and Sutton Street);
- Mandurah Ocean Marina;
- All road reserves which are under the control of Main Roads WA (Mandurah Road, Old Coast Road, Mandjoogoordap Drive and Pinjarra Road east of Mandurah Road);
- Major roads under the control of the City of Mandurah (which include Peel/Allnutt Street, Mandurah Terrace (south of Anstruther Road), Anstruther Road, Pinjarra Road (west of Mandurah Road), Murdoch Drive, Gordon Road and Leslie Street (Refer Figure 3).

Mobile traders must be more than 400m away from any shops which offer for sale the same, or similar commodities, except where the trader has been invited onto a property by the property owner or is participating in a community event, such as a weekend market or sporting event.

Mobile Traders must also be more than 300m away from schools during the hours of 8.00am to 9.00am and 3.00pm to 3.45pm, except during the school holidays, weekends and public holidays.



3.3 Siting Requirements

Mobile Traders must ensure that:

- they avoid encroachment on bicycle and/or pedestrian paths and must not obstruct pedestrian flow and/or vehicular traffic;
- they do not obstruct, cover, remove, relocate or modify trees, public art, benches, bins, bus shelters or other City owned infrastructure;
- their position does not compromise public access, circulation, safety or other street activities.
- they do not require external power, gas or water connections;
- a maximum of 20% of the total number of car bays servicing the reserve and trading location are utilised by vehicles/trailers/vans/equipment associated with the traders.

3.4 Amenity and Appearance

Mobile Traders must:

- Not sell alcohol or tobacco products at any time;
- Have a vehicle whose presentation contributes to the character of the area;
- Ensure that any advertisements, placards, flags, bunting or posters, are attached to and forming part of the vehicle, stall or display stand.

One portable sign may be permitted to be displayed subject to compliance with Part 8 of the Local Government Property and Public Places Local Law 2016.

- Not install permanent fixtures. However, mobile traders may be permitted to provide tables and chairs for their patrons, to be located adjacent to the vehicle or stall, subject to suitable space availability. Following trade, all related fixtures must be removed from the site;
- Ensure that they do not cause or make noise or a disturbance which is likely to be a nuisance or annoyance.

3.5 Management

- Trading locations may only be used between the hours of 7am and 9pm.
- A maximum of 3 mobile traders are allowed at any one location at the same time (and subject to meeting the other criteria). Traders are permitted on a 'first come first served' basis.

Any conflicts in Trading Locations (ie, which vendor is to be at which location at which time) must be resolved by the mobile traders;

- Mobile Traders are responsible for preparing and advertising a roster system (where necessary) that determines when and at which trading location a mobile trader can operate.

