

1.0 AUTHORITY

Community Amenity Local Law 2022, Part 7, section 58.

2.0 INTENT

The purpose of the Food Truck Policy (the Policy) is:

- To provide a framework for the operation and management of food trucks within the Mornington Peninsula Shire (Shire) to ensure the process to approve food trucks operating on designated Shire owned or managed land (public land) via a permit system is clear, efficient, and consistent.
- To activate public land to create a vibrant food truck experience across a number of locations throughout the Mornington Peninsula, where the community can gather and enjoy a local fresh food or cooked food experience.

3.0 SCOPE

This Policy applies to all businesses and individuals who wish to operate a food truck for the sale of food (fresh or cooked) and/or drink on designated public land. Other permits/licences may also be required, for example, Primesafe (<https://www.primesafe.vic.gov.au>) and comply with requirements of *Public Health Act 1984*.

This policy does not apply to food trucks that operate on private land. Operation of food trucks on private property may require a planning permit, pursuant to the provisions of the *Planning and Environment Act 1987*. Ordinarily a planning permit is required to operate a food truck in industrial, residential, or commercial zones. Other permits/licences may also be required, for example, Foodtrader.

This policy does not apply to markets, events or festivals.

Seagate Trading Permits are not addressed in this Policy. The purpose of the Seagate Trading Permit is to provide local aquaculture producers with an opportunity to sell their produce from locations close to the aquaculture sites. The Seagate Trading Permits have been approved by Council through a separate report.

4.0 GOVERNANCE PRINCIPLES

Under the *Local Government Act 2020*, Council must give effect to the following overarching governance principles:

- Priority is to be given to achieving the best outcomes for the municipal community, including future generations.

- The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted
- The ongoing financial viability of the Council is to be ensured.
- The transparency of Council decisions, actions and information is to be ensured.

5.0 POLICY STATEMENT

5.1 Food Truck Permit

- A food truck permit may be granted to temporarily place or position a vehicle, caravan, trailer, table, stall, or other similar structure ('food truck') for the purpose of selling or offering for sale any food (fresh or cooked) and/or drink on designated public land.
- A food truck must be capable of immediate removal from the designated public land (i.e. must be able to be packed up manually or be on wheels to allow towing and cannot be site shed/portable type structure or similar).
- Food trucks are not permitted to provide/sell alcoholic beverages for on or off-site consumption.
- A food truck may only operate in the area specified within their permit and must operate in accordance with all permit conditions. Food trucks may only operate within the Shire if they have a current permit.
- A business may apply for more than one permit; however only one permit per truck will be granted.
- Tables and chairs may be set up within or adjacent to the specified permit area. The tables and/or chairs must not be located within a carpark, road or on a footpath, or prevent continuous, safe and equitable pedestrian access. Permit holders acknowledge they are not entitled to exclusive possession of the permit area or adjacent areas. All chairs and tables situated outside the licenced area, must obtain approval from Council in line with the Commercial Footpath Policy.
- Where a food truck (fixed or roaming) is permitted to operate in an approved location within a public place as identified in this policy, a Local Law Permit must be issued in accordance with Community Amenity Local Law – 2022, Part 7 Council Land, section 58 prior to commencement of trade.

5.2 Food Truck Permit EOI Process

- All applications for a permit to operate a food truck from a designated location will be assessed through an Expression of Interest (EOI) process. Food truck Operators (Operators) will be invited to submit an EOI prior to the beginning of each three-year cycle.

All EOI's will be assessed against evaluation criteria, which will consider (not an exhaustive list):

- Connection to Mornington Peninsula, with preference for Operators to be locally based.
 - Locally sourced/manufactured food/produce.
 - Waste management plan which shows how to minimise waste, use of compostable and/or recyclable materials.
 - No single-use plastic, and incorporates circular economy, and energy efficient measures.
 - Capability and experience.
 - Past fee payment history (pass/fail).
 - Vehicle registered under the Food Act 1984 (pass/fail).
 - Whether the applicant has had previous complaints, received an official warning, infringement notice or had their permit cancelled (pass/fail).
 - Observance of all relevant Shire policies.
- Selection of operators will consider complimentary food truck offerings, to provide a wide variety of non-similar food/beverage options at any food truck location. Assessment of submissions will include compatibility of products offered for each site.
 - Upon advice that an application has been successful, a permit will be issued after payment of the permit fee (as detailed in section 5.3.3).

