

Mornington Peninsula Shire

Food Safety Management Policy

Adopted by Council August 2019



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1 Introduction

The Shire's Food Safety Management Policy was adopted in 2007 and reviewed in 2013. Since 2013 there have been major changes to food safety legislation and a significant increase in the permanent and visitor population and the number of food businesses on the Mornington Peninsula. The updated Policy will be crucial to managing food safety risks to Council and the community.

1.1 Background Paper

The development of this Policy was informed by a Background Paper which was completed in February 2019. This Paper applied to all of the Shire's food safety activities and obligations, including food allergens and the Best Bites program.

Food safety and population data from 2007 to 2017 was analysed to assist with risk management, resourcing needs and future planning. Recommendations were made based on this analysis and an assessment of current and emerging issues.

2 Purpose

The purpose of this Policy is to provide the framework for appropriate policy development, planning and resources to be directed at ensuring that food sold by businesses in the Shire is safe and suitable for consumption. In addition, this policy framework provides the mechanism for the management and discharge of Council's legislative responsibilities using a risk management approach.

It will provide Council with strategies and procedures to:

- Fully meet the Shire's food safety obligations;
- Manage Council's risk;
- Ensure sufficient resources are provided;
- Assist food businesses and community groups to serve safe, healthy food at sustainable and accessible premises; and
- Provide excellent customer service to all food safety stakeholders.

The Policy will support the Our Wellbeing and Our Prosperity Themes in the Shire's Community Plan and Public Health and Wellbeing Plan.

2.1 Guiding Principles

The principles underpinning this Policy are:

- **Consistency and Fairness** – enforcement of the legislation in an objective, consistent and fair manner;
- **Legislative compliance** – food businesses will comply with the Food Act and Food Standards Code through implementation of this policy;
- **Transparency** – enforcement activities are open to scrutiny by food business and consumers;
- **Accountability** – food safety activities will be undertaken in accordance with this policy and reported on regularly to management and consumers;
- **Risk Management** – Council's food safety risk will be managed using the principles set out in *AS/NZS ISO 31000:2009: Risk Management – Principles and Guidelines*;

- **Risk based** – enforcement priorities will be based on the level of risk posed by food business due to:
 - A) Likelihood of the types of foods being served causing food safety hazards AND
 - B) Consequences to the consumer from any food safety hazards at the business;
- **Evidence based decision making** – decisions relating to applications and enforcement action will be based on assessments of risks and consequences;
- **Innovation** – encouragement and incentives for industry innovation in developing effective food safety management strategies; and
- **The Precautionary Principle** which is based on the understanding that the lack of full scientific certainty should not be used as a reason for postponing measures to prevent threats to consumer health.

3 Objectives

The objectives of this Policy are to:

1. Ensure that food sold within the Shire complies with the *Food Act 1984* (the Act) and the Food Standards Code and is safe for consumption by residents and visitors to the Shire;
2. Introduce a risk management approach to (A) the assessment of food safety in businesses; (B) the determination of food safety service priorities; (C) the application of legislative sanctions through Council's compliance policy;
3. Provide a clear and consistent food safety compliance policy that is accessible to all food businesses and the public
4. Implement an assessment program to ensure that food business comply with the requirements of the Act and National Food Safety Standards
5. Assist food business proprietors and their staff meet the legislative requirements through education and information strategies with particular attention to the needs of proprietors from culturally and linguistically diverse backgrounds;
6. Enhance the Shire's capacity and resources to meet food safety legislative requirements including reporting to the Department of Health and Human Services;
7. Provide the context for the development and implementation of the Environmental Health Team's Annual Business Plan;
8. Establish an internal Shire process for the hearing and determination of appeals by proprietors to sanctions imposed by officers;
9. Support the Best Bites food business incentive scheme to assist in the promotion of local food businesses;
10. Adopt a best practice approach to food premises assessments by:
 - Following the Victorian Government Food Safety Assessment Guide;
 - Participating in the Department of Health and Human Services Food Safety Risk Assessment project, with officer mentoring and training;
 - Sending assessment reports to proprietors by email, with relevant information attached;
 - In conjunction with the Wastewater Management Officer, assessing wastewater disposal at sewer and un-sewered food premises;
 - Providing information and educational materials on storm water protection and septic management, such as pumping, servicing and maintenance;
 - Developing an information pack for food premises on septic management;
 - Link to septic system resources and templates (e.g management plans) developed for the Shire's Wastewater Management Plan and Policy;

- Discussing allergen management in detail; and
 - Providing the Best Bites Application Kit to compliant businesses; and
11. Provide robust risk management processes for food safety throughout the municipality, in line with the Shire's Risk Management Framework and Risk Registers.

4 Owner

Individual officers have been delegated and authorised to undertake the requirements of the legislation except those under S.19(3) which have delegated to the Chief Executive Officer.

5 Scope

Specific objectives and procedures under this Policy will provide mechanisms for the implementation of the Shire's Public Health and Wellbeing Plan and Carbon Neutral Plan by food businesses and community groups.

