



MINUTES

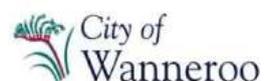
SPECIAL COUNCIL MEETING

THURSDAY 20 SEPTEMBER 2012

TIME: 5.30PM

TOWN OF CAMBRIDGE

Managing waste and recovering resources
Constituent Members: Cities of Perth, Joondalup, Stirling, Vincent and Wanneroo
Towns of Cambridge and Victoria Park



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3 DECLARATION OF INTERESTS

Interest Type	Financial
Name and Position of Person	Brian Callander – Chief Executive Officer
Report Item No. and Topic	Item 6.3 – Chief Executive Officers Performance Review
Nature of Interest	Performance and Remuneration Review

4 PUBLIC QUESTION TIME

No questions were raised

5 CHIEF EXECUTIVE OFFICER REPORTS

5.1	MRC WASTE FACILITY SITE AMENDMENT LOCAL LAW 2012
File No:	LAW/5
Attachment(s):	1. MRC Waste Facility Site Local Law 2012 - with track changes 2. MRC Waste Facility Site Amendment Local Law 2012
Date:	5 September 2012
Responsible Officer:	CEO

SUMMARY

Seeking Council's approval to approve Mindarie Regional Council's Waste Facility Site Amendment Local Law 2012 and give Statewide Public Notice.

BACKGROUND

The Joint Standing Committee on Delegated Legislation (the Committee) has reviewed the Mindarie Regional Council Waste Facility Site Local Law (Principal Local Law) and has written to the Mindarie Regional Council (MRC) recommending a number of minor changes be addressed in the Principal Local Law.

In the letter the Committee requested the MRC to provide to them, in writing, an undertaking that it will amend a number of drafting errors prior to Monday 23 July 2012. The MRC responded to the Committee on 5 July 2012 advising that it will make the amendments to the Principal Local Law as requested.

The MRC sought clarification from the Department of Local Government relating to the wording of the Purpose and Effect and was advised that the wording should be in relation to the Amendment Local Law.

DETAIL

The amendments have been made to the Local Law and are contained in Attachment 1. Attachment 2 contains the Amended Local Law as it will be presented to the public during the Statewide public notice period.

The purpose and effect of the amended Local Law will be the same as the Principal Local Law, which reads as follows:

The purpose of the local law is to implement changes as requested by the Joint Standing Committee on Delegated Legislation.

The effect of the local law is to amend specific clauses being:

1. Clause 11 include a part 1
2. Clause 16(1) be deleted and the rest of that clause re-numbered accordingly
3. Clause 22 requiring a full stop
4. Clause 23 undertake a redraft
5. Schedule 1 – undertake a redraft

To amend the text of a Local Law steps will need to be taken under s3.12 of the *Local Government Act 1995* for the Council to amend the Local Law.

The first step is for the council to endorse the amendments to the Local Law including its purpose and effect and give Statewide public notice of the proposed Amendment to the Mindarie Regional Council Waste Facility Site Local Law 2012.

CONSULTATION

Department of Local Government

STATUTORY ENVIRONMENT

The process for amending the text of a Local Law is covered in s3.12 of the *Local Government Act 1995*, which reads as follows:

“3.12. Procedure for making local laws

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to —*
 - (a) *give Statewide public notice stating that —*
 - (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice;*
 - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
 - (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
 - (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
 - (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*

** Absolute majority required.*

- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
 - (a) *stating the title of the local law;*
 - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
 - (c) *advising that copies of the local law may be inspected or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) *In this section —*
making *in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

3.13. Procedure where significant change in proposal

If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.

3.14. Commencement of local laws

- (1) *Unless it is made under section 3.17, a local law comes into operation on the 14th day after the day on which it is published in the Gazette or on such later day as may be specified in the local law.*
- (2) *A local law made under section 3.17 comes into operation on the day on which it is published in the Gazette or on such later day as may be specified in the local law.*

3.15. Local laws to be publicized

A local government is to take reasonable steps to ensure that the inhabitants of the district are informed of the purpose and effect of all of its local laws.

3.16. Periodic review of local laws

- (1) *Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.*
 - (2) *The local government is to give Statewide public notice stating that —*
 - (a) *the local government proposes to review the local law;*
-

- (b) *a copy of the local law may be inspected or obtained at any place specified in the notice; and*
 - (c) *submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
- (2a) *A notice under subsection (2) is also to be published and exhibited as if it were a local public notice.*
- (3) *After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.*
- (4) *When its council has considered the report, the local government may determine* whether or not it considers that the local law should be repealed or amended.*
- * Absolute majority required.”*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

COMMENT

The Committee has advised the MRC of textual errors in the Principal Local Law as it was presented and requested that they be addressed. To amend the text of a Local Law requires the same process as if a new Local Law was being developed. Therefore it is recommended that the Council endorses the changes to the local law and confirm its purpose and effect and authorise that the Principal Local Law as amended be advertised Statewide as required by s.3.12 (3) of the *Local Government Act 1995*.

VOTING REQUIREMENT

Simple Majority

RESPONSIBLE OFFICER RECOMMENDATION

That:

1. **The Council endorses the Mindarie Regional Council Waste Facility Site Amendment Local Law 2012 including its “purpose” and “effect”;**
2. **The Council authorises the Waste Facility Site Amendment Local Law detailed in (1) above to be advertised in accordance with section 3.12(3) of the Local Government Act 1995.**

RESOLVED

**Cr Boothman moved, Cr Fishwick seconded.
That the recommendation be adopted.**

CARRIED UNANIMOUSLY (11/0)

ATTACHMENT 1
TO ITEM 5.1
SPECIAL COUNCIL MEETING
20 SEPTEMBER 2012
MRC WASTE FACILITY SITE LOCAL LAW 2012 - WITH TRACK CHANGES

Local Government Act 1995

Mindarie Regional Council

Waste Facility Local Law 2012

ARRANGEMENT

Part 1—Preliminary

1. Citation
2. Commencement
3. Repeal
4. Interpretations used in this local law
5. Site
6. Permissions

Part 2—Access to the site

7. Local government may restrict access
8. Unauthorised entry
9. Defence

Part 3—Regulation of vehicles

10. Traffic signs and directions
11. Parking
12. Emergency vehicles

Part 4—Protection of the environment

13. Protection of flora and fungi
14. Protection of fauna
15. Protection of rocks, soil, etc.
16. Litter

Part 5—Control of certain activities

17. Unauthorised structures
18. Unauthorised trading, etc.
19. Commercial photography
20. Bill sticking, advertising, etc.
21. Lighting fires etc.
22. Explosive devices
23. Camping
24. Unauthorised removal of property

Part 6—Enforcement

25. Offences
26. Prescribed offences

Schedule 1 - Prescribed Offences

Local Government Act 1995

Mindarie Regional Council

Waste Facility Site Local Law 2012

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Mindarie Regional Council resolved on the 19 April 2012 to make the following local law.

Part 1 — Preliminary

1. Title Citation

This local law is the *Mindarie Regional Council Waste Facility Site Local Law 2012*.

2. Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

3. Repeal

The *Mindarie Regional Council Tamala Park Local Law 2002* published in the *Government Gazette* on 27 December 2002 is repealed.

4. Interpretations used in this local law

In this local law, unless the contrary intention appears —

ACROD sticker has the same meaning as given in the *Local Government (Parking for Disabled Persons) Regulations 1988*;

Act means the *Local Government Act 1995*;

authorised officer means a person authorised by the local government under section 9.10 of the Act, to perform any of the functions under this Local Law;

carriageway has the same meaning as it has in the *Road Traffic Code 2000*;

drive has the same meaning as in the *Road Traffic Act 1974*;

emergency vehicle has the same meaning as in the *Road Traffic Code 2000*;

local government means the Mindarie Regional Council;

litter has the same meaning as given in the *Litter Act 1979*;

parking area means an area designated for the parking of vehicles;

permission has a meaning given in clause 6;

protection in relation to the environment, includes conservation, preservation, enhancement and management thereof: *has the same meaning as given in the Environmental Protection Act 1984*;

road has the same meaning as given in the *Road Traffic Act 1974*;

sign includes a traffic sign, inscription, road marking, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles;

site has the meaning given in clause 5;

traffic sign has the meaning given to it by the *Road Traffic Code 2000*;

unattended in relation to a vehicle, means that the driver has left the vehicle so that the driver is more than 3 metres from the closest point of the vehicle:

- (a) restricting or regulating the use of roads, tracks or paths on the site; or
- (b) prohibiting, restricting or regulating the use, standing or parking of vehicles on the site;

vehicle has the same meaning as given in the *Road Traffic Act 1974*.

5. Site

The site is all of the land being Lot 9504 on Plan 52070 known as 1700 Marmion Avenue, Mindarie, Western Australia.

6. Permissions

- (1) Where a provision of this local law states that an act or activity must not be done or carried on without permission, the reference to permission is to the permission of the local government.
- (2) For the purposes of any such provision, the local government may refuse permission or in the exercise of its power, it may grant permission —
 - (a) generally or for any specific instance; or
 - (b) on and subject to such terms and conditions as it considers appropriate including terms and conditions as to —
 - (i) the part of the site to which the permission applies;
 - (ii) the class or description of persons to whom the permission extends; or
 - (iii) the payment of any fee or charge whether before the act is done or the activity is commenced or otherwise.
- (3) The local government may amend or revoke a permission that has been granted.
- (4) A permission must be in writing and must be obtained before the act is done or the activity is commenced.
- (5) Where a permission has been given to a person subject to any condition, the permission is to be taken to have lapsed during any period when the condition was not observed or performed according to its tenor by that person.

Part 2 — Access to the site

7. Local government may restrict access

- (1) The local government may —
 - (a) close the site or part of the site; or
 - (b) close a road, track or path on the site,

to pedestrians or vehicles or both for such period as the local government thinks fit.

- (2) Where the local government closes any part of the site including a road, track or path on the site, it shall erect signs to give effect to the closure.
- (3) The inscription on a sign erected or established under this clause operates according to its tenor.
- (4) A person must not, without written permission —
 - (a) enter the site or any part of the site that is for the time being closed under this clause; or
 - (b) drive a vehicle on a road, track or path that is for the time being closed under this clause.

8. Unauthorised entry

A person must not, without written permission, enter or attempt to enter the site except through an entrance provided by the local government for that purpose.

9. Defence

It is a defence for the defendant to prove that the act complained of was necessary to prevent or mitigate injury to a person or damage to property.

Part 3 — Regulation of vehicles

10. Traffic signs and directions

- (1) The local government may erect or establish traffic signs on the site.
- (2) The inscription on a traffic sign operates according to its tenor.
- (3) A person must comply with —
 - (a) the inscription on a traffic sign erected or established under subclause (1); or
 - (b) a signal or direction by an authorised officer as to the use, parking or movement of a vehicle that is addressed to the person and that is reasonably required for the regulation of traffic on the site.

11. Parking

- (1) A person must not, without permission, park a vehicle, or cause or permit it to be parked, on the site —
 - (a) in a place, other than a parking area, that is off a carriageway;
 - (b) on part of a carriageway, if the parking of vehicles on that part of the carriageway is prohibited by a traffic sign;
 - (c) during a period when the person is not on the site, whether or not the vehicle is parked in a parking area;
 - (d) in a place that is marked with parking bays, unless it is entirely within the confines of a parking bay; or
 - (e) in an area designated for the parking of vehicles of people with a disability, unless —
 - (i) a person with a disability is the driver of, or a passenger in the vehicle; and
 - (ii) an ACROD sticker is displayed in a prominent position on the vehicle.
- (2) Any person, who commits a parking offence under this local law is liable, upon conviction, to a

penalty not exceeding \$1000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100, for each day or part of a day during which the offence has continued.

12. Emergency vehicles

In an emergency situation a driver of an emergency vehicle may park or stop that emergency vehicle at any place on the site at any time when it is expedient and safe to do so.

