



## FOOD SAFETY MANAGEMENT POLICY

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### 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.

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 based** – enforcement priorities will be based on the level of risk posed by food business and consequences to the consumer;
- **Evidence based decision making** – decisions relating to applications and enforcement action will be based on the assessment of risk 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.

### OBJECTIVES

The objectives of this policy are to:

- ensure that food sold within the Shire complies with the Food Standards Code and is safe for consumption by residents and visitors to the Shire;
- introduce a risk management approach to (1) the assessment of food safety in businesses; (2) the determination of food safety service priorities; (3) the application of legislative sanctions through Council's compliance policy;
- provide a clear and consistent food safety compliance policy that is accessible to all food businesses and the public
- implement an assessment program to ensure that food business comply with the requirements of the Food Act and National Food Safety Standards
- assist food business proprietors and their staff meet the legislative requirements through educative and information strategies with particular attention to the needs of proprietors from a culturally and linguistically diverse backgrounds;
- develop Shire's capacity and resources to meet the new food safety legislative requirements including reporting to the Department of



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Health;

- provide the context for the development of the Environmental Health Team's Business Plan;
- provide a local Shire process for the hearing and determination of appeals by proprietors to sanctions imposed by officers; and
- provide for the development of a business food safety and sustainability incentive scheme and the promotion of local food businesses.

### **SCOPE**

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.

Specific strategies under this policy will provide mechanisms for the implementation of the Shire's Sustainability Framework within food businesses.

### **POLICY**

It is policy to:

- regulate food businesses in accordance with the Food Act 1984 using a risk management approach
- encourage and support businesses through an incentive scheme to comply with the legislation and sell safe food
- encourage sustainable business practices within the food industry
- apply sanctions in cases of non-compliance (see Appendix 1 Compliance Policy) and impose a fee for re-inspections
- ensure that food businesses meet National Food Safety Standards at the time when there is an application to transfer the proprietorship of registration
- not engage in commercial food safety auditing activities
- register businesses under one piece of legislation where appropriate
- grant conditional renewal of registration for a maximum of 3 months only if there are minor defects that do not impact on food safety
- recognise the registration of temporary and mobile food businesses issued by other Councils (refer Appendix 2)
- 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). Refer to Appendix 2 for temporary food business registration

### **PROCEDURES**

A range of procedures have been developed for the delivery of food safety statutory services and are contained in the *Environmental Health Team Operations Procedure Manual (attached as Appendix 4 of this policy)*.



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**RESPONSIBILITY** The Shire's Environmental Health Team is responsible for implementation of this policy. The major mechanisms for implementation are the Environmental Health Team Business Plan and Environmental Health Team Operations Procedure Manual.

Individual officers have been delegated and authorised to undertake the requirements of the legislation

This policy acknowledges that the amended Food Act requires Council to take a risk-based approach to the assessment of food safety at food businesses.

To that effect, 4 classes of food businesses have been gazetted by the State 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 3 <sup>rd</sup> Party Audit*	Food Safety Program	Food Safety Supervisor
1	Yes	Yes	Yes	Yes
2	Yes	No*	Yes	Yes
3	Yes	No*	Yes (or 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 3<sup>rd</sup> party audit each year.

A 3<sup>rd</sup> party audit is a food safety audit that must be completed by a food safety auditor who is registered with the Department of Health. A copy of each completed audit must be lodged with Council for assessment.

The food safety audit must not be completed by an employee of Mornington Peninsula Shire.

It is an obligation of Council under S.39A of the Food Act to inspect every registered food premises at least once per registration period as outlined in Table 2.

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**Table 2 - Inspection of Premises each registration period**

Class of Business	Council Inspection	Council Assessment	3 <sup>rd</sup> 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*		

\*Class 4 notified premises to be randomly inspected as per the Shire's Food Safety Service Plan

Table 2 acknowledges that more than 1 inspection per year may be required to fully address the Shire's risks, particularly for Class 2 food premises that do not require a 3<sup>rd</sup> party audit..