5.1. Legislation

This Policy supports Council's legislative obligations under the *Food Act 1984* (as amended) and it applies to all businesses and enterprises that sell food within the Shire regardless of the origin of food's manufacture. 'Sell' is defined by the legislation to include barter, offer, supply, display for sale, transport for sale, prepare, store, deliver, and give away for the purposes of advertisement.

This Policy acknowledges that the Act requires Council to take a risk-based approach to the assessment of food safety at food businesses. To that effect, four classes of food businesses have been gazetted by the Victorian Government:

Class 1 – for premises serving potentially hazardous foods to customers at higher risk e.g nursing homes, hospitals and child care centres.

Class 2 – for premises engaged in manufacture or handling of any unpackaged, potentially hazardous foods, such as food that requires temperature control.

Class 3 – for premises handling low risk food or wholesale of pre-packaged food, or selling pre-packaged, potentially hazardous food.

Class 4 – for premises selling only shelf-stable, pre-packaged food.

The registration and legislative requirements for each class of business is outlined in Table 1.

Table 1 – Legislative Requirements

Class	Council Registration	Annual 3rd Party Audit*	Food Safety Program	Food Safety Supervisor
1	Yes	Yes	Yes	Yes
2	Yes	No*	Yes	Yes
3	Yes	No*	Food Safety Guide	No (optional on-line training)
4	No	No	No	No

*The Food Act requires that Class 1 premises and those using an independent (non-template) Food Safety Program must arrange a 3rd party audit each year.

6 Definitions

7 Policy

7.1 Risk Classification and Management

- 7.1.1 Regulate food businesses in accordance with the Food Act 1984 using a risk management approach.
- 7.1.2 Fulfil the Shire's obligation under S.39(3) of the Act to inspect food premises with major or critical non-conformances or subject to consumer complaints within the final 3 months of each registration period.
- 7.1.3 Ensure that all Class 1 and 2 food businesses fully comply with National Food Safety Standards 3.2.2 and 3.2.3 and Australian Standard 4674-2004 prior to granting Food Act registration.
- 7.1.4 Ensure that all Class 3 food businesses fully comply with National Food Safety Standards 3.2.2 and 3.2.3 prior to granting Food Act registration.
- 7.1.5 Consider likelihood and consequence of food safety risks when determining the appropriate compliance and enforcement options.
- 7.1.6 Establish suitable processes within the Shire's Risk Management Framework to effectively manage food safety risks, and to support the objectives and procedures outlined in this Policy.

7.2 Registration

- 7.2.1 Register food and health businesses under one piece of legislation where appropriate. Establish criteria, fee schedule and certification so that accommodation/food premises can be registered under S.40(2) of the Act.
- 7.2.2 Register all food premises for a period of 12 months and set the renewal timelines in consultation with food businesses and community groups.
- 7.2.3 Ensure that food premises submit renewal of registration applications at least 30 days prior to the end of the registration period.
- 7.2.4 Exempt Australian Taxation Office tax exempt registered charitable organisations from Food Act registration fees.
- 7.2.5 Refuse the registration of new food businesses or transfer of the registration of an existing food business unless a wastewater system has been installed that meets the requirements of South East Water or the Shire's Wastewater Management Policy.
- 7.2.6 Refuse the renewal of registration of existing food businesses that have a wastewater system which either:
 - A) Does not comply with Clause 5 of National Food Safety Standard 3.2.3 OR

- B) Has been inspected by a Shire authorised officer and rated as either Major or Critical.
- 7.2.7 Develop consistent and transparent criteria for the assessment of wastewater and septic systems at food premises.
- 7.2.8 Ensure that all food businesses within the Shire are registered annually under the Act. This does not apply to food businesses who are licensed with Primesafe or Dairy Food Safety Victoria.
- 7.2.9 Grant conditional renewal of registration for a maximum of 3 months in line with S.38E and S.39D of the Act. Criteria will be established to define minor defects (or use for National Food Safety Standards only);
- 7.2.10 Grant registration of temporary food businesses and food businesses operating from domestic premises only with the consent of the appropriate land owner (or owner's agent);
- 7.2.11 Ensure that food businesses meet National Food Safety Standards at the time when there is an application to transfer the proprietorship of registration.

7.3. Auditing, Assessments and Inspections

7.3.1 The Shire will not engage in commercial food safety auditing activities.

7.3.2 Ensure that each Class 1 and non-standard Class 2 food business has an annual 3rd party food safety audit and a suitable Food Safety Program. This means a food safety audit that must be completed by a food safety auditor who is registered with the Department of Health and Human Services.

7.3.3 Ensure that a 3rd party audit is not completed by an employee of Mornington Peninsula Shire who is authorised by Council under the Act.

7.3.4 Fulfil the Shire's obligation under S.39A of the Act to inspect every registered food premises at least once per registration period as outlined in Table 2. This Table acknowledges that two inspections are required for Class 2 food premises (using a template Food Safety Program) to fully address the Shire's risks

Table 2 - Inspection of Premises each registration period

Class of Business	Council Inspection	Council Assessment	3 rd party Audit
Class 1		1	1
Class 2 (standard FSP)	1	1	
Class 2 (non-standard FSP)		1	1
Class 3	1		
Class 4*	Random inspection*		

¹ Non-compliant and higher risk premises will be subject to a higher inspection frequency. Best Bites food premises may be subject to a lower inspection frequency. Refer Procedures Section

* Class 4 notified premises to be randomly inspected as per the EPU Business Plan

7.3.5 Conduct assessments and inspections of food businesses using the electronic version of the Shire's Food Safety Assessment Tool (Attachment 3).