Part 4 — Protection of the environment

13. Protection of flora and fungi

- (1) In this clause —
flora means any form of plant life including any part, seeds or spores;
fungi means yeast, mold, smuts, mushrooms and toadstools; and
take includes gather, pluck, cut, pull up and dig up.
- (2) A person must not, without written authorisation under another written law, intentionally damage, destroy or take any flora or fungi living or dead on the site.
- (3) A person must not, without written authorisation, intentionally remove any stake-supporting label on or near;
 - (1) protective fencing;
around or near;
 - (2) any flora or fungi living or dead on the site.

14. Protection of fauna

- (1) In this clause —
fauna means any living thing that is not a human being or a plant and the eggs and immature stages of any such living thing; and
take includes remove, catch, trap and snare.
- (2) A person must not, without written authorisation under any other written law, injure, take, or interfere with any fauna on the site.
- (3) A person must not, without written authorisation under any other written law, intentionally carry or have in the person's possession on the site, a trap, cage, net, or other device for taking or transporting fauna.
- (4) A person must not, without written authorisation under any other written law, intentionally lay or place any trap, net or other device for the taking of fauna on the site.
- (5) A person must not, or without written authorisation under another written law, intentionally interfere with or destroy any nest or habitat of fauna on the site.

15. Protection of rocks, soil, etc.

A person must not, without written authorisation under any other written law —

- (a) intentionally remove, damage, interfere with or mark any rock or other geological material on the site;
- (b) intentionally remove or displace soil on the site; or
- (c) intentionally otherwise damage or interfere with the natural surface of the site.

16. Litter

~~(1) In this clause —~~

~~*litter* has the same meaning as in the *Litter Act 1979*.~~

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~~(2)~~ A person must not,—

- (a) deposit litter, or cause litter to be deposited, on the site unless the litter is deposited in a litter receptacle; or
- (b) deposit litter, or cause litter to be deposited, in a litter receptacle on the site if the litter was not generated on the site.

~~(3)~~ Any person found littering under this local law is liable, upon conviction, to a penalty not exceeding \$1000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100, for each day or part of a day during which the offence has continued.

Part 5 — Control of certain activities

17. Unauthorised structures

(1) In this clause —

structure means a building, tent, shelter, fence or other thing that is fixed permanently or temporarily, to land or to anything that is fixed to land.

(2) A person must not, without permission, erect or place a structure on the site.

18. Unauthorised trading, etc.

(1) A person must not, without written authorisation —

- (a) sell or hire, any goods or services;
- (b) provide any service or conduct any business or activity for fee or reward;
- (c) sell, distribute, or offer or expose for sale or distribute any printed or written material on the site.

19. Commercial photography

A person must not, without permission, take still or motion pictures on the site by photographic or electronic means for —

- (a) the purpose of public display, broadcast or transmission; or
- (b) use in the promotion or sale of goods or services.

20. Unauthorised advertising.

A person must not, without written permission —

- (a) place any notice, advertisement or document on any structure, object or natural surface on the site;
- (b) paint, mark or deface any structure, object or natural surface on the site.
- (c) cause any of the acts prohibited by paragraph (a) or (b) to be done by another person.

21. Lighting fires etc.

A person must not, without written permission —

- (a) light a fire; or
- (b) use a gas barbecue or other cooker, on the site.

22. Explosive devices

A person must not, without written permission, possess, throw, set off or ignite a firework, sparkler or other explosive device on the site.

23. Camping

- (1) In this clause —

camping means to stay or lodge, whether in a tent, temporary shelter, vehicle or otherwise.

- (2) A person must not camp on the site without written authorisation.

24. Unauthorised removal of property

- (1) A person must not remove or disturb any property on the site without written authorisation.
- (2) Subclause (1) does not apply to the owner of the property or to any person legally entitled to possession of the property.

Part 6—Enforcement

25. Offences

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$1000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100, for each day or part of a day during which the offence has continued.

26. Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
 - (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.
-

Schedule 1
Prescribed Offences

[clause 26]

Modified Penalties

Item Number.	Clause No.	Nature of offence	Modified Penalties \$
1	7(4)(a)	Enter the site or any part of the site that is closed for the time being; or driving a vehicle on a road, track or path that is closed for the time being.	200
2	8	Enter the site other than through an entrance without permission	200
3	11(a to d)	Park a vehicle, or cause or permit it to be parked, on the site without permission. Park in a place, other than a parking area, that is off a carriageway. Park on part of a carriageway, if the parking of vehicles on that part of the carriageway is prohibited by a traffic sign. Park during a period when the person is not on the site, whether or not the vehicle is parked in a parking area. Park in a place that is marked with parking bays, unless it is entirely within the confines of a parking bay	100
4	11(e)	Park a vehicle or vehicles in an area designated for a person or persons with a disability, unless the person or persons with a disability is the driver of, or a passenger in, the vehicle and an ACROD sticker is displayed in a prominent position on the vehicle.	100
5	13(1)	Damage, destroy or take away flora without permission	200
6	14(1)	Injure, take, or interfere with any fauna without permission	200
7	16(1)	Deposit litter other than in a litter receptacle	100
8	20	Sticking of bills, advertising etc without permission	100
9	21	Light a fire or use a cooker without permission	200
10	24	Disturb or remove property from the site without permission	200

<u>Item Number.</u>	<u>Clause No.</u>	<u>Nature of offence</u>	<u>Modified Penalties</u> \$
<u>1</u>	<u>7(4)(a) and (b)</u>	<u>Enter the site or any part of the site that is closed; or drive a vehicle on a road, track or path that is closed.</u>	<u>200</u>
<u>2</u>	<u>8</u>	<u>Enter the site other than through an entrance without permission.</u>	<u>200</u>
<u>3</u>	<u>11(1) (a)</u>	<u>Park a vehicle, or cause or permit it to be parked, on the site without permission in a place, other than a parking area, that is off a carriageway.</u>	<u>100</u>
<u>4</u>	<u>11(1)(b)</u>	<u>Park a vehicle, or cause or permit it to be parked, on the site without permission on part of a carriageway, if the parking of vehicles on that part of the carriageway is prohibited by a traffic sign.</u>	<u>100</u>
<u>5</u>	<u>11(1)(c)</u>	<u>Park a vehicle, or cause or permit it to be parked, on the site without permission during a period when the person is not on the site, whether or not the vehicle is parked in a parking area.</u>	<u>100</u>
<u>6</u>	<u>11(1)(d)</u>	<u>Park a vehicle, or cause or permit it to be parked, on the site without permission in a place that is marked with parking bays, unless it is entirely within the confines of a parking bay.</u>	<u>100</u>
<u>7</u>	<u>11(1) (e)</u>	<u>Park a vehicle or vehicles in an area designated for a person or persons with a disability, unless the person or persons with a disability is the driver of, or a passenger in, the vehicle and an ACROD sticker is displayed in a prominent position on the vehicle.</u>	<u>100</u>
<u>8</u>	<u>13(2)</u>	<u>Damage, destroy or take away flora without permission.</u>	<u>200</u>
<u>9</u>	<u>14(2)</u>	<u>Injure, take, or interfere with any fauna without permission.</u>	<u>200</u>
<u>10</u>	<u>16(1)</u>	<u>Deposit litter other than in a litter receptacle.</u>	<u>100</u>
<u>11</u>	<u>20(a)</u>	<u>Place any notice, advertisement or document on any structure, object or natural surface on the site without permission</u>	<u>100</u>
<u>12</u>	<u>20(b)</u>	<u>Paint, mark or deface any structure, object or natural surface on the site without permission.</u>	<u>100</u>
<u>13</u>	<u>21</u>	<u>Light a fire or use a gas barbecue or other cooker without permission.</u>	<u>200</u>
<u>14</u>	<u>24(1)</u>	<u>Disturb or remove property from the site without permission.</u>	<u>200</u>

Dated 26 April 2012.

THE COMMON SEAL of **MINDARIE**)
REGIONAL COUNCIL was)
affixed pursuant to a resolution of the)
Council in the presence of—)

Russel Fishwick
Chairman

Brian Callander
Chief Executive Officer

ATTACHMENT 2
TO ITEM 5.1
SPECIAL COUNCIL MEETING
20 SEPTEMBER 2012
MRC WASTE FACILITY SITE AMENDMENT LOCAL LAW 2012

LOCAL GOVERNMENT ACT 1995
MINDARIE REGIONAL COUNCIL
WASTE FACILITY SITE AMENDMENT LOCAL LAW 2012

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Mindarie Regional Council resolved on2012 to make the following local law.

1. Citation

This local law may be cited as the *Mindarie Regional Council Waste Facility Site Amendment Local Law 2012*.

2. Commencement

This local law will come into operation 14 days after the day on which it is published in the *Government Gazette*.

3. Principal Local Law Amended

The *Mindarie Regional Council Waste Facility Site Local Law 2012*, as published in the *Government Gazette* on 11 May 2012, is referred to as the principal local law. The principal local law is amended.

4. Clause 11 amended

In Clause 11 delete –

A person must not, without permission, park a vehicle, or cause or permit it to be parked, on the site – and insert

(1) A person must not, without permission, park a vehicle, or cause or permit it to be parked, on the site -.

5. Clause 16 amended

In Clause 16 delete subclause (1) and renumber the remaining subclauses accordingly.

6. Clause 22 amended

In Clause 22 after “on the site” insert “.”.

7. Clause 23 amended

Clause 23 is amended as follows –

- (a) in subclause (1) delete “*camping*” and insert “*camp*”; and
- (b) in subclause (2) after “on the site” insert “without”.

8. Schedule 1 amended

Delete Schedule 1 and insert as follows:

Schedule 1
Prescribed Offences

[clause 26]

Modified Penalties

Item Number.	Clause No.	Nature of offence	Modified Penalties \$
1	7(4)(a) and (b)	Enter the site or any part of the site that is closed; or drive a vehicle on a road, track or path that is closed.	200
2	8	Enter the site other than through an entrance without permission.	200
3	11(1) (a)	Park a vehicle, or cause or permit it to be parked, on the site without permission in a place, other than a parking area, that is off a carriageway.	100
4	11(1)(b)	Park a vehicle, or cause or permit it to be parked, on the site without permission on part of a carriageway, if the parking of vehicles on that part of the carriageway is prohibited by a traffic sign.	100
5	11(1)(c)	Park a vehicle, or cause or permit it to be parked, on the site without permission during a period when the person is not on the site, whether or not the vehicle is parked in a parking area.	100
6	11(1)(d)	Park a vehicle, or cause or permit it to be parked, on the site without permission in a place that is marked with parking bays, unless it is entirely within the confines of a parking bay.	100
7	11(1) (e)	Park a vehicle or vehicles in an area designated for a person or persons with a disability, unless the person or persons with a disability is the driver of, or a passenger in, the vehicle and an ACROD sticker is displayed in a prominent position on the vehicle.	100
8	13(2)	Damage, destroy or take away flora without permission.	200
9	14(2)	Injure, take, or interfere with any fauna without permission.	200
10	16(1)	Deposit litter other than in a litter receptacle.	100
11	20(a)	Place any notice, advertisement or document on any structure, object or natural surface on the site without permission	100
12	20(b)	Paint, mark or deface any structure, object or natural surface on the site without permission.	100
13	21	Light a fire or use a gas barbecue or other cooker without permission.	200
14	24(1)	Disturb or remove property from the site without permission.	200

Dated: 2012

The Common Seal of the Mindarie Regional Council was affixed by authority of a resolution of the Council in the presence of :

Cr Russ Fishwick, Chairman

Mr Brian Callander, Chief Executive Officer

5.2	EXTEND THE CITY OF STIRLING'S EXEMPTION TO DISPOSE OF WASTE AT MRC'S FACILITIES
File No:	LEG/14/06
Appendix(s):	Nil
Date:	6 September 2012
Responsible Officer:	CEO

SUMMARY

Consider extending the City of Stirling's exemption to dispose of waste at MRC facilities, being Tamala Park Landfill Site and the Neerabup Resource Recovery Facility (RRF).