It is also an obligation of Council under S.39(3) of the Food 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.

This will be achieved through the Shire's Food Safety Service Plan.

### RELATED LEGISLATION

- Food Act 1984 (as amended)
- Public Health & Wellbeing Act 2008

### RELATED POLICIES

MPSC Staff Code of Conduct Policy  
MPSC Risk Management Policy  
MPSC Risk Management Strategy

### REFERENCES

- FSANZ Food Standards Code
- Environmental Health Australia practice guidelines (various)
- Australian and New Zealand Food Regulation Enforcement Guideline – Version 8
- Department of Health – Food Safety Auditors Handbook, 2<sup>nd</sup> Edition, September 2007
- Department of Health - Guidelines for private drinking water supplies at commercial and community facilities, October 2009
- NSW Food Authority – Compliance and Enforcement Policy October 2006
- NSW Food Authority - General Guidelines for the Development and Implementation of a Food Safety Program, June 2005
- MPSC Environmental Health Service Plan (draft)



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### **REVIEW**

This policy will be reviewed 12 months after adoption by Council and then every 3 years

### **ADOPTION**

### **APPENDICES**

1. Compliance Policy
2. Temporary and Mobile Food Businesses
3. Temporary Food Business Starter Kit
4. Environmental Health Team Operations Procedures Manual
5. Food Safety Assessment Tool



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### Appendix 1 Food Safety Compliance Policy

#### 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.

#### Policy objective

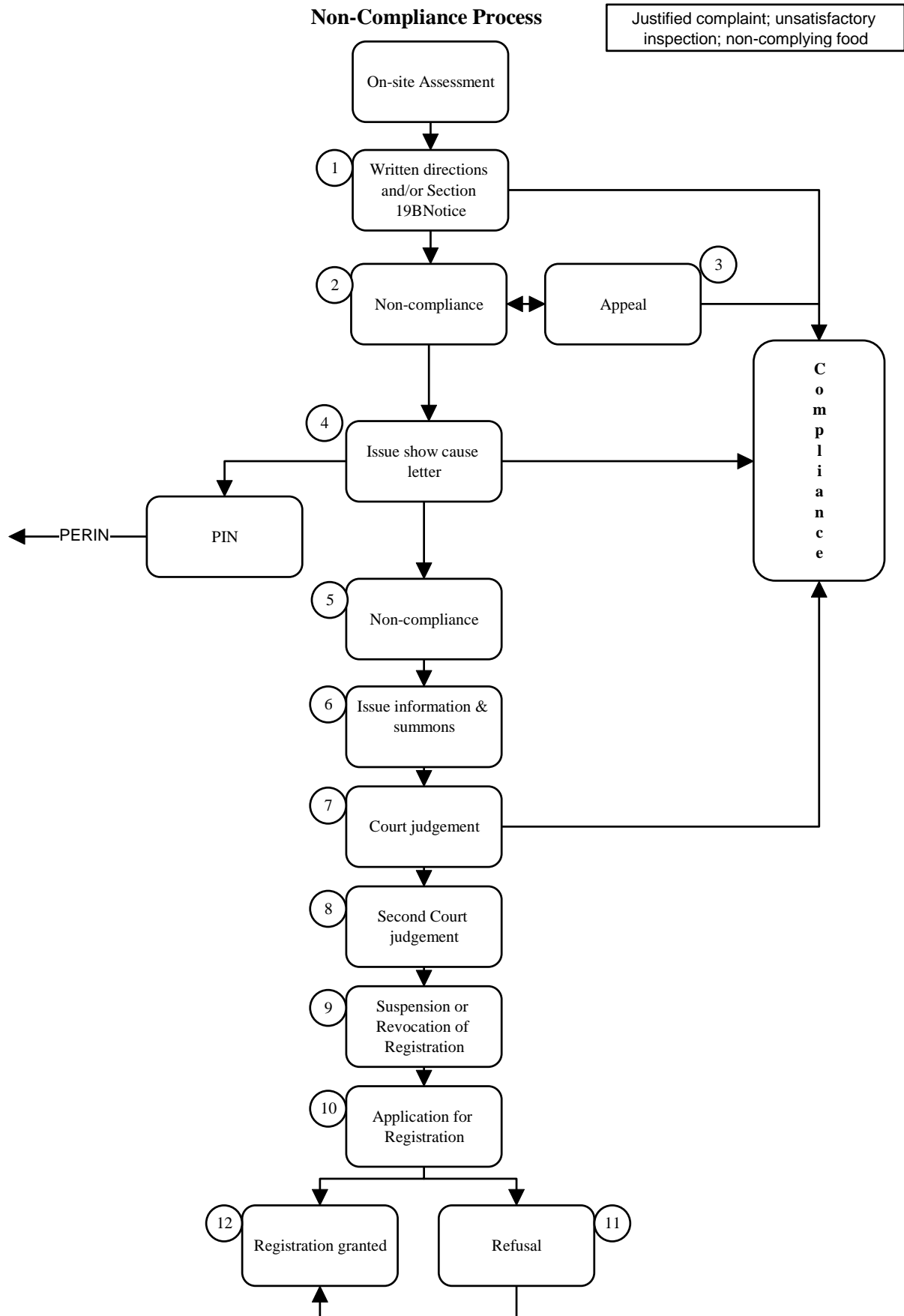
The policy objective is to provide for the appropriate use of, and consistency in, the application of legislative sanctions under the food safety legislation.