Figure 3 - Mobile Traders Approved Locations

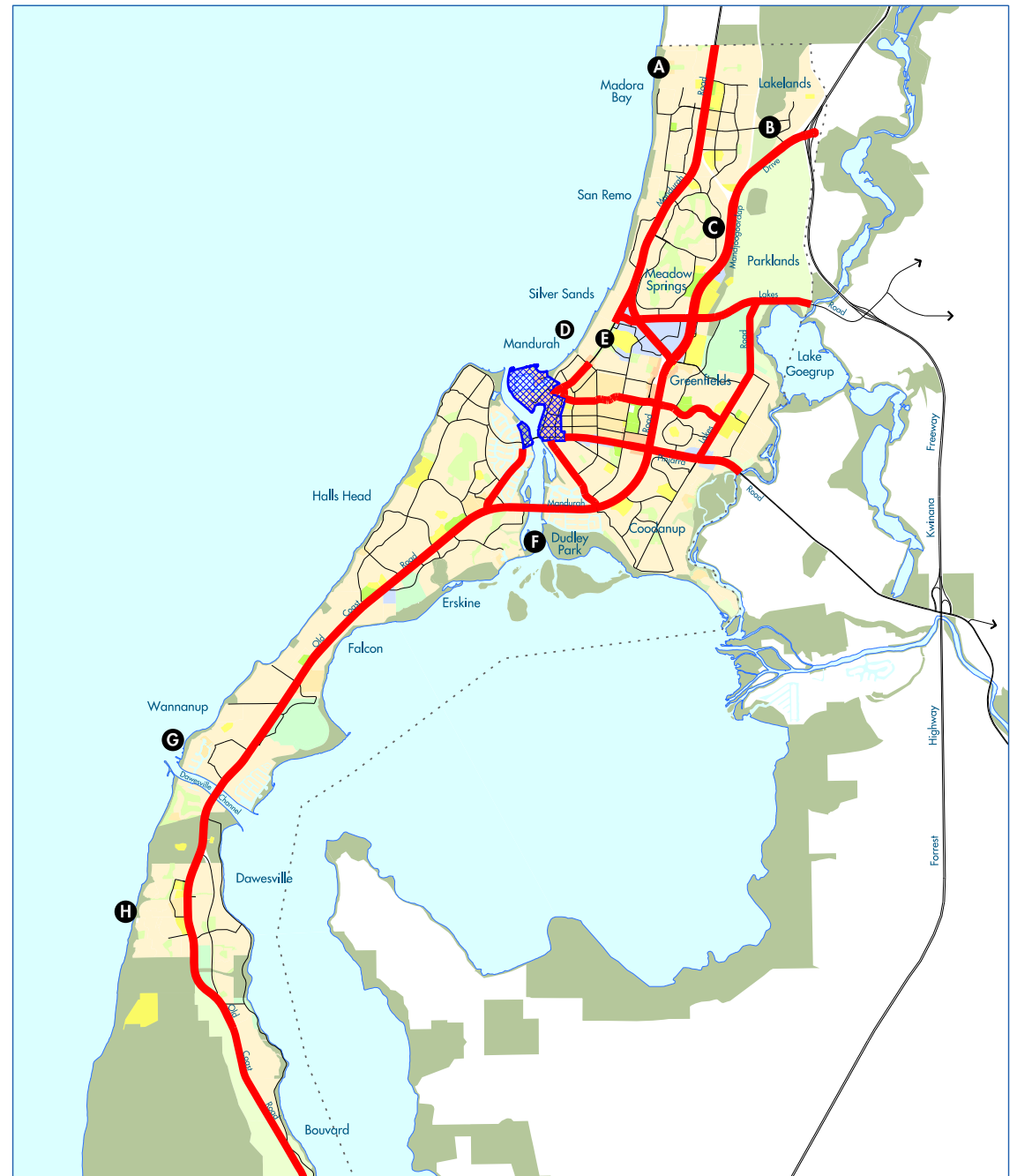
Mobile Traders Exclusion Areas

- Major Roads
- City Centre / Mandurah Ocean Marina

Mobile Traders Pre-Approved Locations

- (A) Madora Bay North
- (B) Black Swan Lake
- (C) Quarry Adventure Park
- (D) Henson Street Reserve
- (E) Silver Sands Reserve (Mandurah Tce)
- (F) Osprey Waters Foreshore
- (G) Northport Foreshore
- (H) Melros Beach

City of Mandurah Boundary





3.6 Maintenance and Cleaning

Mobile traders must:

- Ensure that any notable damage to City infrastructure is reported prior to the commencement of use of the approved trading location/s. Mobile Traders are responsible for any damage which occurs during the use of the trading location in accordance with Part 14 of the Local Government Property and Public Places Local Law 2016. This includes, but is not limited to, damage to parking bollards, piping, trees, shrubs, fences, grass, signs, lighting etc.
- Ensure that their vehicles, stalls, caravan, trailers are kept in a safe and well-maintained condition at all times; Trading locations must be regularly cleaned during all hours of operation presenting a well-cared for image;
- Mobile Traders must provide bins for use and ensure that the area around their position is kept clear of rubbish and refuse at all times.

3.7 Public Risk Management

All mobile traders must hold valid public liability insurance to the value of \$10 million dollars which indemnifies the City.

Safety measures may be required in certain trading locations and will be assessed on a case-by-case basis by the City. If public safety cannot be reasonably addressed, permits will not be issued.

3.8 Application Process

An application can be made on the relevant application form to the City of Mandurah, including the required application fee (Refer Section 4). The following details/information are required to be completed/provided:

- Applicant Details;
- Details of Assistants;
- Proposed Location(s) of Trade including site plan(s);
- Proposed means of vehicular access;
- Days and Hours of Trade;
- Details of Goods and Services to be Traded;
- Details of any Structures, Stall or Vehicles(s) to be used (photographs to be submitted where possible);
- Vehicle and Trailer Licence Plate details;
- Copy of public liability insurance to the value of \$10 million;
- Any other additional information to support the proposal.

On submission of the completed application form and required application fee, the application will be allocated for assessment and will seek comments from departments within the City regarding proposed conditions that may be applied to an approval.



3.9 Approval

- Once approval has been granted, a permit fee will be required to be paid (Refer Section 4) prior to the commencement of operations.
- Food related mobile traders must ensure that they hold a current Food Act 2008 Certificate of Registration to ensure safe food handling practices.
- Any new permits issued will be included within the City's Parks and Reserves Booking System.
- Approval is valid for up to 12 months, dependant on the length of approval sought and fee paid. The valid permit is required to be displayed and/or produced upon request.
- A Trading Permit may be transferred to a new owner upon application (submitted on the relevant form with payment of the applicable fee).
- Notwithstanding the locational provisions within Section 3.2, Mobile Traders are permitted to operate on commercially zoned, privately owned land with the consent of the landowner.
- Where a mobile trader intends to utilise a residential property for the storage of any commercial vehicles (when not in use), approval may be required in accordance with the Local Planning Scheme.



4. Fee Structure

Permit Type	Fee
All Operators – Application Fee/Expression of Interest Fee	Refer to the current City of Mandurah Schedule of Fees and Charges
Commercial and Aquatic Operators	Refer to the current City of Mandurah Schedule of Fees and Charges Note: Summer Period is 1 October to 30 April
Mobile Traders	Refer to the current City of Mandurah Schedule of Fees and Charges
Ice-cream and Confectionary Traders (Capped)	Refer to the current City of Mandurah Schedule of Fees and Charges
Transfer of Permit	Refer to the current City of Mandurah Schedule of Fees and Charges

5. Approval

Permit Type	Approval
All Commercial and Aquatic Operators that fully comply with the requirements of these Guidelines	Determined by Officers
All Commercial and Aquatic Operators seeking Approval Period for longer than 3-year term	Determined by Council
Proposals that may be appropriate but are inconsistent with these Guidelines for Commercial and Aquatic Operators (City Centre Waterfront Precinct)	Determined by Council
Proposals that may be appropriate but are inconsistent are inconsistent with these guidelines for Commercial and Aquatic Operators (Outside City Centre locations)	Determined by Officers
All Mobile Traders	Determined by Officers