7.3.6 Use mobile technology for food safety assessments and inspections.

7.3.7 Provide assessment results to proprietors within 7 days, either in writing or by electronic means.

7.3.8 Ensure that food safety program assessments are conducted annually at each Class 1 and Class 2 food business to ensure that a suitable Food Safety Program is in place and being followed. Food manufacturers, including domestic premises, must use a Food Safety Program that is suitable for their processing steps. This could include the Department of Health and Human Services Retail Template, Acidification/Fermentation Template or a Quality Assurance Program developed by a Food Safety Consultant.

7.3.9 Ensure that all Class 1 inspections and Class 2 assessments are conducted by Food Act authorised officers who have met the following competencies –

* Tertiary Qualifications in Environmental Health. The qualifications must be those that have been approved by the secretary in accordance with Section 29 (3) of the Public Health & Wellbeing Act 2008 and the Victorian Government Gazette G 12 21 March 2013 Schedule.

* Eligibility for membership of Environmental Health Professionals Australia (EHPA)

* Delegated by Council under Part II of the Food Act 1984

7.4. Best Bites Food Business Incentive Program

7.4.1 Encourage and support businesses through the Best Bites incentive scheme to comply with food legislation, provide healthy food and safe, smoke free premises.

7.4.2 Encourage sustainable and healthy business practices within the local food industry through the Best Bites food business incentive program.

7.4.3. Provide a recurring budget for the Best Bites program to allow for design and printing of the Best Bites Food Guide and an annual launch and awards event for food businesses.

7.4.4 Co-ordinate an external steering committee for the Best Bites Program in conjunction with agencies such as Peninsula Health, Disability Advisory Committee and Western Port Biosphere.

7.5. Food Allergens and Labelling

7.5.1 Ensure that all foods sold locally fully comply with the labelling requirements of the Australian Food Standards Code, including the requirement for all food businesses to provide allergen information to customers on request.

7.5.2 Promote allergen awareness at food businesses using the Best Bites Program, during assessments and through regular newsletters and social media.

7.5.3 Support food allergen awareness programs in the community, such as Food Allergy Week.

7.5.4 Encourage the use of the FSANZ online allergen training portal by food businesses.

7.6 Food Recalls

7.6.1 Advise affected food businesses of food recall alerts issued by the Department of Health and Human Services. This advice will primarily be given via electronic means.

7.6.2. Maintain a register of all food recalls issued by the Department of Health and Human Services. Advise proprietors of food recalls by electronic means.

7.6.3 Maintain the privacy of food businesses when sending food recall alerts by electronic means.

7.7. Consumer Complaints

7.7.1 Investigate consumer complaints regarding the safety of foods purchased from or prepared at local food businesses in a timely manner.

7.7.2 Investigate consumer complaints regarding foods purchased from Primesafe or Dairy Food Safety Victoria licensed premises in line with the Memorandum of Understanding between the Department of Health and Human Services, Primesafe, Dairy Food Safety Victoria and the Municipal Association of Victoria.

7.7.3 Resolve any food safety issues identified during these investigations using Attachment 2 of this Policy.

7.7.4 Advise consumers of the outcome of each investigation.

7.8. Food Sampling

7.8.1 Conduct annual food sampling at local food businesses using a co-ordinated, targeted approach. Sampling program to meet the requirements set out in the relevant Government Gazette.

7.8.2 Ensure that the food sampling program includes any Department of Health and Human Services regional food sampling surveys.

7.8.3 Advise food businesses in writing of the outcome of food sampling results.

7.8.4 Resolve any food safety issues identified from the food sampling results using Attachment 2 of this Policy.

7.9. Data Reporting

7.9.1 Submit reports on food safety surveillance activities to the Department of Health and Human Services every three months by electronic means.

7.9.2. Provide regular reporting to the public on food safety surveillance activities conducted by Shire authorised officers, with an annual report to Council at an Ordinary Council Meeting.

7.10. Temporary Food Premises

7.10.1 Ensure that temporary and mobile food businesses register with or notify Council using the Stretrader on-line registration system. This does not apply to fixed registered premises selling food from any part of their land or from land abutting their premises.

7.10.2 Require food vendors and community groups selling foods at events and markets to fully comply with the Shire's Temporary Food Premises Guidelines – Attachment 5 to this Policy

7.10.3 Investigate the feasibility of sending food safety guidelines to all food vendors and community group through the Streatrader web site.

7.10.4 Monitor food safety at events and markets through regular inspections and assessments. This will be achieved through the Shire's Environment Protection Unit Annual Business Plans and the Streatrader on-line food registration system.

7.11 Food Safety Education

7.11.1 Conduct free, regular food safety information sessions for food businesses and community groups in the areas of food safety, allergen awareness, healthy eating, accessibility and sustainability.