#### Policy

##### 1. Non-Compliance

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:

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The following policies apply as part of this process:

### 1.1. 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 2 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 the current registration period.

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 two authorized officers who confirm non-compliance with a written direction.

### 1.2. Inspection Fees

Food business inspection fees are permitted under the Food Act and have been included in the Shire's Fee Schedule. The fee amount shall be set by Council in June each year. **These fees may only be imposed under the following circumstances –**

- A) 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
- B) 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





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- C) A follow up inspection at a food business reveals that minor defects included as a condition of Food Act registration have not been completed
- D) If a business with a non-standard Food Safety Program does not adequately address critical or major non-conformances identified during a 3<sup>rd</sup> party food safety audit

A food business may appeal an inspection fee imposed by Council under clause 1.4 of this policy

### *1.2. Court proceedings*

For matters relating to food handling, cleaning and maintenance standards which are deemed to be low risk the business owner will be provided with at least two written warnings to rectify deficiencies by Council's Environmental Health Officer before commencing legal proceedings

### *1.3. 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.

### *1.4. Appeals*

In relation to the issuing of notices and directions or commencement of enforcement proceedings under the Food Act 1984 by Council's EHOs, 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 Shire Procedure 13.7.1 – Infringement Appeals Procedure March 2007.  
If such an appeal is claiming that an infringement notice is contrary to law, an Appeals Panel will be convened by Council 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.