BACKGROUND

At the Special Council Meeting held on 6 June 2012 Council considered a request from the City of Stirling to exempt them from disposing its waste at Tamala Park Landfill Site and the Resource Recovery Facility. The extension requested was not time limited and, in part, read as follows:

"This was the second such six month extension granted in the expectation that the withdrawal of the City of Stirling (City) from the Mindarie Regional Council (MRC) would be agreed and finalised within that period. Unfortunately, this has not occurred and therefore the City is seeking an exemption that would have the effect of exempting it from delivering all of its waste to the MRC, but this time without having to come back to MRC. Specifically, the exemption that the City is seeking would apply to all of the City's remaining 'waste' (as defined in the MRC Establishment Agreement) that is not the subject of a current exemption from the MRC.

I believe that it would be financially prudent for both the MRC and the City to go forward post 30 June 2012 without uncertainty over the delivery of waste tonnages on respective budgets. Therefore, the exemption now sought, together with the exemptions currently in place, would apply to all of the City's waste. Any delivery of waste by the City for any reason from 1 July 2012, to the MRC would then be charged on a commercial basis."

DETAIL

In considering the City of Stirling's request the Council did not provide an indefinite exemption on the basis that it was concerned that the Minister, who was at the time awaiting the Metropolitan Local Government Review, may not recommend to the Governor that the City of Stirling should be allowed to withdraw from the MRC given the far reaching implications of the recommendations relating to regional councils contained in the recent release of the draft review. The council did however provide a further extension of 3 months to the 30 September 2012.

The Minister, to date, has not advised how he is going to deal with the withdrawal and as such it is extremely unlikely that a decision will be made prior to the end of the exemption period approved by Council (30 September 2012). In addition to this the Minister has not indicated the Government's position on the Metropolitan Local Government Review and there is a State Election in March 2013 making it plausible that the Minister may not make a decision until after the Election. As such it is considered appropriate to extend the exemption to the 30 June 2013.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

The MRC's Constitution binds the member councils to deliver their waste to a nominated site but has the ability to exempt a member council from this requirement. The relevant parts of the Constitution are 4A.1 and 4A.2 as follows:

“4A.1 A constituent municipality, unless otherwise agreed by the parties hereto, shall be bound to dispose of waste in accordance with the requirements of the Regional Council and in particular, without limiting the generality of the foregoing, shall be bound to deliver waste to such site or sites as the Regional Council nominates.

4A.2 The Regional Council may exempt a constituent municipality from the provisions of clause 4A.1 hereof for such time and subject to such conditions as the regional Council deems fit and any exemption granted shall be communicated in writing.”

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

COMMENT

Given the above it is considered reasonable to extend the exemption to the 30 June 2013.

VOTING REQUIREMENT

Simple Majority

RESPONSIBLE OFFICER RECOMMENDATION

1. The City of Stirling be granted a further extension to the exemption from delivering waste to both Tamala Park Landfill and the Neerabup RRF as required by the Constitution of the Mindarie Regional Council for a further period of 9 months to the 30 June 2013.
2. The City of Stirling be obligated to pay the charges set for commercial users during the exemption period if it chooses to use the Mindarie Regional Council's facilities.
3. The City of Stirling be advised of Council's decision.

RESOLVED

**Cr Boothman moved, Cr Stewart seconded.
That the recommendation be adopted.**

CARRIED UNANIMOUSLY (11/0)

5.3	RRFA PERFORMANCE MEASURES – COMPOST MANAGEMENT
File No:	WST/173
Attachment(s):	Nil
Date:	12 September 2012
Responsible Officer:	Ian Watkins

SUMMARY

This Item provides a response to a question raised by Cr Newton asking for clarification on the reported non-compliance of compost produced at RRF as detailed in Item 14 - Resource Recovery Update Report in the agenda of the Ordinary Council Meeting held on 5 July 2012 and to bring to the attention of Council the current status with regards to compost quality..

Excerpt from 5 July 2012 Ordinary Council Meeting, Quality of Compost non-compliances highlighted in **Bold** text:

Performance Indicators

KPI's as per the RRFA are as follows:

Table No. 1 – KPI Summary (to 31 May 2012)

KPI	Target	Previous 6 Months	Mar	April	May
Availability	95%*	103%	101%	109%	104%
Environmental Standard - Number of	0	0	0	0	0
Waste Diversion	51.3%	49.9%	47.8%	48.6%	51.2%
Quality of Compost - Number of Breaches**	0	24	4	4	4
Quantity of Recyclable Packaging	0.8%	0.17%	0.73%	0.49%	0.49%
Health and Safety - Number of LTI's	0	0	0	0	1
Community Acceptance - Number of	0	0	0	0	0
Project Culture - PAG Chairperson Score	100	100	100	100	100

* The Target Availability during the Initial Operating Period is to achieve an Availability of greater than 95% over a six-month period.

** The compost standard within the RRFA is currently under review.

*** Numerous complaints relating to a single event are treated as a single complaint. Biofilter odour is not registered as a complaint as this is seen as a normal operating odour condition.

BACKGROUND

In developing a response to Cr Newton's question it became apparent that the quality of the compost at the RRF has been the subject of negotiation between the parties since the facility was commissioned. This was primarily due to the facility's inability to meet some of the compost targets set in the RRFA, including compost.

The recent RRFA Deed of Amendment approved by Council at the Council meeting on 5 July 2012 included a revised suite of compost targets were established. The MRC and BioVision agreed to commence interpreting the contract as per the Deed of Amendment from the start of the new Contract Year (16 July 2012). This decision meant that BioVision/SITA were liable for a fee abatement based on non-conformance with the amended compost targets. This has subsequently raised concerns for BioVision/SITA

about having the fee abated for non-conformances relating to compost targets for which BioVision/SITA have no control and are unable to influence by the RRF process.

DETAIL

The original KPI target for compost quality in the RRFA was based on some parameters from the Canadian compost standard (Sorrel Tracy facility), some from AS 4454-2003 and some from the DEC WA Biosolids Guidelines - February 2002. The recent Deed of Amendment to the RRFA changed the compost quality target to be in line with the latest AS 4454-2012 and the DEC WA Biosolid Guidelines - February 2002, with the exception of the glass (including metal and rigid plastic) content which was determined based on the BioVision tended commitments.

The compost quality covers a range of parameters for physical and chemical requirements, some of which are influenced by the quality of the incoming feedstock and others that are influenced by the composting and refining process within the RRF. The aerobic composting process is only able to influence compost moisture, aeration and physical content. It is not able to influence the chemical composition of the product.

The RRF process is designed for a 28-day (4 week) maturation period and according to the Australian Standard (AS 4454), this maturation period results in the production of a "Pasteurised Product" and not a "Composted Product". To produce a compost, the maturation duration would need to be extended by 50% to 100% (6 to 8 weeks). Consequently, the product should technically be referred to as a pasteurised product and not a compost.

The compost is tested weekly and the results are compared against the KPI target for compost quality. Historically, all of the weekly tests (based on an assessment of 96 weeks to June 2012) have failed to fully comply with the original compost target. The parameters that have failed included:

Parameter	% of Tests That Fail		Comment Reference No.
	Old Target	New Target	
Moisture Content	1%	0%	1)
pH	24%	24%	2)
Magnesium	59%	0%	3)
Boron	89%	0%	4)
Lead	16%	0%	5)
Mercury	46%	0%	6)
Zinc	3%	0%	7)
Glass	82%	0%	8)
E.Coli	4%	4%	9)
Wettability	0%	4%	10)

Note: A total of 96 weeks of compost tests were used for the comparison.

Comments:

- 1) Moisture Content: Function of process. Single failure in week two of operation – Process Failure.
- 2) pH: Impacted by feedstock quality and maturation duration - Not Process Failure.
- 3) Magnesium: Function of feedstock quality - Not Process Failure. The new KPI has removed this as a parameter.
- 4) Boron: Function of feedstock quality. Failures have been due to too little Boron in the product. - Not Process Failure. The new KPI has removed the lower limit for Boron.
- 5) Lead: Function of the feedstock quality; however, the vast majority of failures occurred within the first few months of the facility operation and it was thought that

-
- paint wearing off newly painted equipment may have accounted for some of the lead content - Not Process Failure. The new KPI has increased the upper limit for lead from 250 mg/kg to 420 mg/kg.
- 6) Mercury: Function of feedstock quality. Failures have been due to too little mercury in the product - Not Process Failure. The new KPI has removed the lower limit (as well as increased the upper limit from 0.8 mg/kg to 15 mg/kg).
 - 7) Zink: Function of feedstock quality - Not Process Failure. The new KPI has removed the lower limit and increase the upper limit from the 700 mg/kg to 2,500 mg/kg.
 - 8) Glass: Function of both a feedstock quality and process. The new KPI increases the limit for glass from 0.5% to 1.4%. This is consistent with the removal efficiency tended by BioVision, based on the input quantity of glass - Not Process Failure.
 - 9) E.Coli: Function of pasteurisation - Process Failure.
 - 10) Wettability: A function of RRF process - Process Failure. Four consecutive test failures.

In summary, all of the 96 weeks of tests analysed, based on the original KPI there have been 1% of the tests fail due to process failure for Moisture Content (1 test), 82% (80 tests) Glass failure and 4% (4 tests) E.Coli failure. Comparing to the new KPI, there have been 4% (4 tests) E.Coli and 4% (4 test) wettability failure.

Since the adoption of the amended compost targets by the MRC from 16 July 2012, there has been a single test failure relating to pH and nitrogen in July and no failures up to the third week in August (available test results).

Consequence of Non-Compliance

The RRFA sets out a mechanism for fee abatement in the event of non-compliance with the Compost Target KPI. Effectively, for one test failure the fee is abated by approximately \$15,000 and \$15,000 for each subsequent failure in the month up to a maximum of 4 tests. This equates to a maximum monthly fee abatement of approximately \$60,000. If there are no test failures in the preceding month and there is only one failure in month being considered, then there is no fee abatement.

BioVision Position

On 13 August 2012, BioVision wrote to the MRC clarifying its position regarding the compost quality KPI and stated *“the MRC is aware that BioVision has no control on inputs and can only influence process control including time, aeration and moisture. We seek an inclusion [in the RRFA Deed of Amendment] with respect to this KPI, that test failures relating to uncontrolled waste inputs not result in adjustments to the performance score as contemplated in Annexure E and the proposed Deed of Amendment. BioVision accepts adjustments for test failures that it can influence during process. We contemplate these to be moisture content, particle size, wettability and the physical contaminants”*.

On 4 September 2012, MRC responded to the BioVision letter requesting additional information and explanations prior to the MRC being able to consider modifying the Deed of Amendment.

On 10 September 2012, BioVision provided some additional information as requested, but this was insufficient for the MRC to fully consider the issue. This was mainly due to limited time available in order to try and get an Item to this Special Council Meeting.

Status of the Deed of Amendment

The MRC has approved the Deed of Amendment (05/07/2012 Council Meeting). BioVision and the ANZ Bank are yet to sign off on the Deed. Once the Deed has been signed by BioVision and the ANZ Bank, the MRC will sign it.

Way Forward

The MRC Administration proposes to request BioVision to provide additional information substantiating its request for modifying the Deed of Amendment. In the interim, the fee will not be abated due to non-compliance with the Compost Quality KPI until this matter has been resolved.

CONSULTATION

Consultation was held with the following parties:

- BioVision/SITA
- Freehills

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The suspension of the fee abatement mechanism until this matter is finalised would restrict the MRC from reducing the Gate Fee in the event of Compost Quality KPI non-conformances. The maximum fee abatement being approximately \$60,000 for all four test failures in a single month.

STRATEGIC IMPLICATIONS

Nil

COMMENT

The mechanism of suspending the consequences of issues that are being discussed between the parties is consistent with past practice and prevents “unwinding” the consequences once a final position has been agreed.

VOTING REQUIREMENT

Simple Majority

RESPONSIBLE OFFICER RECOMMENDATION

That Council agree to suspend the fee abatement mechanism relating to the Compost Quality KPI until the Ordinary Council Meeting of 6 December 2012 to allow the parties to resolve the compost quality issues and the MRC to report back to Council.