7.11.2 Publish regular email food safety newsletters for food businesses and community groups.

7.12. Compliance

7.12.1 Apply sanctions in cases of non-compliance (see Attachment 2) and impose a fee for re-inspections.

8 Procedure

8.1.1. Amend the Shire's Operational Risk Register to include this Policy as a risk control.

8.2.1. Conduct a comprehensive review to streamline the registration renewal process. Review to include a survey of food businesses.

8.2.2. Investigate the feasibility of online forms and payments for new premises, transfers and renewals.

8.2.3. Require the installation of a cleaners sink (or other Shire approved method of wastewater disposal) prior to new registration or transfer of registration.

8.2.4. Require the installation and/or use of suitable methods of wastewater disposal prior to the renewal of registration.

8.2.5 In consultation with the local food industry, develop and adopt criteria for suitable methods of wastewater disposal to protect drains and waterways. These criteria will take into account premises layout, structural limitations, business practices and existing infrastructure.

8.2.6. Investigate the feasibility of a higher annual registration fee for premises with outstanding major or critical non-conformances, and lower fees for well-maintained premises with a compliant food history.

8.3.1. Offer enhanced officer training for food safety assessment e.g Certificate IV Training and Assessment to Shire Authorised Officers.

8.3.2 Implement re-inspection fees for non-compliant premises that require multiple follow up inspections. Investigate the feasibility of fees for follow food sampling as a result of failed routine food samples.

- 8.3.3 Develop and implement an annual risk-based inspection and assessment program for Class 2 premises, with higher inspection frequency for premises with a poor inspection history and/or high risk processes (sous vide, sushi and raw egg premises).
- 8.3.4 Consider a lower inspection frequency (ie. once per year) for compliant premises that qualify for and participate in the Best Bites program.
- 8.3.5. Mobility checklists and letters to be established for all food inspection types (new/transfer/S.19 notice/Best Bites assessments).
- 8.4.1 Evaluate the public awareness of Best Bites and potential methods of promotion by surveying a sample group of Mornington Peninsula residents.
- 8.4.2 Engage with local food businesses on ways to increase business participation in the program.
- 8.4.3 Streamline the Best Bites application process through the introduction of online forms, web directory listing, social media, and regular information workshops.
- 8.4.3 Increase public awareness of Best Bites by through a range of different promotion strategies, including highlighting the benefit of the program for businesses and consumers.
- 8.4.4 Continue to facilitate an external Steering Committee to co-ordinate and expand the Best Bites program.
- 8.4.5 Approach adjoining Councils and discuss wider implementation of Best Bites.
- 8.5.1 Provide an enhanced allergen education program for food businesses and community groups, with at least one free session delivered annually by a suitably qualified training provider.
- 8.5.2 Conduct allergen assessments and provide on-site advice during routine food safety inspections.
- 8.5.3 Participate in regular food allergen awareness programs e.g. Food Allergy Week.
- 8.6.1. Develop and implement a risk-based food sampling program, with results regularly communicated to food businesses and the community.
- 8.7.1. Review and improve the process for data capture and reporting to enable better production of the monthly council reports, quarterly Department of Health and Human Services and Local Government Reporting.
- 8.9.1. Apply a consistent and transparent enforcement process for major and critical food premises inspections, including a process for Penalty Infringement Notices.
- 8.9.2 Council to develop a cost recovery policy for fees, charges and enforcement. This would cover refunds, payment plans, fee structures and legal recovery processes.

9 Roles and Responsibilities

The following table sets out the key roles and responsibilities under the policy:

Roles	Responsibilities
Develop and review the Policy	Environmental Health Team
Implement the procedures in the Policy	Environmental Health Team
Implement the Best Bites Program	Best Bites Steering Committee

	Shire – Environmental Health, Social Planning, Climate Change, Energy and Water Unit
Provide sufficient resources to implement the Policy	Shire Executive, Manager Environment Protection Unit
Annual reporting to Council and the community	Environmental Health and Governance Teams

10 Communication

The Environmental Health Team will regularly publicise the Policy among Shire employees via Around Our Shire and other available communication tools. The Communications Team will publish the Policy on the Shire’s website.

11 Adopted

This Policy was adopted by Council on August 13th 2019.

12 Review

The Policy will be reviewed every three years.

This review will be conducted by the Shire’s Environmental Health Team, in consultation with the local food industry, with a Report submitted to Council for consideration

Attachment 1 - Food Safety Compliance Procedure:

Context

Council as the registering authority for food businesses under the *Food Act 1984* has a responsibility to ensure that each food premise/business is inspected and that it complies with the legislation prior to granting applications to register, renew and transfer registration of premises/businesses (*Food Act 1984* Section 39). Council, in granting an application for a premise/business to operate, needs to be satisfied that the each premise complies with the legislation and that it is in a position to demonstrate that it has discharged this legislative responsibility with due diligence.

Parliament has delegated to Council the power to impose a range of sanctions to ensure compliance by business with the legislation. These sanctions include prosecution, penalty infringement notices, temporary closure of the business, and revocation/suspension of registration.