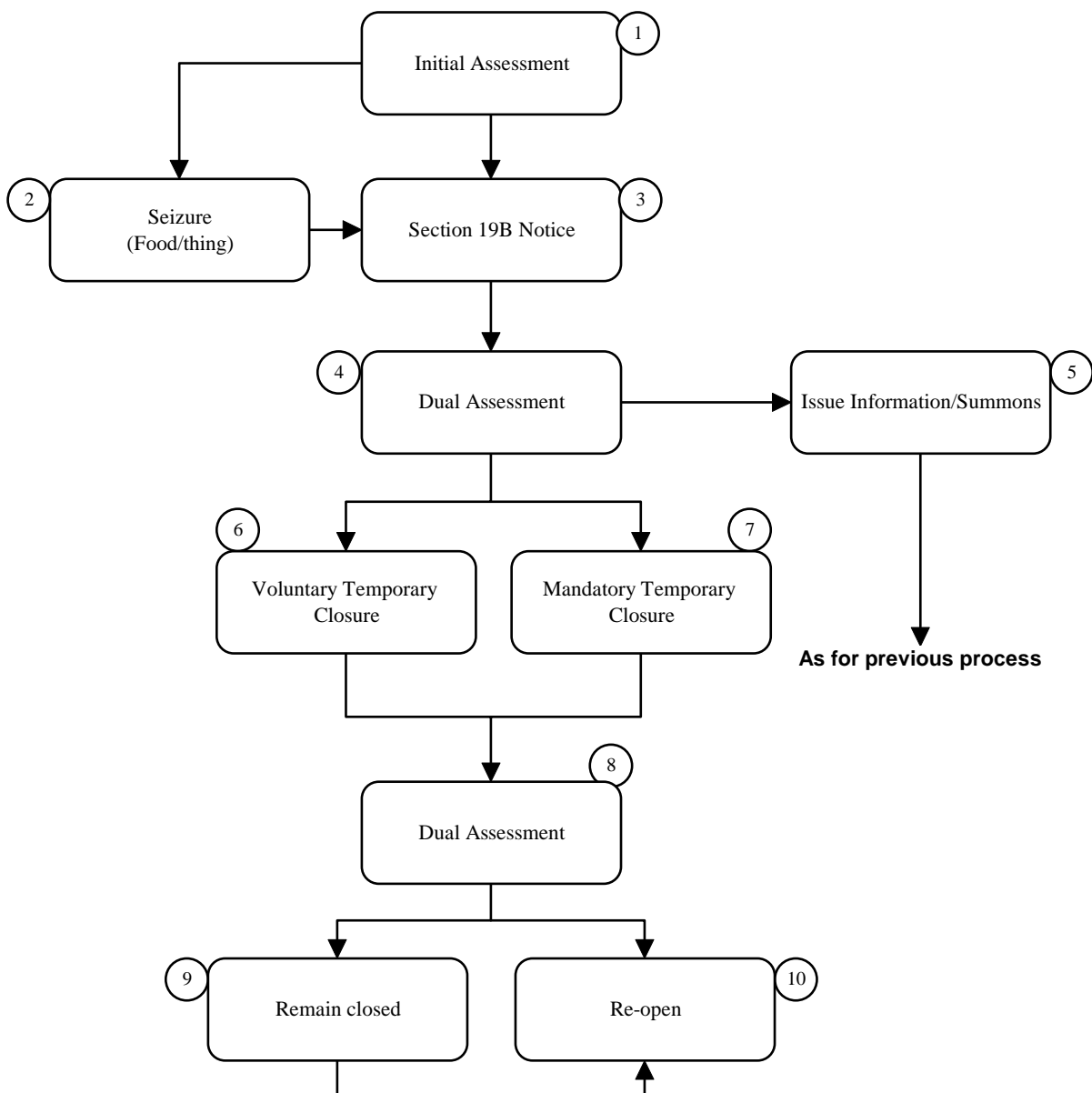
1.5. Seizure of food

Any food found to be unsafe or likely to be unsafe will be seized in accordance with the specific legislative processes

**2. 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. In this case the following process will be initiated:

**Non-Compliance Process  
(Serious Threat)**





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### ***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 to health 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 their 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. 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.



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### Appendix 2 Temporary and Mobile Food Businesses

The Food Act places an obligation on the Shire to register any food premises where food is sold. This includes mobile food premises such as a food vehicle, and temporary food premises such as a tent, stall or other structure that is not permanently fixed to the site.

Prior to registering these premises, the Shire must be fully satisfied that all of the requirements of the Food Act will be complied with.

For the purposes of registration and assessment, this policy refers to three types of temporary food premises:

1. Mobile food premises that are currently registered by the Shire or by another Registration Authority
2. Temporary food premises operated by a food business proprietor who has a permanent food premises that is currently registered with the Shire or by another Registration Authority
3. Temporary food premises that are operated by a person or group who does not have a food premises registered elsewhere

Under S. 35B(1) and (2) of the Food Act, the Shire will recognise the registration by another Registration Authority of a temporary or mobile food premises when assessing applications for temporary food premises registration. This applies to all classes of temporary food premises, provided that the proprietor submits all relevant information.