Cr Withers moved, Cr Gray seconded.

Cr Hollywood moved a Deferral of the Item, Cr Newton seconded.

RESOLVED

CARRIED (8/3)

ITEM 5.4	CONTAINER DEPOSIT SCHEME (CDS)
File No:	WST/193
Attachments(s):	1. WALGA Cash for Containers – Fact Sheet
Date:	14 September 2012
Responsible Officer:	Geoff Atkinson

SUMMARY

This report is to provide Council with an update of the current status of Container Deposit Schemes in Western Australia and confirm the Mindarie Regional Council's (MRC) stance on the issue.

BACKGROUND

WA Local Government Association (WALGA), through the Container Deposits Policy Forum, has developed an advocacy campaign to encourage the State Government to implement a State based Cash for Containers Scheme (otherwise known as a Container Deposit Scheme). Implementing this type of Scheme on a National level has been discussed for a number of years.

In South Australia, Container Deposit Legislation has been in place for over three decades. Consumers are able to receive 10 cents back on every beverage container that gets taken to be recycled at approved collection depots. This scheme has been extremely successful in reducing litter, increasing recycling rates and generating a greater environmental awareness in the public. South Australia had a recycling rate of over 70%, whereas Western Australia's recycling rate is one of the lowest in the country, at 32%.

The Northern Territory has recently implemented a similar Container Deposit Scheme (CDS) with initial mixed results.

WA used to have a CDS of sorts up until the late 1980's. At this time refillable bottles were phased out and rising transport costs were attributed with the demise of this scheme.

The powerful Packaging and Beverage Industry is currently running a campaign against the introduction of a CDS, along the grounds that:

- there are bigger waste issues to be dealt with i.e. construction and demolition (C&D) waste
- there is a potential cost to consumers and industry
- there is a requirement for new infrastructure and systems, and
- tweaking existing recycling services would be just as effective and more cost effective.

There is however a strong case for the introduction of a CDS, which includes:

- an increase in container recovery rates
- a reduction in municipal waste to landfill
- a reduction in the volume of litter
- provision of recycling services to homes for the first time, especially in remote and rural communities
- job creation, and
- engaging the community

In addition, through implementing a CDS, reduced Greenhouse emissions and savings in material resources, water and energy may also be achieved.

In early August 2012 WALGA produced and circulated an Infopage including a 'Cash for Containers – Factsheet' (see attached).

DETAIL

Current Situation in WA

At a State level both the Labour Party and Greens have committed to introducing a CDS if elected.

The Liberal Party are not so sure and would like to see the Federal Government make a stand on the issue.

There are already provisions in the Waste Avoidance and Resource Recovery Act 2007 that can be used to introduce a Cash for Containers Scheme.

The Federal Government is still making up its mind on CDSs with the general feeling being that it is a State issue. The Environmental Ministers met in August and are still assessing the options (these being a variety of regulatory and structural models) for addressing packaging waste. There are ten models being reviewed, now including the South Australian model. No outcome is expected in the near future.

WALGA, through the Container Deposit Systems Policy Forum, has agreed to support a CDS in some form and have developed an advocacy campaign to encourage the State Government to implement a WA Cash for Containers Scheme (a Container Deposit Scheme). Through this WALGA is encouraging Local Governments to take a position on CDSs, lobby State Members of Parliament and to take part in a CDS awareness raising event (possibly to be held in November 2012).

The CDS Policy Forum met early in September to discuss the Advocacy Campaign and Branding/Naming of the campaign. The main names being looked at include: Cash for Containers, Recycling Refund Scheme, Recycling for Rewards and Rubbish to Rewards. A number of sessions at the 2012 Waste and Recycling Conference were devoted to looking at both sides of the CDS argument, a further indication that the issue is gaining some level of support within the community.

CDS and the MRC

The MRC has previously stated that it believes that a CDS would be of value. The positive impacts on the MRC's waste management operations include:

- Reducing the amounts of packaging material contaminating the Resource Recovery Facility (RRF) feedstock, particularly the seasonal overflow of bottles and cans from the yellow-topped recycling bins into the general waste bins. This impacts on the operations of the RRF composting facility by way of increased glass in the final product and by extra contaminant material that needs to be separated and transported for landfilling, reducing the efficiency of the plant and the overall diversion rate achieved.
 - In non-residential collections i.e. the bins from parks, gardens, shopping centres and restaurants, many of these have high levels of packaging materials and often much of this goes directly to landfill. A CDS would potentially divert this material.
 - The community is increasingly encouraged to take greater responsibility for their waste. A CDS is a positive behavioural change agent from which other programs can be hung. It puts a value on waste and gets people thinking about their waste and doing something else with it other than just binning it. A CDS effectively mobilises the general community to undertake a major collecting role of this material.
-

The MRC's Member Councils however have voiced different opinions on the CDS. As such the MRC, although it may hold an alternative view, will continue to support the decisions of each individual Member Council in their chosen stance and will assist, where resources permit, in any activities or events they hold.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

COMMENT

Nil

VOTING REQUIREMENT

Simple Majority

RESPONSIBLE OFFICER RECOMMENDATION

That the MRC will support Member Councils that decide to implement a CDS, primarily by way of educational support in promoting their position to schools and the community and by assisting in the organising and running of events and activities within a Member Council's area.

Cr MacTiernan moved, Cr Boothman seconded.

Cr Stewart proposed an alternative motion as follows:

That the MRC resolves in principal to support the introduction of a Container Deposit Scheme by the State Government subject to the scheme being cost neutral for local government.

The alternative motion was not seconded and therefore lapsed.

The Officer's Recommendation was then put.

CARRIED (10/1)

ATTACHMENT 1
TO ITEM 5.4
SPECIAL COUNCIL MEETING
20 SEPTEMBER 2012
CONTAINER DEPOSIT SCHEME (CDS)

Cash for Containers – Factsheet

Every time a Cash for Containers Scheme has been proposed in the past, there has been a substantial lobbying campaign against the proposal from the beverage industry. This type of beverage industry campaign is again underway, which raises the question: *why are they fighting so hard?* This factsheet has been developed by the Western Australian Local Government Association (WALGA), and aims to provide clarity on some of the claims made by the beverage industry in their campaign against a Cash for Containers Scheme.

Western Australia's recycling rate is 32%; this is one of the lowest in the country.¹ Local Government currently covers the cost of collecting and managing beverage containers that end up in kerbside collections or as litter. Local Governments with tourist attractions often have to manage waste generated by visitors who do not contribute financially to the 'clean-up' of various products through rates. As a result, this cost needs to be shifted onto the producers and consumers of products.

What is a Cash for Containers Scheme?

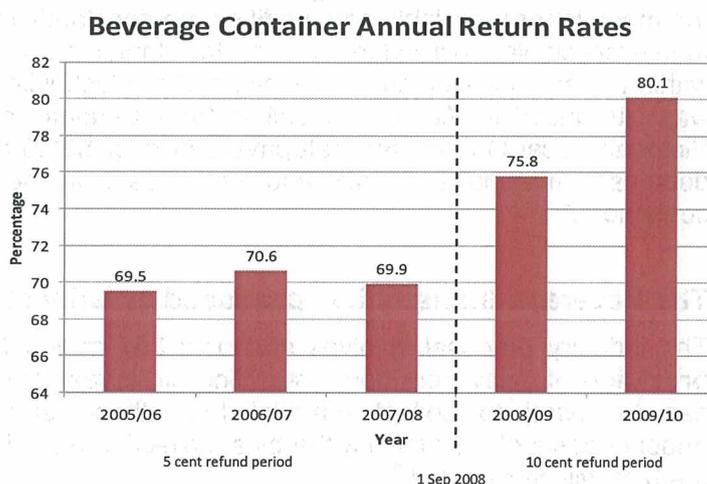
Cash for Containers Schemes (or Container Deposit Schemes or Legislation) have been around for a long time. Everyone is familiar with the South Australian Container Deposit Legislation (CDL) Scheme, where consumers receive 10 cents back for recycling their used beverage containers at collection depots. CDL in South Australia has been extremely successful, in:

1. Increasing the recycling rate;
2. Reducing litter;
3. Reducing waste management costs to Local Government; and
4. Providing recycling options to rural and remote areas.

Cash for Containers Increases Recovery

On 1 September 2008, the SA Government increased the deposit level from 5 to 10 cents, as the rate of 5 cents had been static since the enactment of legislation in 1977. Figure 1 demonstrates what happened in the years following the increase. By creating a financial incentive to recycle, people will recycle. In 2010-11 approximately 47,000 tonnes or 593 million beverage containers were returned to depots for a refund.²

Figure 1: South Australian EPA

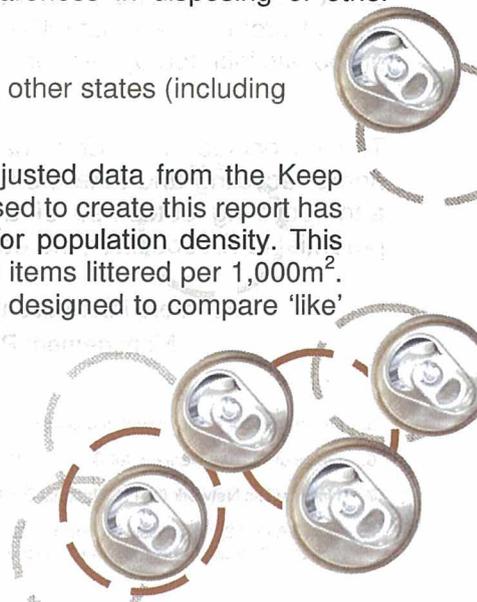


Cash for Containers Reduces Litter

In South Australia, CDL assists in reducing litter. According to the South Australian EPA, only 4% of the beverage containers that are subject to CDL become litter. Over 80% of the CDL containers that are sold are returned for the 10 cent refund. There is also evidence that a Cash for Containers Scheme in South Australia has caused the community to have greater environmental awareness in disposing of other products.

Industry has claimed that there is more beverage litter per capita in SA than other states (including NSW, QLD and Victoria) – is this true?

No. This claim was based on a report by the NSW Government³ that adjusted data from the Keep Australia Beautiful National Litter Index (NLI) 2009/10.⁴ The methodology used to create this report has been disputed; the NSW Government adjusted the NLI data to account for population density. This took NSW from being ranked 6/8 to 3/8 of all jurisdictions for the number of items littered per 1,000m². Comparing litter using these metrics alone is meaningless, as the NLI was designed to compare 'like' sites rather than be extrapolated to a per capita figure.



Cash for Containers assists with kerbside recycling and recycling services

Industry claims that a Cash for Containers scheme would duplicate kerbside recycling – is this true?

No. Not all Local Governments in WA have the capacity to provide a kerbside recycling service to residents. According to the Waste Census 2010/11, 56% of Local Governments in WA provided some form of weekly or fortnightly kerbside collection. The Local Governments that do provide this service face challenges with cost, contamination and limited markets for materials. Western Australian Local Governments spend approximately \$211 million in providing domestic waste and recycling services. Metropolitan Local Governments spent \$159 million of this total.⁵

The Containers Deposit Legislation in South Australia actually complements the kerbside system. The Scheme reduces the amount of material that Local Government has to manage through the kerbside recycling system, the associated costs of collecting, maintaining machinery and processing recyclables and the amount of contaminated material bound for landfill. Cash for Containers Schemes also reduce the amount of problematic materials that have to be processed through Material Recovery Facilities (e.g. glass).

Industry has claimed that introducing a Cash for Containers Scheme will come at a cost to Local Government – is this true?