Objective

The objective of this procedure is to provide for the appropriate use of, and consistency in, the application of legislative sanctions under the food safety legislation. To adopt a risk management approach to food

safety, non-conformances at food businesses will be classified into minor, major and critical as defined below –

A *critical non-conformance* is defined as a non-conformance with the requirements of the Act or Standard where a serious or imminent risk to public health is identified.

A *major non-conformance* is a high potential risk situation, where the potential impact is likely to compromise food safety if no remedial action is taken.

A *minor non-conformance* is a low risk situation where there is a non-conformance with the requirements of the Act or Food Safety Standards but the potential impact of the non-conformance is not likely to be a serious or imminent risk to public health.

Ratings for non-compliances are listed below:

Critical	Major	Minor
Foods sourced from approved suppliers	Food recalls	Wastewater Disposal
Potentially hazardous foods stored <5°C or >60°C	Date Marking	Refuse Disposal
Foods protected from pests and contaminants	Cleaning and Sanitising	Floors
Temperature of high-risk foods <5°C or -15°C	Suitable hand-washing facilities provided	Walls
Potable water supply provided	Food allergens (change to Major)	Ceiling
Foods protected during delivery	Safe food handling practices being followed	Fittings, flashings and services
Cold potentially hazardous foods displayed <5°C	Sanitising of utensils and food contact surfaces	Approved Food Suppliers List
Potentially hazardous foods cooked to >75°C	Food Handler Skills and Knowledge	Goods Receiving Form
Potentially hazardous foods cooled correctly	Food Labelling	Storage Unit Temperature Log
Food Safety Supervisor details	Thermometer (digital & calibrated) (Change to Major)	Activity Log (Internal Process Log)
	Foods protected during display and service	Copy of Food Safety Program (FSP) on-site

A full list of non-compliances is included in the Food Safety Assessment Form (Attachment 3)

Establish guidance on overall inspection rating e.g. 5 minor items = overall major rating