5.3 Food Truck Permit Term, Conditions and Fee

5.3.1 Permit Term

- Permits will be a fixed three-year permit with the first cycle of permits to be issued for the period commencing 1 May 2023.
- A permit will not be renewed after the permit term ends, instead, an EOI process will be undertaken.
- If a permit is surrendered/returned/cancelled during the three-year period, a permit may be issued for the balance of the permit term via an EOI process.

5.3.2 Permit Conditions

- Food trucks may only operate between sunrise and sunset, unless approved by Council.
- All waste to be removed from site daily, in accordance with the approved waste management plan.
- Advertising signs shall be restricted to being affixed to the food truck from which the business is conducted.
- A food truck and associated equipment is permitted to remain onsite outside of operating hours (i.e. stored onsite overnight) so long as the food truck resumes operations the next day. The food truck and all associated equipment is the owner's responsibility and if being left unattended onsite is left at the owner's sole risk.
- Food truck and associated equipment must be capable of immediate removal and cannot be site shed/portable type structure or similar.
- Permit holders to provide water and power for operations. If electricity is available at the site an additional charge will be payable.
- Public liability insurance in the amount of \$20 million concerning one single event must be maintained by the permit holder. A copy of the certificate of currency must be provided upon request.
- All other necessary permits, payments and approvals must be obtained, and proof of such provided prior to the commencement of the business operation.
- Permit holders must comply with the Mornington Peninsula Planning Scheme, Community Amenity Local Law 2022 (as updated from time to time), the Food Truck Policy and all other rules/regulations applicable to food/drink operations.
- Permit can be cancelled, suspended, or revoked at Shire's sole discretion. The Shire may also relocate/change a designated trading location. Permit holders cannot claim for loss of income in any circumstance.

5.3.3 Permit Fee

- The annual permit fee for each location will be set as part of the budget process and contained within the Fees and Charges Schedule of the Adopted Budget.
- The annual permit fee will be payable in two equal instalments, with the first payment due prior to 1 May, with the remaining fee payable before 31 August each year.

Failure to pay by due dates will result in the termination of the remainder of the three-year permit, with no refund provided.

5.3.4 Winter Permits

- In addition to the three-year permit, an annual winter permit will be available for certain locations (refer Section 5.4), for the period 1 May to 30 September.
- The winter permit fee will be payable in full prior to 1 May.

5.4 Food Truck Locations (designated public land)

- Food truck locations:
 - The Briars (450 Nepean Hwy, Mount Martha) – three permits.
 - Hastings Foreshore Car Park (next to Pelican Park) – one permit.
 - Hastings Foreshore Car Park (opposite Cool Store Road, Hastings) – two permits plus one winter permit.
 - Mount Eliza Regional Park (450 Moorooduc Highway, Mount Eliza) – three permits.
 - Mornington Park (Schnapper Point Drive) – two permits.
 - Mornington Park – slip lane car park (off Flinders Drive) – two permits plus one winter permit.
 - Mount Martha Foreshore Car Park (opposite 506 Esplanade) – two permits.
 - Safety Beach Foreshore (opposite Prescott Avenue) – two permits plus one winter permit.
 - Safety Beach Foreshore (opposite Tonkin Street) – one permit.
 - Sorrento Foreshore (opposite 3239 Point Nepean Road, Sorrento) – two permits.
 - Police Point Shire Park (1 Franklands Drive, Portsea) - two permits.
- Option to investigate two/three of the above locations to be considered for further activation as hubs.
- To activate the approved locations and encourage the community to experience food trucks, the Shire will:
 - Commence planning to install mains power at suitable locations.
 - Improve parking signage and site marking in an effort to prevent public parking in Operator designated sites.
 - Consider installing fixed seating/park benches at the locations.
 - Further investigate night-time trading in certain locations, subject to safety compliance and relevant legislation.
 - Create a waitlist (refer below).