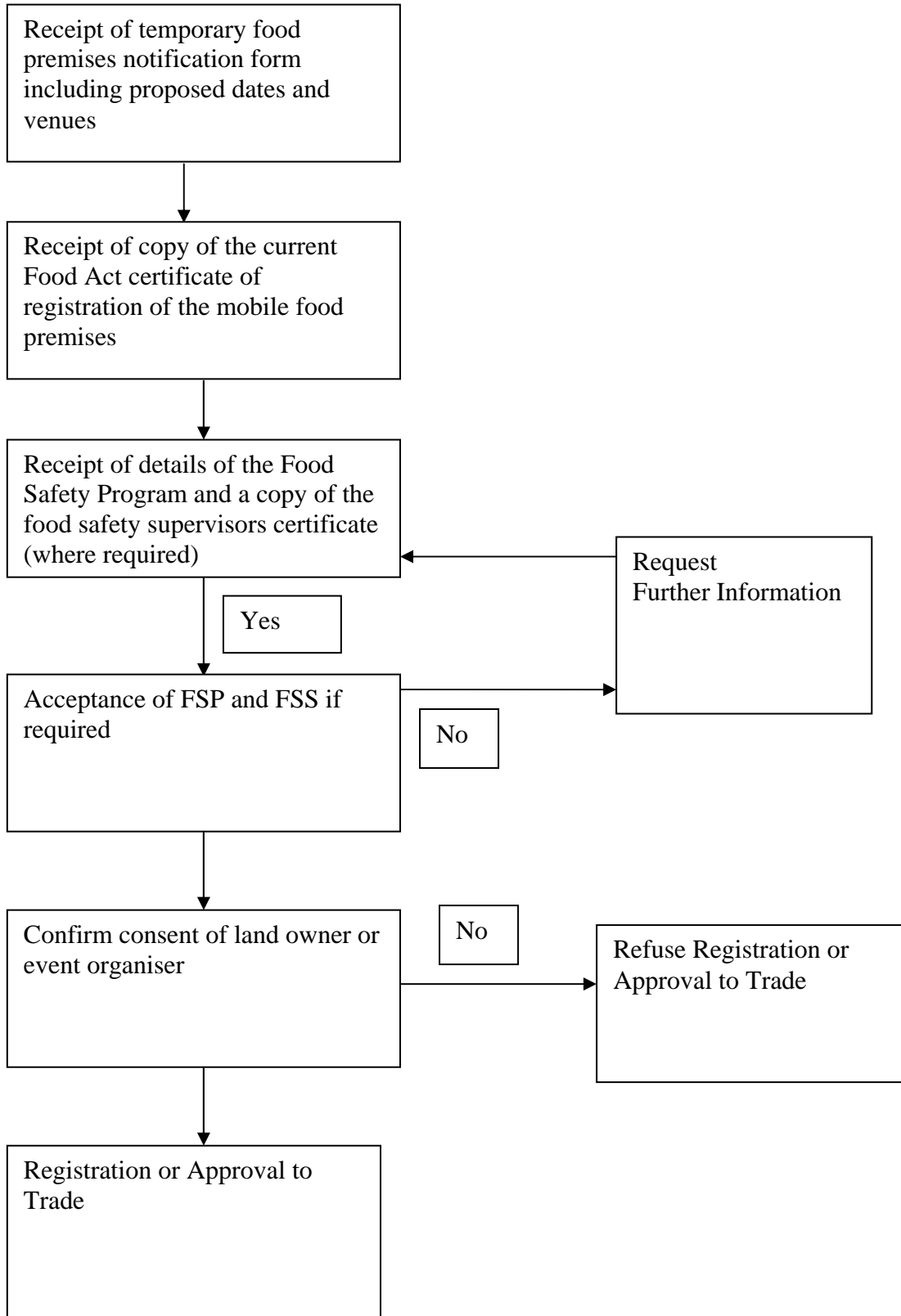
It is the responsibility of the proprietor of a temporary or mobile food premises to notify the Shire and apply for Food Act registration at least 14 days before they intend to sell food in the Shire.