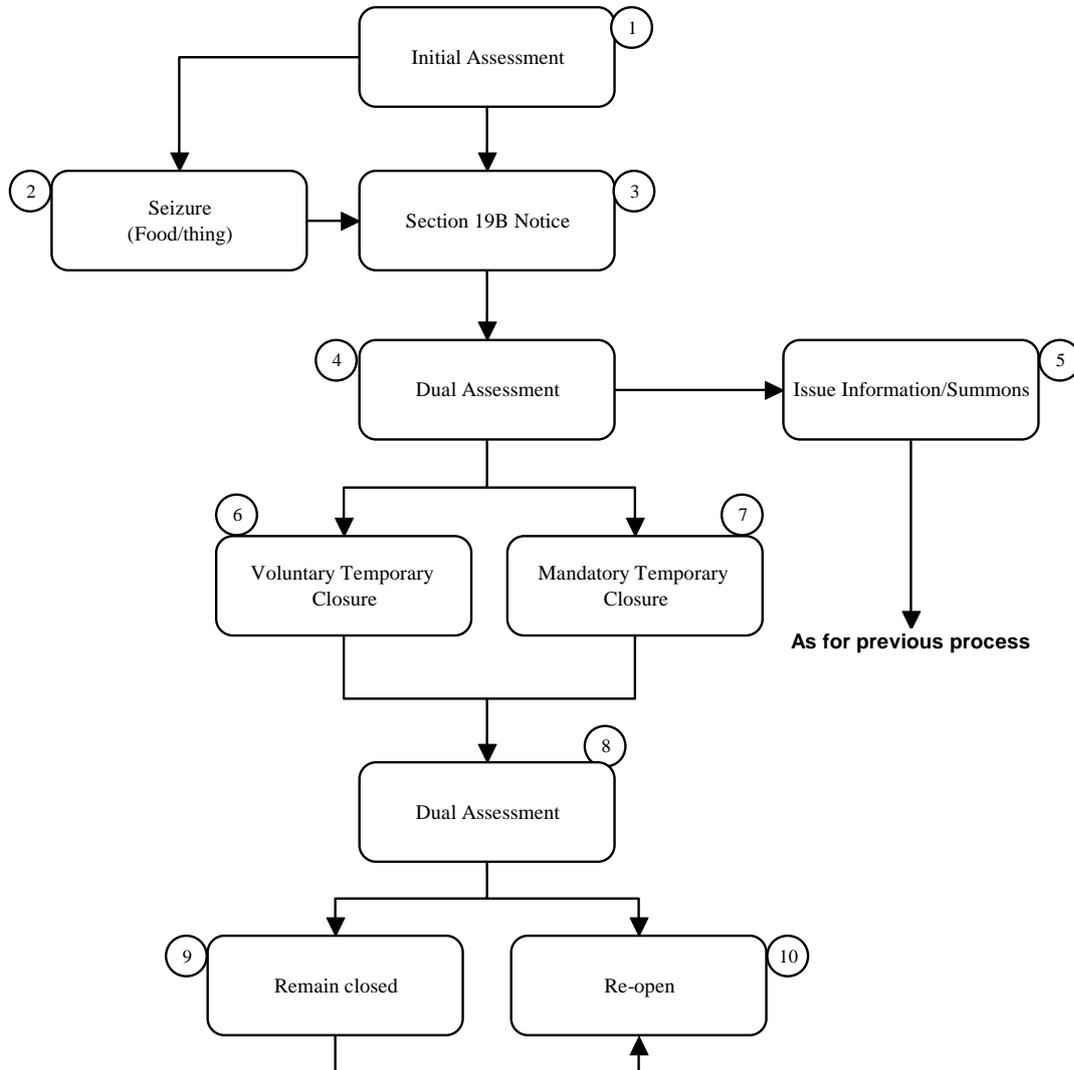
Procedure

1. Serious Public Health Risk

In the event of a serious threat to health requiring the immediate removal of the threat, then the closure of the premises needs to be considered. This may include serious pest infestation, sewage overflow, refrigerator/power failure with high-risk foods stored >5°C for over 4 hours, or unsafe water supply

In this case the following process will be initiated:

Non-Compliance Process (Serious Threat)



Dual Assessment is an assessment by an Environmental Health Officer and Senior EHO or Team Leader – Environmental Health

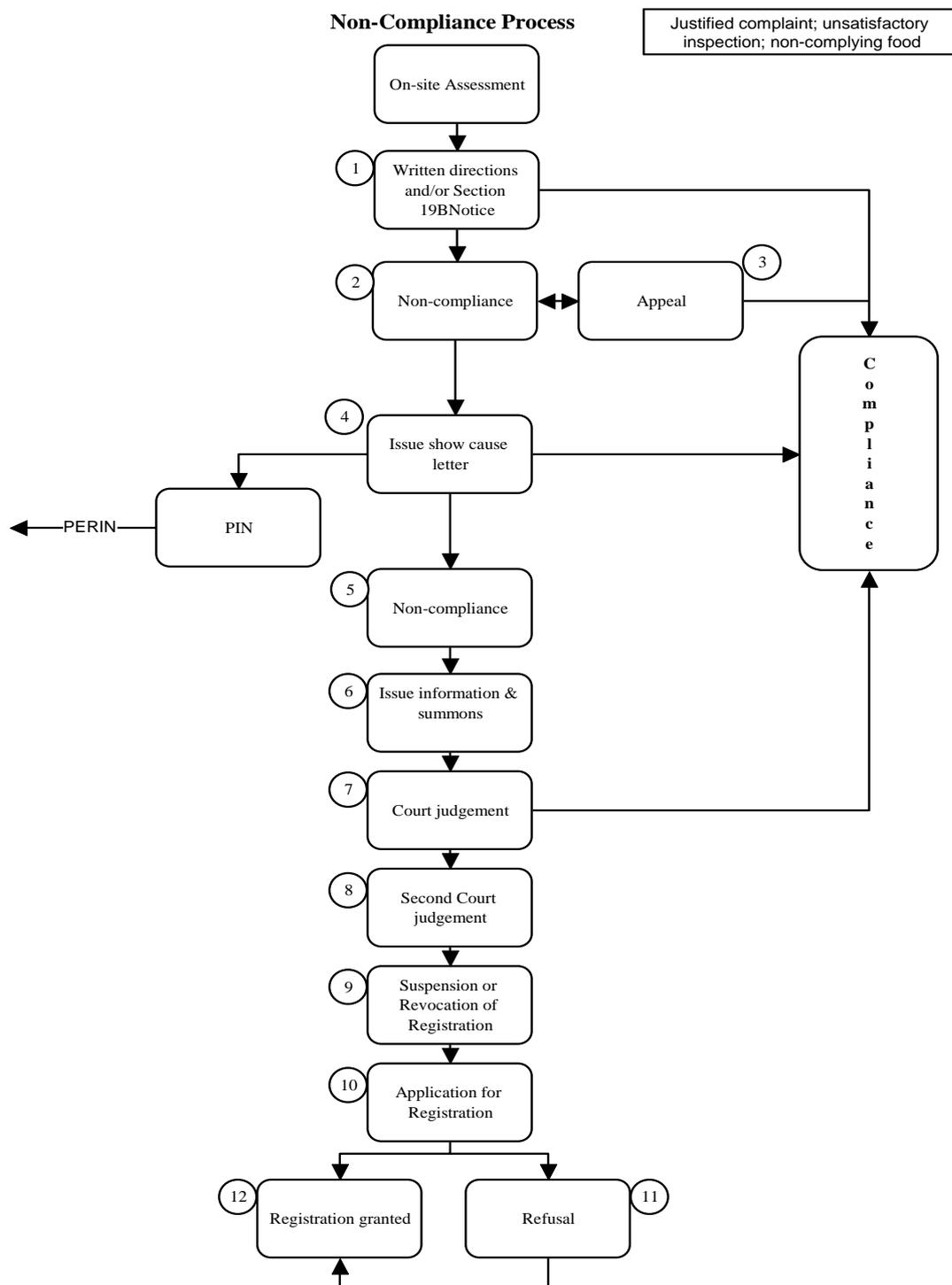
Mandatory closure of premises:

In this process a dual assessment will be undertaken of the premises and if there is consensus that the premises poses a serious risk and immediate risk of unsafe food being sold then the proprietor(s) will be allowed the option of closing their business voluntarily. This assessment will be undertaken by an Environmental Health Officer and the Senior Environmental Health Officer (or the Team Leader). Failure to close the business voluntarily will result in mandatory closure of the business authorised by the Chief Executive Officer. In all cases of mandatory closure, legal proceedings will be initiated (PIN or Prosecution). The premises may only open after a subsequent dual assessment ascertains the business is compliant with the legislation and does not pose a threat to health.