No. Local Governments in South Australia have reported incomes of up to \$90,000 per year from containers deposited in the kerbside recycling system.⁶ Industry has also claimed that Local Governments will lose an income from selling reduced amounts of recycled containers. Industry has not considered that the markets for recyclable commodities are constantly in a state of flux. During the Global Financial Crisis, many recyclables lost value. A Cash for Containers Scheme has the potential to reduce the uncertainty within the market, as it creates a 'cleaner' product, with a higher, more consistent value. When a CDS Bill was introduced in Victoria, modelling for a Scheme indicated that there would be a financial saving to Victorian Local Government ratepayers of over \$21.5 million annually in the areas of litter management, decreased material to landfill and an increase in the recovery of the valuable resources in beverage containers.⁶

The Beverage Industry has proposed a National Bin Network. What does this mean?

The industry proposal involves spending \$51 million (at no extra cost to the consumer)⁷ on the **initial provision** of away from home recycling bin infrastructure. The proposal assumes that systems exist and can be used to collect material from these additional bins. This funding does not cover the ongoing costs of maintaining the bins, collecting material, or ensuring that that the material collected from the bins will be recycled.⁸

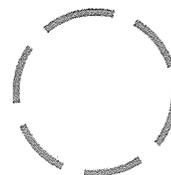
Will the National Bin Network work?

No. The proposal is reliant on the goodwill of Local Government and private industry to look after and service the bins. There are no practical, targeted incentives encouraging the community to recycle. This type of proposal, and its pitfalls, may be familiar to some in Local Government, as there have been similar proposals initiated by various industry groups in the past.

The Association considers that the National Bin Network proposal is a token effort to address away from home recycling and take the focus away from the real issues at hand. It will not deliver the equivalent litter and recycling outcomes of a Cash for Containers Scheme. A Cash for Containers approach has the potential to reduce litter, increase recycling and assist in making producers responsible for their products.

For more information, visit www.wastenet.net.au or contact WALGA (Heather Squire, Waste Management Policy Coordinator on 9213 2069 or email hsquire@walga.asn.au).

5. Department of Environment and Conservation (2012). Local Government Waste Census 2010/11.
6. Office of Colleen Hartland MLC (2011). The benefits of a 10 cent deposit on drink containers in Victoria.
7. National Bin Network (2011). National Bin Network Plan October 2011.
8. WALGA (2012). Submission to the Standing Council on Environment and Water on the Packaging Impacts Consultation Regulation Impact Statement.



Cr Stewart moved that in accordance with S5.23 of the Local Government Act 1995, Council proceed to meet “behind closed doors” to allow the Council to consider Confidential Items 6.1, 6.2 and 6.3 of this agenda. As they relate to:

- Matters affecting the CEO;
- Legal advice obtained; and
- A contract that may be entered into.

Cr Robbins seconded.

CARRIED UNANIMOUSLY (11/0)

There were no members of the public or journalists present. Member Council CEOs, Member Council Officers and one MRC staff member departed the Chamber at 5.53pm.

6 MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC
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6.1	RESOURCE RECOVERY FACILITY – REQUEST FOR RELOCATION OF ADJOINING TENANT
File No:	WST/118
Attachment(s):	1. Item 18.1 Resource Recovery Facility – request for relocation of Mr & Mrs Tull due to alleged odours causing ill health
Date:	7 September 2012
Responsible Officer:	CEO

RESOLVED:

“That the Item be deferred until the next Ordinary Council Meeting on 25 October 2012 where a further report from the CEO will be presented”.

CARRIED UNANIMOUSLY (11/0)

6.2	CITY OF STIRLING WITHDRAWAL – ALTERNATIVE VALUATION METHOD PREPARED BY DELOITTE
File No:	LEG/14
Attachments(s):	1. Deloitte Methodology Report
Date:	7 September 2012
Responsible Officer:	CEO

RESOLVED:

- “1. The MRC engage Deloitte to develop a valuation method that accurately reflects the value of the MRC when determining a financial settlement of a withdrawing member council at a total cost of \$60,000 (excluding GST).
2. The \$60,000 expenditure detailed in (1) above be funded in the half yearly budget review”.

by Absolute Majority
(CARRIED 7/4)

Cr Stewart requested that the names be recorded.

For: Cr Fishwick, Gray, Hollywood, Hayes, MacTiernan, Newton, Withers
Against: Cr Boothman, Cr Cooke, Robbins, Stewart.

6.3	CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW
File No:	PER/11
Attachment(s):	1. CEO Review 2012 (Final Report) 2. CEO Review 2012 (Remunerations Report) Final
Date:	7 September 2012
Responsible Officer:	Sonia Cherico

RESOLVED:

“That Council:

- 1. ADOPTS the August 2012 Interim Performance Review Report**
 - a. ENDORSES the overall rating of “Meets performance criteria and associated Performance Indicators at a highly satisfactory level”.**
 - b. ENDORSES the draft Key Result Areas and Objectives for 2012/2013**
 - c. SCHEDULES the next appraisal process to commence in April 2013.**
- 2. That Mr Brian Callander’s remuneration package as the Mindarie Regional Council’s Chief Executive Officer’s be increased to *\$XXXXXX (overall 5.0%), effective from the first pay period in July 2012”.**
***CEO’s remuneration removed as it is negotiated under contract.**

by Absolute Majority.

CARRIED UNANIMOUSLY (11/0)

Cr Gray moved, Cr Cooke seconded to reopen the meeting to the public.

CARRIED UNANIMOUSLY (11/0)

The attendees were invited back to the meeting at 6.56pm.

On return of the attendees the Chairperson read out the resolutions, made behind closed doors, of the Council Items 6.1, 6.2 and 6.3 as follows:

Item 6.1 RESOURCE RECOVERY FACILITY – REQUEST FOR RELOCATION OF ADJOINING TENANT

RESOLVED:

“That the Item be deferred until the next Ordinary Council Meeting on 25 October 2012 where a further report from the CEO will be presented”.

CARRIED UNANIMOUSLY (11/0)

NOTE: The Chief Executive Officer has NOT released this report for Public information due to legal privilege.

Item 6.2 CITY OF STIRLING WITHDRAWAL – ALTERNATIVE VALUATION METHOD PREPARED BY DELOITTE

RESOLVED:

- “1. The MRC engage Deloitte to develop a valuation method that accurately reflects the value of the MRC when determining a financial settlement of a withdrawing member council at a total cost of \$60,000 (excluding GST).**
- 3. The \$60,000 expenditure detailed in (1) above be funded in the half yearly budget review”.**

BY ABSOLUTE MAJORITY

CARRIED (7/4)

NOTE: The Chief Executive Officer has NOT released this report for Public information due to contract obligations.

Item 6.3 CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW

RESOLVED:

“That Council:

- 3. ADOPTS the August 2012 Interim Performance Review Report**
 - a. ENDORSES the overall rating of “Meets performance criteria and associated Performance Indicators at a highly satisfactory level”.**
 - b. ENDORSES the draft Key Result Areas and Objectives for 2012/2013**
 - c. SCHEDULES the next appraisal process to commence in April 2013.**
- 4. That Mr Brian Callander’s remuneration package as the Mindarie Regional Council’s Chief Executive Officer’s be increased to *\$XXXXXX (overall 5.0%), effective from the first pay period in July 2012. “**

***CEO’s remuneration removed as it is negotiated under contract.**

BY ABSOLUTE MAJORITY

CARRIED UNANIMOUSLY (11/0)

NOTE: The Chief Executive Officer has NOT released this report for Public information due to it being related to employment contract.

7 NOTICE OF MOTION

Motion presented by Cr Withers in accordance with clause 3.13 of the Standing Orders Local Law 2010.

That:

1. The MRC holds off presenting its submission to the Minister for Local Government in relation to the withdrawal of the City of Stirling to allow time for an offer to be presented to the City of Stirling to have them remain a member of the Mindarie Regional Council on the following premise:
 - a. Stirling's kerbside waste comes to MRC at the members' rate;
 - b. MRC and Stirling work together to find a way for Stirling's kerbside waste to be delivered to the RRF when required;
 - c. Stirling's Atlas bales will be:
 - i. given an indefinite exemption from tipping at MRC; and
 - ii. if delivered to MRC will be charged at the nominal landfill cost per tonne (\$100);
 - d. Stirling's other waste is given an indefinite exemption and Stirling agrees to tip it elsewhere. This waste will be charged at the members' rate if delivered to MRC.
2. The MRC authorises the CEO and Chairman (and other officers and councillors as appropriate) to hold discussions on this proposal with the City of Stirling and to report the results to the next meeting of the Council.
3. Should the negotiations with the City of Stirling be unsuccessful then the submission to the Minister for Local Government be finalised in line with Council's resolution of 28 March 2012 and presented to the Council for endorsement at its meeting on 25 October 2012.

Purpose

The purpose of this motion is to provide the City of Stirling with an incentive to retain its membership with the MRC and:

1. Move towards a situation where MRC's assets, particularly its RRF, can be used to their optimum potential;
2. Achieve a small drop in costs per tonne, which will benefit all members of MRC.

Background

The proposal seeks to allow the City of Stirling to continue to benefit from the lower tipping fees that it is currently enjoying at other facilities.

The motion if approved by Council, and accepted by the City of Stirling, is likely to improve the recovery rate of the RRF as Stirling's co-mingled kerbside bins have the highest organic content of any member council and the RRF recovery rate is primarily determined by the organic content of the waste delivered to it.

Stirling's bins have a higher organic content because the Atlas plant currently has a residue rate of about 30% on the Stirling kerbside bins delivered to it. As the RRF and the Atlas plant run on similar principles, it would be expected that the RRF diversion rate on Stirling's kerbside bins would be similar to that achieved by the Atlas plant – 30%, compared to the 50% the RRF it is currently achieving on bins from other member councils.

Stirling's kerbside waste has never been delivered to the RRF but this should be reconsidered, and MRC and Stirling should work together to find a way to have this waste processed in the RRF.

Going forwards, MRC needs to develop a strategy for keeping costs down and maximising the recovery rate from our RRF. Taking Stirling's kerbside waste through the RRF would be a step in the right direction.

Stirling is currently tipping its other waste (Atlas bales and Balcatta Transfer Station waste) at a lower cost than that charged by MRC. It is proposed that Stirling be given an exemption to allow it to continue doing this so that it can benefit from the lower tipping costs – and MRC benefits from our tip being filled at a slower rate.

In addition, it is proposed that, if it chooses to do so, Stirling be allowed to tip its processed bales at MRC at the nominal landfill cost of tipping because this waste has already been processed, and a smaller volume and tonnage is delivered to the landfill than would have been the case if it had not been processed.

The Balcatta Transfer Station waste, however, would attract the full members' rate if it is delivered to MRC because it is no different to any other waste that is delivered to MRC.

The following tables summarises the offer from an operational and financial perspective:

Stirling's Waste Stream	Tonnes	Proposed Arrangement
Kerbside waste	18,100	Members' rate
Balcatta Transfer Station	72,250	Exemption or Members' rate
Atlas Bales	24,500	Exemption or nominal landfill cost
TOTAL	114,850	

Source: Based on the 2011 MRC tonnage budget

The indicative financial effects of the proposal would depend on how much waste Stirling delivered to MRC. Three possibilities are shown in the table below:

Scenario	Members' Gate Fee
1. Stirling tips 18,100 tonnes of kerbside waste at Tamala Park at the members' gate fee rate (exemption for everything else).	\$131 per tonne
2. Scenario 1 plus 24,500 tonnes of baled waste at Tamala Park at a nominal rate (\$100)	\$125 per tonne
3. Scenario 2 plus 72,250 tonnes of Balcatta waste at Tamala Park at the members' gate fee rate.	\$106 per tonne

MOTION

Cr Withers moved, Cr MacTiernan seconded.

That:

- 1. The MRC holds off presenting its submission to the Minister for Local Government in relation to the withdrawal of the City of Stirling to allow time for an offer to be presented to the City of Stirling to have them remain a member of the Mindarie Regional Council on the following premise:
 - a) Stirling's kerbside waste comes to MRC at the members' rate;**
 - b) MRC and Stirling work together to find a way for Stirling's kerbside waste to be delivered to the RRF when required;**
 - c) Stirling's Atlas bales will be:
 - i. given an indefinite exemption from tipping at MRC; and**
 - ii. if delivered to MRC will be charged at the nominal landfill cost per tonne (\$100);****
 - d) Stirling's other waste is given an indefinite exemption and Stirling agrees to tip it elsewhere. This waste will be charged at the members' rate if delivered to MRC.****

LOST (2/9)

For: Cr MacTiernan. Cr Withers.