Temporary food premises that submit a suitable notification or application for registration will be granted a Certificate of Food Act Registration detailing –

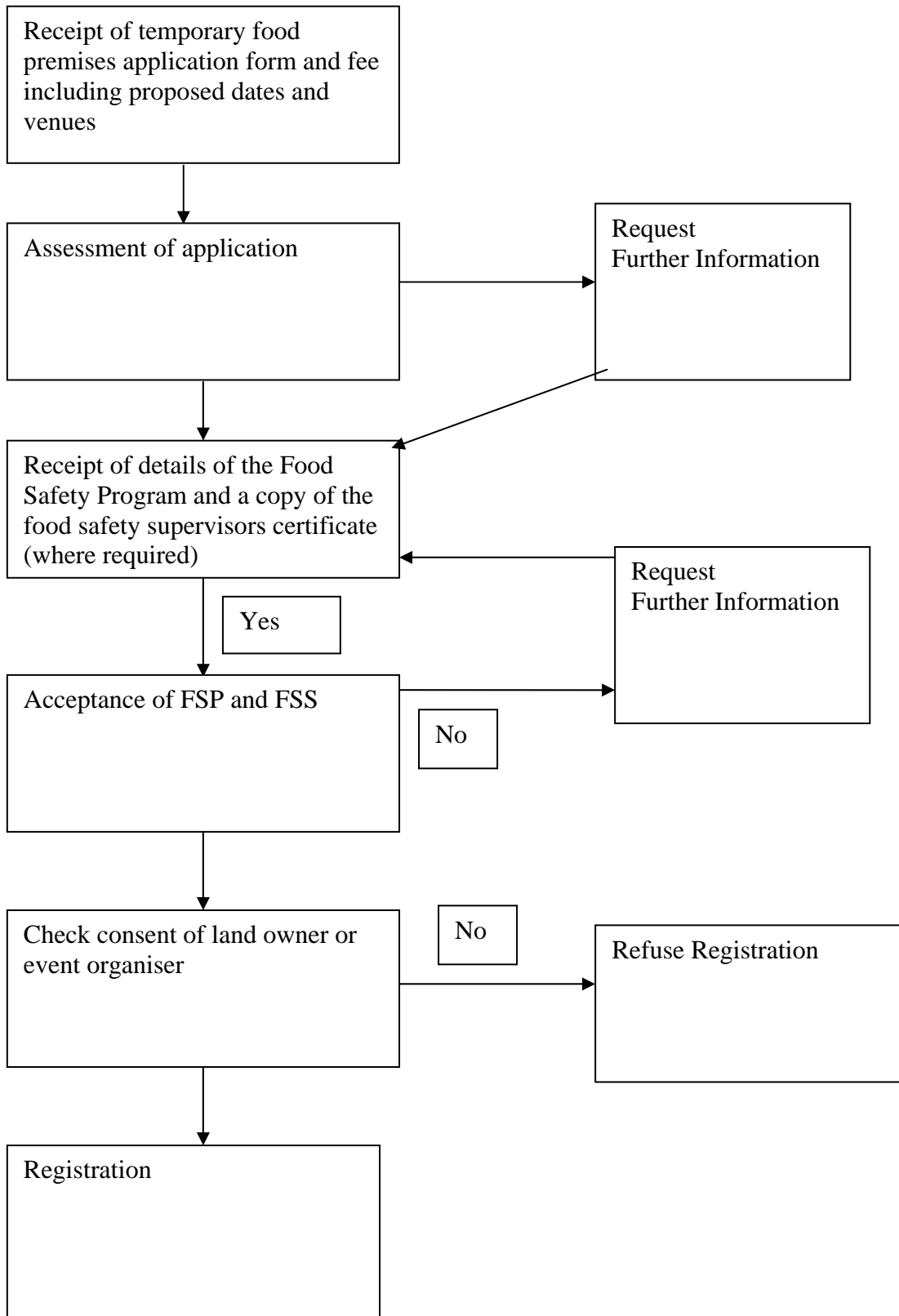
- Date/s and venue/s where foods will be sold
- Type of foods to be sold
- Class of premises
- Any conditions to which the premises is subject