Procedure and templates to be set up for communication with CEO's office and the proprietor

2. Non-Compliance (Not Serious Risk to Public Health)

In the event of non-compliance with the provisions of the Food Act 1984 relating to food safety complaints, unsatisfactory premises or hygiene standards, and food analyses indicating a failure to meet the mandatory food standards, Council will initiate the following processes as provided for under the legislation:



The following procedures apply as part of this process:

2.1. Penalty Infringement Notices (PINs):

Penalty Infringement Notices (PINs) relevant to this policy are included in the Food Act 1984 as prescribed offences, and also include the offences listed in Schedule 1 of the Food Amendment (Regulation Reform) Act 2009. Such notices will be issued in accordance with the Infringements Act 2006 and relevant regulations.

Penalty infringement notices may be used to ensure food businesses comply with the provisions of the Food Act following previous inspections and assessments by authorized officers, for instance where a food business fails to comply with written directions from an authorized officer. It is not the intention of this policy that PINs be issued in circumstances where -

1. A serious threat to public health has been identified (as described under Section 1 of this Appendix) and seizure of foods and partial/full closure of a food business are considered to be more effective ways to address the threat;
OR
2. Where there are breaches of the Food Act that do not directly impact on food safety identified during an initial assessment or inspection of a food business. In such circumstances proprietors will be provided with a written warning, direction or order before a PIN is issued. Any warnings so issued will be deemed to be in force for a period of 12 months.

To support the objectives of this policy, PINs may not be issued for the following Food Act offences if no other offences have been detected:

- A. S.17 – Failure to display proprietors name;
- B. S. 19GB – Failure to give name and qualifications of food safety supervisor when requested.

A PIN will only be issued for a breach of S.16 (1) of the Food Act following an inspection of the premises by an authorized officer who confirms non-compliance with a written direction.

2.2. Inspection Fees:

Food business inspection fees are permitted under the Food Act and will be outlined in the Shire's Adopted Budget. This also applies to temporary food premises in which the Shire is not the principal (registering) Council. The fee amount shall be set by Council in it's budget each year.

These fees may only be imposed under the following circumstances –

- A) A routine assessment at a food business finds at least one critical non-compliance that is not addressed by the food business during the assessment.
- B) A follow-up assessment at a food business finds that at least one major non-conformance is still not being addressed by the food business.

- C) A follow up inspection at a food business following a justified food complaint reveals that the cause of the complaint has not been addressed by the food business.
- D) A follow up inspection at a food business reveals that minor defects included as a condition of Food Act registration have not been completed.
- E) If a follow up inspection reveals that a business with a non-standard Food Safety Program has not adequately addressed critical or major non-conformances identified during a 3rd party food safety audit.

A food business may appeal an inspection fee imposed by Council under clause 2.4 of this procedure.

2.2. Court Proceedings:

For matters relating to food handling, cleaning and maintenance standards which are deemed to be minor or major non-compliances the business owner will be provided with at least one written warning (inspection report or letter) by an Authorised Officer to rectify deficiencies before commencing legal proceedings, including PINs. For critical non-conformances a written notice, direction or infringement is to be issued by an authorized officer to rectify deficiencies before the commencement of legal proceedings.

2.3. Revocation/Suspension of Registration:

Council will consider the revocation or suspension of a Food Act registration if a business proprietor is convicted by a court on two separate occasions of offences under the Food Act 1984 within the previous 2 years.

Council may also consider the revocation or suspension of a Food Act registration if the food business fails to –

- * Comply with it's Food Safety Program;
- * Engage a suitably qualified Food Safety Supervisor;
- * Comply with a notice or order issued by an authorized officer;
- * Submit a 3rd party food safety audit to Council;and/or
- * Maintain a suitable wastewater system in accordance with the Shire's Wastewater Management Policy, leading to a health risk to staff or patrons.

2.4. Appeals

In relation to the issuing of notices and directions or commencement of enforcement proceedings under the Food Act 1984 by Council's Environmental Health Officers, it is Council's policy that business owners subject to such an action may lodge an appeal using the following process –

1. For penalty infringement notices, a written appeal may be directed to the Shire's Environment Protection Administration Team Leader for consideration under S.22 and S.24 of the Infringements Act. Each appeal will be considered and processed in accordance with relevant Shire Procedures and Policies.

If such an appeal is claiming that an infringement notice is contrary to law, an Appeals Panel will be convened by the Team Leader – Environmental Health to discuss the appeal with the business owner.

2. For notices and directions, a written appeal may be directed to the Council's Environmental Health Team Leader who will convene an Appeals Panel to discuss the appeal with the business owner.
3. For other enforcement or administrative decisions made by Council, the food business owner may lodge an appeal with the Magistrates Court within the specified timeframe
4. Written appeals must be lodged with Council within 14 days.