Against: Cr Boothman, Cooke, Fishwick, Gray, Hollywood, Hayes, Newton, Robbins, Stewart.

- 2. The MRC authorises the CEO and Chairman (and other officers and councillors as appropriate) to hold discussions on this proposal with the City of Stirling and to report the results to the next meeting of the Council.**

LOST (2/9)

For: Cr MacTiernan. Cr Withers.

Against: Cr Boothman, Cooke, Fishwick, Gray, Hollywood, Hayes, Newton, Robbins, Stewart.

- 3. Should the negotiations with the City of Stirling be unsuccessful then the submission to the Minister for Local Government be finalised in line with Council's resolution of 28 March 2012 and presented to the Council for endorsement at its meeting on 25 October 2012.**

CARRIED (7/4)

8	NEXT MEETING
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The next ordinary meeting of Council to be held on Thursday 25 October 2012 in the Council Chambers at City of Perth commencing at 5.30pm.

9	CLOSURE
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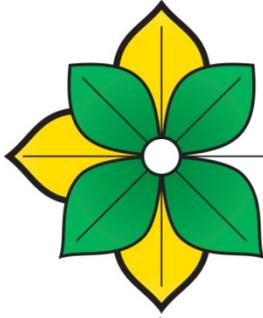
The Chairman closed the meeting at 7.23 pm and thanked the Town of Cambridge for their hospitality and the use of their meeting facilities.

These Minutes were confirmed by the Council as a true and accurate record of the Special Meeting of the Council held on 20 September 2012.

Signed Chairman

Dated this day of 2012

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TAMALA PARK
Regional Council

Ordinary Meeting of Council

MINUTES

Thursday 11 October 2012
Town of Victoria Park, 6.00pm

TAMALA PARK
REGIONAL COUNCIL
(TPRC)
COMPRISES THE
FOLLOWING
COUNCILS:

Town of Cambridge
City of Joondalup
City of Perth
City of Stirling
Town of Victoria Park
City of Vincent
City of Wanneroo

MEMBERSHIP

OWNER COUNCIL	MEMBER	ALTERNATE MEMBER
Town of Cambridge	Cr Corinne MacRae	
City of Joondalup	Cr Geoff Amphlett Cr Tom McLean	
City of Perth	Cr Eleni Evangel	
City of Stirling	Cr Giovanni Italiano (CHAIRMAN) Cr David Michael Cr Terry Tyzack Cr Rod Willox	Cr Stephanie Proud
Town of Victoria Park	Mayor Trevor Vaughan (DEPUTY CHAIRMAN)	Cr David Ashton
City of Vincent	Mayor Alannah MacTiernan	
City of Wanneroo	Cr Frank Cvitan Cr Dianne Guise	Cr Bob Smithson Cr Stuart Mackenzie

NB: Although some Councils have nominated alternate members, it is a precursor to any alternate member acting that a Council carries a specific resolution for each occasion that the alternate member is to act, referencing Section 51 of the Interpretation Act. The current Local Government Act does not provide for the appointment of deputy or alternate members of Regional Councils. The DLGRD is preparing an amendment to rectify this situation.

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PRESENT

Chairman Cr Giovanni Italiano

Councillors Cr Geoff Amphlett
Cr Frank Cvitan
Cr Eleni Evangel
Cr Dianne Guise
Cr Corinne MacRae
Cr Alannah MacTiernan (from 6.03pm)
Cr Tom McLean
Cr David Michael
Cr Terry Tyzack
Cr Trevor Vaughan

Alternate Members Nil

Staff Mr Tony Arias (Chief Executive Officer)
Mr Wayne Burns (Senior Projects Officer)
Mrs Kylie Jeffs (Executive Assistant)

Apologies Councillors Cr Rod Willox

Cr A MacTiernan arrived during discussion on this item at 6.03pm.

Leave of Absence Nil

Absent Nil

Consultants Mr Justin Crooks (Satterley Property Group)
Mr Aaron Grant (Satterley Property Group)
Mr Nigel Satterley (Satterley Property Group)

Apologies Participant Councils' Advisers Nil

In Attendance Participant Councils' Advisers Mr Lewis Bond (City of Perth)
Mr John Giorgi (City of Vincent)
Mr Garry Hunt (City of Joondalup)
Mr Len Kosova (City of Wanneroo)
Ms Rochelle Lavery (Town of Victoria Park)
Mr Jason Lyon (Town of Cambridge)
Mr Peter Morrison (City of Stirling)
Cr Stephanie Proud (City of Stirling)

Members of the Public Nil

Press Nil

1. OFFICIAL OPENING

At 6.01pm the Chairman declared the meeting of the Tamala Park Regional Council open.

DISCLOSURE OF INTERESTS

Mr Tony Arias (TPRC CEO) declared a financial interest in Item 9.12 – CEO Performance Review 2012.

2. PUBLIC STATEMENT/QUESTION TIME

Nil

3. APOLOGIES AND LEAVE OF ABSENCE

Apologies were received from Cr Rod Willox.

4. PETITIONS

Nil

5. CONFIRMATION OF MINUTES

Ordinary Meeting of Council – 16 August 2012

Moved Cr T McLean, Seconded Cr G Amphlett

That the minutes of the Ordinary Meeting of Council of 16 August 2012 be confirmed, and signed by the Chairman, as a true and correct record of proceedings.

The Motion was put and declared CARRIED (11/0).

5A. BUSINESS ARISING FROM THE MINUTES

Nil

6. ANNOUNCEMENTS BY CHAIRMAN (WITHOUT DISCUSSION)

Nil

7. MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil

8. REPORTS OF COMMITTEES

- Management Committee Meeting – 27 September 2012

9. ADMINISTRATION REPORTS

9.1 BUSINESS REPORT – PERIOD ENDING 11 OCTOBER 2012

Moved Cr D Guise, Seconded Cr F Cvitan

[The recommendation in the agenda]

That the Council RECEIVE the Business Report to 11 October 2012.

The Motion was put and declared CARRIED (11/0).

9.2 LIST OF MONTHLY ACCOUNTS SUBMITTED FOR THE MONTHS OF AUGUST & SEPTEMBER 2012

Moved Cr T Vaughan, Seconded Cr A MacTiernan

[The recommendation in the agenda]

That the Council RECEIVE and NOTE the list of accounts paid under Delegated Authority to the CEO for the months of August and September 2012:

- **Month ending 31 August 2012 (Total \$1,399,247.70)**
- **Month ending 30 September 2012 (Total \$1,467,559.08)**
- **Total Paid - \$2,866,806.78**

The Motion was put and declared CARRIED (11/0).

9.3 PROJECT FINANCIAL REPORT - AUGUST 2012

Moved Cr G Amphlett, Seconded Cr A MacTiernan

[The recommendation in the agenda]

That the Council RECEIVE the Project Financial Report (August 2012) submitted by the Satterley Property Group.

The Motion was put and declared CARRIED (11/0).

9.4 SALES REPORT – PERIOD ENDING 11 OCTOBER 2012

Mr Nigel Satterley (Satterley Property Group) provided an update on the housing market.

Moved Cr D Guise, Seconded Cr T Tyzack

[The recommendation in the agenda]

That the Council RECEIVE the Sales Report to 11 October 2012.

The Motion was put and declared CARRIED (11/0).

9.5 PROJECT CONSULTANCY – CIVIL ENGINEERING SERVICES TENDER

Moved Cr F Cvitan, Seconded Cr T Tyzack

[The recommendation in the agenda]

1. **ACCEPT the Cossill & Webley tender (dated September 2012, for a value of \$2,711,575) for civil engineering services in accordance with Tender 6/2012 (Civil Engineering Services, dated September 2012).**
2. **AUTHORISE the Chairman and the CEO to sign and affix the TPRC common seal to the Contracts.**

The Motion was put and declared CARRIED (11/0).

9.6 LOCAL AREA TRANSIT SYSTEM INVESTIGATION

Moved Cr T Tyzack, Seconded Cr E Evangel

[The recommendation in the agenda]

1. RECEIVE the Local Area Transit System Investigation on the viability of a local area transit system for Catalina, (June 2012), submitted by the Satterley Property Group.
2. NOT PROCEED with Special Transit Bus System or a Light Rail or Tramway systems on the basis that these would be costly to establish and to maintain
3. ACCEPT that Key Performance Indicator - Effective Use Of Land And Infrastructure 1.2.3 requiring the Investigation and recommendation on the viability of a local area transit system linking local schools, rail station and shops has been ACHIEVED by the Satterley Property Group.
4. REQUEST the Satterley Property Group to investigate options to promote greater use of public transport, including discussion of alternatives with the PTA, use of Greenlink dual use paths/cycleways, signage and community buses; and report back to Council.

Moved Cr A MacTiernan, Seconded Cr D Guise that recommendation (3) be deleted as follows:

3. ACCEPT that Key Performance Indicator - Effective Use Of Land And Infrastructure 1.2.3 requiring the Investigation and recommendation on the viability of a local area transit system linking local schools, rail station and shops has been ACHIEVED by the Satterley Property Group.

Moved Cr A MacTiernan, Seconded Cr E Evangel an amendment to recommendation (4) as follows:

4. **REQUEST the Satterley Property Group to investigate options to promote greater use of public transport, including discussion of firm arrangements with the PTA, use of Greenlink dual use paths/cycleways, signage, community buses and other bus related infrastructure and report back to Council.**

The Motion as amended was then read aloud as follows:

1. **RECEIVE the Local Area Transit System Investigation on the viability of a local area transit system for Catalina, (June 2012), submitted by the Satterley Property Group.**
2. **NOT PROCEED with Special Transit Bus System or a Light Rail or Tramway systems on the basis that these would be costly to establish and to maintain**
3. **REQUEST the Satterley Property Group to investigate options to promote greater use of public transport, including discussion of firm arrangements with the PTA, use of Greenlink dual use paths/cycleways, signage, community buses and other bus related infrastructure and report back to Council.**

The Motion for amendment was put and declared CARRIED (11/0).

The Motion as then amended was put and declared CARRIED (11/0).

9.7 CATALINA CENTRAL DESIGN GUIDELINES – CENTRAL PRECINCT PROPOSED MODIFICATIONS

Moved Cr T Tyzack, Seconded Cr F Cvitan

[The recommendation in the agenda]

1. **APPROVE the modification to Catalina Central Design Guidelines – Single Residential Lots, (November 2011) for the Central precinct by deleting the mandatory 2 storey building height requirement on the 9 lots fronting Neerabup Road, shown on the 2 Storey Dwelling Plan in Appendix 9.7.**
2. **REQUEST the Satterley Property Group to investigate options to designate lots within Stage 5 with mandatory 2 storey building height requirement and report back to Council.**

The Motion was put and declared CARRIED (9/2).

For: Cr G Amphlett, Cr F Cvitan, Cr E Evangel, Cr D Guise, Cr G Italiano, Cr A MacTiernan, Cr T McLean, Cr T Tyzack, Cr T Vaughan.

Against: Cr D Michael, Cr C MacRae.

9.8 SALES VILLAGE BUSINESS CASE

It was agreed Mr Justin Crooks (Satterley Property Group) would forward correspondence to Mr Tony Arias (TPRC CEO) confirming the AON insurance cover held by Satterley Property Group for the Catalina Estate development.

Mr Justin Crooks (Satterley Property Group) spoke on lot sales and the benefits of retaining the children's play area.