*The process for notification and registration is as follows:*

**Registered Mobile and Temporary Food Premises:**



**Registration of Temporary Food Premises:**



Appendix 3 - Temporary Food Business Starter Kit: **Attached separately**

Appendix 4 - Environmental Health Team Operations Procedures Manual: **Attached separately**



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### Appendix 5 - FOOD SAFETY ASSESSMENT TOOL

<b>Business Name</b>		<b>Reg. No.</b>	
<b>Address</b>		<b>Class</b>	<b>1 2 3 4</b>
<b>Proprietor</b>		<b>Date</b>	
<b>Food Safety Supervisor</b>		<b>Officer</b>	

1.	Food Safety Program Records	Y	N	N/A	Value	Evidence*
1.1	Copy of Food Safety Program on-site?				2	
1.2	FSP still adequate for the activities conducted?				2	
1.3	Food safety knowledge of the FSS satisfactory?				3	
1.4	Approved Food Suppliers List				2	
1.5	Goods Receiving Form				2	
1.6	Storage Unit Temperature Log				2	
1.7	Activity Log (Internal Process Log)				2	
1.8	Time Log				2	
1.9	Cleaning Record				1	
1.10	Equipment Calibration Log				1	
1.11	Other records(e.g. sushi, Chinese chicken supplement)				3	

\* Refer Evidence Guide

2.	Food Safety Risk Assessment	Y	N	N/A	Value	Evidence
	<b>Purchasing and Receiving</b>					
2.1	Foods sourced from approved suppliers				3	
2.2	Potentially hazardous foods <5°C or >60°C				3	
2.3	Correct labelling/use by dates on foods				2	
2.4	Suitable receival area and delivery vehicles				2	
	<b>Dry Storage</b>					
2.5	Foods protected from pests and contaminants				2	
2.6	Food storage areas – suitable, clean and maintained				1	
	<b>Cold and Frozen Storage</b>					
2.7	Temperature of high-risk foods <5°C or -15°C				3	
2.8	Foods packaged and protected				2	
2.9	Foods stored with date marking and within use-by date				2	
2.10	Cold storage units suitable				1	
	<b>Thawing</b>					
2.11	Potentially hazardous food kept below 5°C				3	
2.12	Foods protected from contamination during thawing				2	
	<b>Preparation</b>					
2.13	Potentially hazardous foods kept at room temperature <2 hours OR 2 hour/4 hour rule being followed				2	
2.14	Potable water supply provided				3	
2.15	Sanitising of utensils and food contact surfaces				2	
2.16	Safe food handling practices being followed				2	
2.17	Suitable hand-washing facilities provided				2	
2.18	Potentially hazardous foods cooked to >75°C				3	
2.19	Foods protected from contamination				2	
2.20	Potentially hazardous foods cooled correctly				3	
2.21	Foods protected from contamination				2	
	<b>Display and Service</b>					
2.22	Cold potentially hazardous foods <5°C				3	
2.23	Hot potentially hazardous foods kept at or > 60°C				3	
2.24	Sanitising of utensils and food contact surfaces				2	
2.25	Safe food handling practices being followed				2	
2.26	Foods protected during display and service				2	
	<b>Delivery</b>					



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2.27	Potentially hazardous foods maintained <5°C or >60°C OR 2 hour/4 hour rule being followed					<b>3</b>	
2.28	Suitable delivery vehicle/s					<b>1</b>	
2.29	Foods protected from contamination					<b>3</b>	