- Food truck locations must be safe and convenient in terms of access, facilities and attraction, and which do not unreasonably interfere with the purpose and security of other public assets or inconvenience the function or amenity of other users and the environment.
- Additional locations will also be considered, with Operators encouraged to propose locations as trial sites to further activate the food truck experience across the Mornington Peninsula but ensuring the locations and food truck offering complements and does not unreasonably compete with, existing fixed address food businesses. Trial sites will also be subject to an internal referral process to determine viability and any conflicting activities. Only Operators that satisfy the criteria set out in the EOI process (section 5.2) will be eligible to be considered to operate a trial site. Trial sites will initially be offered for a fee of \$100 per week, for a maximum period of three months. The ongoing permit fee for trial sites will be set as part of the annual budget process (refer section 5.3.3).
- Trial sites will be evaluated and if deemed viable (for one or more Operators), the site will be offered to the trader who proposed the site for the balance of the EOI period for the relevant permit fee and satisfaction of other permit and EOI conditions. If the trial location is deemed viable for more than one permit, additional permits will be referred to the EOI process detailed in section 5.2.
- Nomination of a trial site by a vendor will not result in automatic allocation or exclusive use of the site in any subsequent EOI process.
- To encourage the activation of approved locations at all times, a waitlist for approved Operators will be created (these Operators may, for example, have been unsuccessful in the EOI). Approved Operators will need to satisfy the criteria set out in the EOI process (section 5.2) to be added to the waitlist. The intent of the waitlist is to temporarily fill vacant sites at short notice after notification is received by the Shire from the permit holder they are unable to trade at the site for a period of time, being more than one week and less than three months. For the avoidance of doubt, the permit holder cannot sublet the site or charge a fee to the waitlist vendor. The process to allocate vacant sites to Operators on the waitlist and pro-rata fee calculation will be developed subsequent to policy approval.

5.5 Roaming Food Trucks

The Mornington Peninsula will be divided into the four areas as per the maps in the EOI. A roaming food truck will only be able to operate in their permitted area. Business may apply for more than one area, provided they have different trucks to service each area. The same truck may not be used on different permits.

Roaming food truck permits will be available to operate in residential areas and must be parked legally to trade, as per site maps provided in the EOI.

Roaming food trucks may not operate:

- Within campgrounds
- Within 500 metres of a shopping precincts
- Commercial areas as defined in the Planning Scheme.

Roaming food trucks are not permitted to trade within 500 metres of a designated Council approved food truck location (as detailed in section 5.4).

5.6 Food Truck Register

- A register of all current food truck permit holders must be kept, and record the following:
 - The name of the permit holder
 - Details of which approved site they may operate from
 - Vehicle registration number
 - Food Act registration details (including a copy of their certificate)
 - Public Liability Insurance details (including a copy of their certificate)
 - FoodTrader/OSCAR certificate
 - Details of any breaches or complaints against the Food Truck
 - Permit expiry date.
 - Register will be available on the Shire's website.

6.0 HUMAN RIGHTS CHARTER COMPATIBILITY

This policy has been assessed as being compatible with the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

7.0 ASSOCIATED DOCUMENTS

- *Local Government Act 2020.*
- *Planning and Environment Act 1987.*
- Mornington Peninsula Planning Scheme.
- Community Amenity Local Law 2022.
- Mornington Peninsula Shire Procurement Policy.
- *Food Act 1984.*
- *Health Act 1958.*
- *Crown Land (Reserves) Act 1978.*
- *National Parks Act 1975.*

8.0 POLICY SPONSOR

The Manager – Property and Commercial Services is responsible for overseeing the application and review of the Policy.

9.0 DOCUMENT CONTROLS

This Policy shall take effect for four years following adoption of the Policy by Council. The Policy shall be subject to review not later than 20/12/2026

Administrative Updates

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Council department, the change to an existing policy or document referred to in this policy, and minor updates to legislation and the like which does not have a material impact. However, any change or update which materially alters the document must be by resolution of Council.