Moved Cr G Amphlett, Seconded Cr T McLean

[The recommendation in the agenda]

1. RECEIVE the Sales Village 1 & 2 Business Case (July 2012), submitted by the Satterley Property Group.
2. APPROVE the Phase 1 & 2 Sales Village designs contained within the Sales Village 1 & 2 Business Case, subject to the following modifications:-
 - Deletion of the children's play area on Lot 169;
 - Deletion of landscaping of Lot 168; and
 - Delete reference to Lots 115 and 116 remaining vacant to maintain sightlines to display villages.
3. APPROVE the sale and leaseback from purchasers of Lots 170 - 174 by the Sales Procedure – Private Purchaser Lots Strategy, September 2011, approved by the Council at its meeting held on 13 October 2011, subject to the requirements of section 3.59 of the Local Government Act (1995).

4. APPROVE the preparation of a business plan in accordance with section 3.59 of the Local Government Act (1995), for lots 170 – 174 for the purposes of a leaseback for the Catalina Sales Village.
5. REQUEST the Satterley Property Group to provide recommendations on rebates, building incentives and commercial terms for lots 170 – 174 sold by the Sales Procedure – Private Purchaser Lots Strategy, September 2011.
6. APPROVE the sale of Lots 115 – 121 and 168 & 169 as builder allocation lots by public tender, via the use of Put Option Deeds as approved by Council for the Stage 3 the Builders Allocation Lots in April 2012, subject to the same procedures, selection criteria and evaluation process, and terms and conditions.
7. REQUEST the Satterley Property Group to revise the Sales Village 1 & 2 Business Case, to reflect modifications detailed in items 2 above.
8. REQUEST the Satterley Property Group to provide recommendations for design guidelines and incentives to achieve high quality built form product on Lots 115 – 121 and 168 & 169.

Moved Cr D Michael, Seconded Cr E Evangel an amendment to recommendation 2, 6 & 8 as follows:

2. APPROVE the Phase 1 & 2 Sales Village designs contained within the Sales Village 1 & 2 Business Case, subject to the risk assessment matters concerning the children's play area being resolved to the satisfaction of the Management Committee, subject to the deletion of reference to Lots 115 & 116 remaining vacant to maintain sightlines to display villages.
6. APPROVE the sale of Lots 115 – 121 as builder allocation lots by public tender, via the use of Put Option Deeds as approved by Council for the Stage 3 the Builders Allocation Lots in April 2012, subject to the same procedures, selection criteria and evaluation process, and terms and conditions.
8. REQUEST the Satterley Property Group to provide recommendations for design guidelines and incentives to achieve high quality built form product on Lots 115 – 121.

The Motion as amended was then read aloud as follows:

1. **RECEIVE the Sales Village 1 & 2 Business Case (July 2012), submitted by the Satterley Property Group.**
2. **APPROVE the Phase 1 & 2 Sales Village designs contained within the Sales Village 1 & 2 Business Case, subject to the risk assessment matters concerning the children's play area being resolved to the satisfaction of the Management Committee, subject to the deletion of reference to Lots 115 & 116 remaining vacant to maintain sightlines to display villages.**
3. **APPROVE the sale and leaseback from purchasers of Lots 170 - 174 by the Sales Procedure – Private Purchaser Lots Strategy, September 2011, approved by the Council at its meeting held on 13 October 2011, subject to the requirements of section 3.59 of the Local Government Act (1995).**

4. **APPROVE** the preparation of a business plan in accordance with section 3.59 of the Local Government Act (1995), for lots 170 – 174 for the purposes of a leaseback for the Catalina Sales Village.
5. **REQUEST** the Satterley Property Group to provide recommendations on rebates, building incentives and commercial terms for lots 170 – 174 sold by the Sales Procedure – Private Purchaser Lots Strategy, September 2011.
6. **APPROVE** the sale of Lots 115 – 121 as builder allocation lots by public tender, via the use of Put Option Deeds as approved by Council for the Stage 3 the Builders Allocation Lots in April 2012, subject to the same procedures, selection criteria and evaluation process, and terms and conditions.
7. **REQUEST** the Satterley Property Group to revise the Sales Village 1 & 2 Business Case, to reflect modifications detailed in items 2 above.
8. **REQUEST** the Satterley Property Group to provide recommendations for design guidelines and incentives to achieve high quality built form product on Lots 115 – 121.

The Motion for amendment was put and declared CARRIED (7/4).

For: Cr F Cvitan, Cr E Evangel, Cr D Guise, Cr A MacTiernan, Cr D Michael, Cr T Tyzack, Cr T Vaughan.

Against: Cr G Amphlett, Cr G Italiano, Cr C MacRae, Cr T McLean.

The Motion as then amended was put and declared CARRIED (11/0).

9.9 PUBLIC ART STRATEGY

Moved Cr T Vaughan, Seconded Cr D Guise

[The recommendation in the agenda]

1. **RESOLVE** to implement public art within Phase 1 of the Project, in the form of functional public amenities and street furniture reflecting the themes and narratives of the Public Art Strategy.
2. **REQUEST** the Satterley Property Group provide a Public Art Implementation Plan for the delivery of public art within Phase 1.
3. **REQUIRE** the Satterley Property Group to undertake a review of the public art outcomes of the Phase 1 area following completion and report to the Council.
4. **REQUEST** the Satterley Property Group to examine options for a feature public art work within Phase 1, including alternative funding options.

Moved Cr D Guise, Seconded Cr F Cvitan an amendment to recommendation 1 & 2 as follows:

1. **RESOLVE** to present the Phase 1 Public Art Plan to the Management Committee, in the form of functional public amenities and street furniture reflecting the themes and narratives of the Public Art Strategy.
2. **REQUEST** the Satterley Property Group provide a Public Art Implementation Plan to the satisfaction of the Management Committee for the delivery of public art within

Phase 1.

3. REQUIRE the Satterley Property Group to undertake a review of the public art outcomes of the Phase 1 area following completion and report to the Council.
4. REQUEST the Satterley Property Group to examine options for a feature public art work within Phase 1, including alternative funding options.

The Motion for amendment was put and declared CARRIED (11/0).

Moved Cr A MacTiernan, Seconded Cr E Evangel an additional recommendation as follows:

5. RESOLVE to accept the Artsource recommendation for the Phase 1 Public Art Implementation Plan of 5% of the landscape budget being directed toward street furniture and public art.

The Motion for amendment was put and declared CARRIED (11/0).

The Motion as amended was then read aloud as follows:

1. **RESOLVE to present the Phase 1 Public Art Plan to the Management Committee, in the form of functional public amenities and street furniture reflecting the themes and narratives of the Public Art Strategy.**
2. **REQUEST the Satterley Property Group provide a Public Art Implementation Plan to the satisfaction of the Management Committee for the delivery of public art within Phase 1.**
3. **REQUIRE the Satterley Property Group to undertake a review of the public art outcomes of the Phase 1 area following completion and report to the Council.**
4. **REQUEST the Satterley Property Group to examine options for a feature public art work within Phase 1, including alternative funding options.**
5. **RESOLVE to accept the Artsource recommendation for the Phase 1 Public Art Implementation Plan of 5% of the landscape budget being directed toward street furniture and public art.**

The Motion for amendment was put and declared CARRIED (11/0).

The Motion as then amended was put and declared CARRIED (11/0).

9.10 LANDSCAPE MASTERPLAN

Cr E Evangel departed the meeting at 7.45pm.

Moved Cr D Guise, Seconded Cr T Vaughan

[The recommendation in the agenda]

1. **RECEIVE the Landscape Masterplan (June 2012), submitted by the Satterley Property Group.**
2. **ADOPT the Landscape Masterplan (June 2012), for strategic guidance in the**

design and development of landscaped areas of the Catalina Estate, subject to the following modifications and additions:-

- a) **Recognition of SEWPAC approval, by integration of requirements into the Landscape Masterplan's recommendations for the design and development of landscape works;**
 - b) **Incorporation of strategic advice on potential beach access and facilities within the foreshore area, including timing and integration;**
 - c) **Incorporation of the sustainability initiatives contained within the Catalina Greenlink Strategy (EPCAD, 2012);**
 - d) **Recognition of the Graceful Sun Moth conservation area and SEWPAC requirements within the Western Cell;**
 - e) **Confirmation that the Masterplan has been developed in accordance with the TPRC project budget, and the ability to implement its recommendation within the allocations provided in the project budget;**
 - f) **Approval of all entry statements proposals, demonstrating support by the City of Wanneroo, compliance with budget and value for money;**
 - g) **Inclusion of the Public Art Implementation Plan for the delivery of public art within Phase 1; and**
 - h) **Inclusion of statements regarding sustainability targets, particularly in the area of water sensitive landscaping and water usage.**
- 3. ACCEPT that Key Performance Indicator – Strategy and Planning; Landscape 3.2.1, requiring the preparation of a Landscape Masterplan by June 2012, has been ACHIEVED by the Satterley Property Group, subject to receipt of a revised document, incorporating the modifications contained under item 2.**

The Motion was put and declared CARRIED (10/0).

9.11 PUBLIC TRANSPORT INITIATIVES STRATEGY

[The recommendation in the agenda]

1. **RECEIVE** the Public Transport Initiatives Strategy (June 2012), submitted by the Satterley Property Group.
2. **ADOPT** the Public Transport Initiatives Strategy, for strategic guidance in the integration of public transport services to the Catalina Estate.
3. **REQUEST** the Satterley Property Group to continue discussions with the Public Transport Authority, to coordinate the delivery of public transport services with occupancy by residents.
4. **ACCEPT** that Key Performance Indicator – Strategy and Planning; 3.2.2 Public Transport, requiring the preparation of a Public Transport Initiatives Strategy by June 2012, has been achieved by the Satterley Property Group.

Moved Cr A MacTiernan, Seconded Cr D Guise

The following recommendation:

1. **RECEIVE the Public Transport Initiatives Strategy (June 2012), submitted by the Satterley Property Group.**
2. **REQUEST the Satterley Property Group to undertake further discussions with the Public Transport Authority, to coordinate the delivery of public transport services with occupancy by residents.**

The Motion as presented was put and declared CARRIED (10/0).

9.12 CEO PERFORMANCE REVIEW 2012

Moved Cr T Tyzack, Seconded Cr F Cvitan

[The recommendation in the agenda]

That the Council APPROVE the proposal, dated 26 September 2012 for \$3,300 (inc GST) from WALGA Workplace Solutions to assist the Council with the CEO Performance review.

The Motion was put and declared CARRIED (10/0).

9.13 PAYMENT OF ACCOUNTS & SECURITY OF PAYMENT INSTRUMENTS POLICY REVIEW

Moved Cr D Guise, Seconded Cr G Amphlett

[The recommendation in the agenda]

That Council APPROVE the Payment of Accounts & Security of Payment Instruments Policy (dated 27 September 2012).

The Motion was put and declared CARRIED (10/0).

9.14 INVESTMENT POLICY REVIEW

Moved Cr G Amphlett, Seconded Cr T McLean

[The recommendation in the agenda]

That the Investment Policy adopted in October 2011 be REAFFIRMED.

The Motion was put and declared CARRIED (10/0).

9.15 CREDIT CARD POLICY REVIEW

Moved Cr T Vaughan, Seconded Cr F Cvitan

[The recommendation in the agenda]

That Council APPROVE the modified Credit Card Policy (dated October 2012) as outlined in Appendix 9.15.

The Motion was put and declared CARRIED (10/0).

9.16 PETTY CASH POLICY REVIEW

Moved Cr D Guise, Seconded Cr T McLean

[The recommendation in the agenda]

That the proposed Petty Cash Policy be ADOPTED and scheduled for review in October 2013.

The Motion was put and declared CARRIED (10/0).

9.17 CODE OF CONDUCT FOR ELECTED MEMBERS & STAFF

Moved Cr D Amphlett, Seconded Cr T McLean

[The recommendation in the agenda]

That the revised Code of Conduct of the Tamala Park Regional Council be ADOPTED.

Moved Cr T Tyzack, Seconded Cr F Cvitan

That the item be HELD OVER to the next Council meeting scheduled for 13 December 2012.

The Motion was put and declared CARRIED (10/0).