<b>3.</b>	<b>National Food Safety Standards</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Value</b>	<b>Evidence</b>
3.1	<b>Illness Register/Health of Food Handlers</b>				<b>2</b>	
3.2	<b>Food Handler Skills and Knowledge</b>				<b>2</b>	
3.3	<b>Pest Control</b>				<b>2</b>	
3.4	<b>Thermometer (digital &amp; calibrated)</b>				<b>2</b>	
3.5	Wastewater Disposal				<b>1</b>	
3.6	Refuse Disposal				<b>1</b>	
3.7	Ventilation and lighting				<b>1</b>	
3.8	Storage of Chemicals/Personal Items				<b>1</b>	
<b>4.</b>	<b>Cleaning and Maintenance</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Value</b>	<b>Evidence</b>
4.1	Floors				<b>1</b>	
4.2	Walls				<b>1</b>	
4.3	Ceiling				<b>1</b>	
4.4	Fittings, flashings and services				<b>1</b>	
4.5	Exhaust Ventilation				<b>1</b>	
4.6	Toilets				<b>1</b>	
<b>5.</b>	<b>Tobacco Act Compliance</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Evidence</b>	
5.1	Tobacco warning signs for retailers					
5.2	Suitable advertising by retailers					
5.3	No smoking signs					
5.4	Suitable outdoor dining and drinking areas					
5.5	Suitable vending machine location					

Comments/Further Action Required			
<b>Critical Non-Conformances (x -3)</b>		<b>Major Non-Conformances (x -2)</b>	
<b>Minor Non-Conformance (x -1)</b>		<b>Assessment Result</b>	
<b>Date of Inspection</b>		<b>Date of Follow Up Inspection</b>	
<b>Officer</b>			



**MORNINGTON PENINSULA SHIRE FOOD SAFETY ASSESSMENT FORM**

**Instructions for Use**

This assessment is to be used in accordance with the Shire's Food Safety Management Policy and Environmental Health Procedures Manual. **It should be used at food businesses by appointment with either the proprietor or Food Safety Supervisor**

The assessment will determine whether each business adequately addresses its food safety risks. **Shaded** sections apply to food handling steps deemed to be **critical control points**. Non-compliance at any of these steps is deemed a critical non-conformance under the Food Act 1984 and responses are outlined in the Shire's Food Safety Management Policy

**Bolded** sections apply to food processing steps or monitoring points deemed control points which may impact on food safety if not fully addressed. Non-compliance at any other step in the assessment is considered to be a minor non-compliance.

Evidence is to be obtained to determine whether the business is addressing food safety risks effectively at each step of the assessment. Evidence types are outlined in Table 1 and must be indicated in the Evidence Column of the assessment form at each step using these codes:

- R. Food safety program records
- O. Observation
- I. Interview
- D. Demonstration
- C. Thermometer Check by EHO

**Table 1: Examples of Evidence**

<b>Step</b>	<b>Evidence</b>
<b>Receipt/ Purchasing</b>	Approved suppliers list – current and includes registration numbers Any procedure the business has for approving new suppliers Goods receipt logs or notes or temp checks on delivery invoices Observe delivery procedure for high-risk foods or interview FSS on delivery procedure Inspection of delivery vehicles
<b>Cold and Frozen Storage</b>	Daily temperature logs Check each unit with probe or infra-red thermometer Servicing and calibration records Interview FSS on procedure for checking food temps Check use-by and date marking of high-risk foods
<b>Preparation</b>	Observation and inspection, use of tongs, prevention of cross contamination PPE for food handlers – aprons, gloves, hats Internal process log records Training records for food handlers (internal/external) Interview with FSS on staff training and cleaning/sanitising procedures Written cleaning schedules including dilution rates and safety instructions
<b>Cooking and Reheating</b>	Internal process log records Use and calibration of probe thermometer Probe check a cooked high-risk food
<b>Cooling</b>	Internal process log records Use and calibration of probe thermometer Probe check a cooked high-risk food during cooling
<b>Display and Service</b>	Daily temperature logs, servicing and calibration records Check each unit with probe or infra-red thermometer Interview FSS on procedure for checking food temps Observation and inspection, use of tongs and utensils to prevent contamination PPE for food handlers – aprons, gloves, hats
<b>Delivery</b>	Observe delivery procedure for high-risk foods or interview FSS Inspection of delivery vehicles



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	Internal process log records
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