2.5. Seizure of Food:

Any food found to be unsafe or likely to be unsafe will be seized in accordance with the specific legislative processes. Seizure of food must be approved by the Team Leader – Environmental Health or the Senior Environmental Health Officer.

Attachment 2 – Food Safety Assessment Form -TBC

Attachment 3 - Procedure for Temporary and Mobile Food Businesses

1. **Scope** - This procedure applies to foods sold within the Shire at temporary and mobile food premises, including foods sold at markets and events. These premises are required under the *Food Act 1984* to register/notify and submit Statements of Trade to the Shire on the Victorian Government Streatrader on-line food premises registration system. It includes Primesafe and Dairy Food Safety Victoria licensees.

2. Administration

- Registration and notification of food sales at temporary and mobile food premises will only be accepted and processed through the Streatrader online system.
- Mornington Peninsula Shire receives and processes Streatrader applications for food sales to the public within the Shire.
- Applications will be either accepted, rejected or further information will be requested.
- Statements of Trade on Shire or Crown land will only be accepted if the proposal is consistent with the Mornington Peninsula Planning Scheme and Shire policies and local laws.
- Statements of Trade will be accepted for proposed food sales at an event on Council land that has received an Event Permit from the Shire. It is the responsibility of event organisers to maintain a list of approved food vendors for their event.
- Information will be provided by Council for food vendors to comply with the Shire's Itinerant Trading Policy and General Purposes Local Law.
- Streatrader registrations and notifications will only be accepted if the applicant is a natural person or incorporated body.
- If a food vendor sells food from a temporary or mobile food premises within the Shire without a Statement of Trade being accepted they may be issued an Infringement Notice under S.35 of the *Food Act 1984*.
- Minimum processing times for Streatrader applications are as follows -
Registration – 12 days
Notification – 10 days
Statement of Trade – 5 days
- All temporary food vendors must comply with Attachment 5 to the Policy when selling foods within Mornington Peninsula Shire.

3. Inspection Frequency

Inspections of temporary food premises at markets and events will be conducted by authorised officers and be based on their risk classification. Consideration will be given to previous inspections by other Councils recorded on the Streatrader database.

Class 2 – Will be inspected one each year (at principal premises or on-site)

Class 3 – Once each year

Class 4 - Once every 2 years

Each community market will be inspected once each year

Class 2 temporary food premises at major events with more than 10 food vendors will be inspected

4. Inspection Process

- 4.1. Premises will be assessed against the Food Act, National Food Safety Standards, the relevant Food Safety Program, and the Shire's Temporary Food Premises Guidelines. Event and market organisers may be notified that food vendors will be inspected.
- 4.2. Assessment results and forms will be lodged on the Streatrader database within 5 days.
- 4.3. Food vendors will be advised of the outcome and non-compliances at the end of each assessment. The non-compliance ratings for food vendors are listed below:

Critical	Major	Minor
Foods sourced from approved suppliers	Copy of Food Safety Program (FSP) on-site	Wastewater Disposal
Potentially hazardous foods stored <5°C or >60°C	Statement of Trade submitted	Refuse Disposal
Foods protected from pests and contaminants	Approved Food Suppliers List	Floors
Temperature of high-risk foods <5°C or -15°C	Goods Receiving Form	Walls
Potable water supply provided	Storage Unit Temperature Log	Ceiling
Foods protected during display and service	Activity Log (Internal Process Log)	Fittings, flashings and services
Suitable hand-washing facilities provided	Sanitising of utensils and food contact surfaces	Thermometer (digital & calibrated)
Potentially hazardous foods cooked to >75°C	Food Handler Skills and Knowledge	Cleaning Record
Potentially hazardous foods cooled correctly	Food Labelling	
Cold potentially hazardous foods displayed <5°C	Safe food handling practices being followed	

5. Non-Compliance Process

- 5.1. Minor, major and critical non-conformances will be addressed as follows:

During Initial Assessment

Non-Conformance	Action by Council	Compliance Period
Minor	Inspection letter	7 days
Major	S.19 Notice	2 hours
Critical	Temporary Closure OR Seizure of Foods OR S.19 Notice	-

During Subsequent Assessment within 12 months (with previous non-conformances)

Non-Conformance	Action by Council	Compliance Period
Minor	S.19 Notice	7 days
Major	Infringement Notice	2 hours
Critical	Temporary Closure OR Seizure of Foods OR Infringement Notice	-

* This includes previous inspections by other Councils entered on Streatrader

- Food vendors who fail to rectify a major non-conformance within 2 hours will be issued an Infringement Notice or Caution
- Food vendors who fail to rectify a critical non-conformance that poses a serious risk to public health will be issued a Temporary Closure order under S.19 of the Food Act. The Team Leader – Environmental Health or Manager EPU must verbally approve any closure order prior to it being issued
- Food vendors who fail to comply with a Temporary Closure Order will be subject to prosecution by Council under the Food Act

Attachment 4 - Temporary Food Premises Guidelines – Refer to the Shire’s web site