9.18 PROJECT CONSULTANCY – TOWN PLANNING CONSULTANCY SERVICES TENDER

Moved Cr F Cvitan, Seconded Cr D Guise

[The recommendation in the agenda]

- 1. ACCEPT the Chappell Lambert Everett tender (dated September 2012 for the value of \$622,500) for town planning and urban design consultancy services in accordance with Tender 9/2012 (Town Planning and Urban Design Services, dated September 2012).**
- 2. AUTHORISE the Chairman and the CEO to sign and affix the TPRC common seal to the Contracts.**

The Motion was put and declared CARRIED (10/0).

9.19 COUNCIL MEETING SCHEDULE 2013

It was noted that 18 April 2013 is also the date for the WALGA North Zone meeting.

[The recommendation in the agenda]

1. That the schedule of Council meetings dates be APPROVED for 2013 as follows:

- 21 February 2013 (City of Wanneroo)
 - 18 April 2013 (Town of Cambridge)
 - 20 June 2013 (City of Joondalup)
 - 22 August 2013 (City of Stirling)
 - 17 October 2013 (Town of Victoria Park)
 - 19 December 2013 (City of Perth)
2. That the schedule of meeting dates be ADVERTISED as required by the Local Government Act.
 3. That the commencement time for meetings BE 6.00pm.
 4. That Council meetings be HELD on a rotational basis at participant Council premises.

Moved Cr F Cvitan, Seconded Cr D Guise change of venue for December meeting as follows:

1. **That the schedule of Council meetings dates be APPROVED for 2013 as follows:**
 - **21 February 2013 (City of Wanneroo)**
 - **18 April 2013 (Town of Cambridge)**
 - **20 June 2013 (City of Joondalup)**
 - **22 August 2013 (City of Stirling)**
 - **17 October 2013 (Town of Victoria Park)**
 - **19 December 2013 (City of Vincent)**
2. **That the schedule of meeting dates be ADVERTISED as required by the Local Government Act.**
3. **That the commencement time for meetings BE 6.00pm.**
4. **That Council meetings be HELD on a rotational basis at participant Council premises.**

The Motion was put and declared CARRIED (10/0).

9.20 MANAGEMENT COMMITTEE MEETING SCHEDULE 2013

Moved Cr D Guise, Seconded Cr F Cvitan

[The recommendation in the agenda]

1. **That the schedule of Management Committee meetings dates be APPROVED for 2013 as follows:**
 - **7 February 2013**
 - **4 April 2013**
 - **6 June 2013**
 - **8 August 2013**
 - **3 October 2013**
 - **5 December 2013**

2. That the schedule of meeting dates be ADVERTISED as required by the Local Government Act.

3. That the commencement time for meetings BE 5.00pm.

4. That Management Committee meetings be HELD at the City of Vincent.

The Motion was put and declared CARRIED (10/0).

10. ELECTED MEMBERS MOTIONS OF WHICH NOTICE HAS BEEN GIVEN

Nil

11. QUESTIONS BY ELECTED MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

12. URGENT BUSINESS APPROVED BY THE CHAIRMAN

Nil

13. MATTERS BEHIND CLOSED DOORS

Nil

14. GENERAL BUSINESS

Nil

15. FORMAL CLOSURE OF MEETING

The Chairman declared the meeting closed at 8.07pm.

These minutes were confirmed at a meeting on

SIGNED this day of 2012

as a true record of proceedings.

CHAIRMAN



MINUTES

ORDINARY COUNCIL MEETING

TIME: 5.30PM

25 OCTOBER 2012

CITY OF PERTH

Managing waste and recovering resources responsibly
Constituent Members: *Cities of Perth, Joondalup, Stirling, Vincent and Wanneroo*
Towns of Cambridge and Victoria Park



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4 PUBLIC QUESTION TIME

Nil

5 ANNOUNCEMENTS BY THE PRESIDING PERSON
--

Nil

6 APPLICATIONS FOR LEAVE OF ABSENCE
--

Nil

7 PETITIONS / DEPUTATIONS / PRESENTATIONS
--

Nil

8 CONFIRMATION OF MINUTES OF PREVIOUS MEETING
--

8.1 ORDINARY COUNCIL MEETING – 23 AUGUST 2012

The Minutes of the Ordinary Council Meeting held on 23 August 2012 have been printed and circulated to members of the Council.

RESPONSIBLE OFFICER RECOMMENDATION

That the Minutes of the Ordinary Council Meeting of Council held on 23 August 2012 be confirmed as a true record of the proceedings.

RESOLVED

**Cr Robbins moved, Cr Gray seconded
That the recommendation be adopted.**

CARRIED UNANIMOUSLY

8.2 SPECIAL COUNCIL MEETING – 20 SEPTEMBER 2012

The Minutes of the Special Council Meeting held on 20 September 2012 have been printed and circulated to members of the Council.

RESPONSIBLE OFFICER RECOMMENDATION

That the Minutes of the Special Council Meeting of Council held on 20 September 2012 be confirmed as a true record of the proceedings.

RESOLVED

**Cr Cooke moved, Cr Stewart seconded
That the recommendation be adopted.**

CARRIED UNANIMOUSLY

9 CHIEF EXECUTIVE OFFICER REPORTS

9.1	LIST OF PAYMENTS MADE FOR THE MONTHS ENDED 31 JULY 2012 AND 31 AUGUST 2012
File No:	FIN/5-02
Appendix(s):	Appendix No. 1 Appendix No. 2
Date:	12 October 2012
Responsible Officer:	Gunther Hoppe

SUMMARY

The purpose of this report is to provide details of payments made during the periods identified. This is in line with the requirement under the delegated authority to the Chief Executive Officer (CEO), that a list of payments made from the Municipal Fund since the last Ordinary Council meeting be presented to Council.

COMMENT

The lists of payments for the months ended 31 July 2012 and 31 August 2012 are at **Appendix 1 and 2** to this Item and are presented to Council for noting. Payments have been made in accordance with the delegated authority to CEO which allows payments to be made between meetings. At the Ordinary Council Meeting held on 23 August 2012, the Council delegated to the CEO the exercise of its power to make payments from the Municipal Fund. In order to satisfy the requirements of Clause 13(2) of the Local Government (Financial Management) Regulations, a list of payments made must be submitted to the next Council meeting following such payments.

It should be noted that generally all payments are GST inclusive and Mindarie Regional Council is able to claim this tax as an input credit when GST remittances are made each month to the Australian Tax Office.

Months Ended	Account	Vouchers	Amount
31 July 2012	General Municipal	Cheques	\$210,967.85
		EFT	\$3,367,227.26
		DP	\$430,473.67
		Total	\$4,008,668.78
31 August 2012	General Municipal	Cheques	\$145,362.18
		EFT	\$2,757,347.13
		DP	\$468,332.01
		Total	\$3,371,041.32

VOTING REQUIREMENT

Simple Majority

RESPONSIBLE OFFICER RECOMMENDATION

That the list of payments made under delegated authority to the Chief Executive Officer, for the months ended 31 July 2012 and 31 August 2012 be noted.

RESOLVED

**Cr Stewart moved, Cr Gray seconded
 That the recommendation be adopted.**

CARRIED UNANIMOUSLY

9.2	FINANCIAL STATEMENTS FOR THE PERIODS ENDED 31 JULY 2012 AND 31 AUGUST 2012
File No:	FIN/5-02
Appendix(s):	Appendix No. 3 Appendix No. 4 Appendix No. 5
Date:	12 October 2012
Responsible Officer:	Gunther Hoppe

SUMMARY

The purpose of this report is to provide financial reporting in line with statutory requirements which provides useful information to stakeholders of the Council.

BACKGROUND

Reporting requirements are defined by Financial Management Regulations 34 of the Local Government (Financial Management) Regulations 1996.

The financial statements presented for each month consist of:

- Operating Statement by Nature – Combined
- Operating Statement by Nature – RRF Only
- Operating Statement by Function
- Statement of Financial Activity
- Statement of Reserves
- Statement of Financial Position
- Statement of Investing Activities
- Information on Borrowings
- Tonnage Report

DETAIL

The Financial Statements attached are for the months ended 31 July 2012 and 31 August 2012 and are attached at **Appendix 3 and 4** to this Item. The Tonnage Report for the 2 months to 31 August 2012 is attached at **Appendix 5**.

The complete suite of Financial Statements which includes the Operating Statements, Statement of Financial Position, Statement of Financial Activity and other related information are reported on a monthly basis.

These Statements include:

- Accruals
- Provisions for Amortisation of Cell Development, Capping and Post Closure expenditure

to provide meaningful reporting to Stakeholders.

The estimates for Provisions for Amortisation of Cell Development, Capping and Post Closure expenditure are based on the estimated rates per tonne calculated with reference to estimated excavation cost of various stages of the landfill and the life of the landfill. An adjustment is made (if necessary) at the end of the year based on actual tonnages on a survey carried out to assess the "air space" remaining and other relevant information.

Summary of results for the year to 31 August 2012

	Actual	Budget	Variance
	t	t	t
Tonnes – Members	38,123	41,658	(3,535)
Tonnes – Others	6,480	8,493	(2,013)
TOTAL TONNES	44,603	50,151	(5,548)
	\$	\$	\$
Revenue - Members	4,992,115	5,409,983	(417,868)
Revenue – Other	1,319,763	1,359,462	(39,699)
TOTAL REVENUE	6,311,878	6,769,445	(457,567)
Expenses	6,531,607	7,113,149	581,542
Loss on sale of assets	6,387	(9,238)	(15,625)
NET DEFICIT	(226,116)	(334,466)	108,350

VOTING REQUIREMENT

Simple Majority

RESPONSIBLE OFFICER RECOMMENDATION

That the Financial Statements set out in Appendix 3 and 4 for the months ended 31 July 2012 and 31 August 2012 be received.

RESOLVED

**Cr Newton moved, Cr Gray seconded
That the recommendation be adopted.**

CARRIED UNANIMOUSLY

9.3	REVIEW OF COUNCIL MEMBERS' FEES, ALLOWANCES AND EXPENSES
File No:	GOV/4
Attachment(s):	1. Breakdown of the current fees, allowances and expenses of Regional Councils
Date:	8 October 2012
Responsible Officer:	CEO

SUMMARY

Review of Council Members' Fees, Allowances and Expenses.

BACKGROUND

Council Members' Fees, Allowances and Expenses were last reviewed in 2008 where the Council resolved to increase the fees to bring them in line with industry standards.

DETAIL

The current fees, allowances and expenses were last reviewed against the other Western Australia Regional Councils in 2008. It is considered timely to undertake a further review.

The attached table provides a breakdown of the current fees, allowances and expenses of Regional Councils including the Mindarie Regional Council (MRC) along with the proposed changes to the fees, allowances and expenses for the MRC members. The changes proposed for MRC are as follows:

Changes to the Mindarie Regional Council Fees, Allowances and Expenses						
Member Type	Fees		Allowances		Expenses (Technology)	
	Current	Proposed	Current	Proposed	Current	Proposed
Chairperson	\$13,000	\$14,000	\$6,000	\$8,000	\$1,000	\$1,000
Deputy Chairperson	\$6,000	\$7,000	\$1,500	\$2,000	\$1,000	\$1,000
Council Member	\$6000	\$7,000			\$1,000	\$1,000
Deputy Member	\$140 per meeting	\$140 per meeting				

This would see the total payment for the chairperson increase from \$20,000 per annum to \$23,000 per annum; the total payment for the deputy chairperson increase from \$8,500 per annum to \$10,000 per annum; and the total payment for a council member increase from \$7,000 per annum to \$8,000 per annum.

CONSULTATION

Consultation undertaken with other Regional Councils in the Perth area to determine the current fees, allowances and expenses they provide to their members to determine market trends.

STATUTORY ENVIRONMENT

Extract from the *Local Government Act 1995 - Fees and Allowances for Councillors*

"5.98. Fees etc. for council members

-
- (1) A council member who attends a council or committee meeting is entitled to be paid —
- (a) the prescribed minimum fee for attending a council or committee meeting; or
 - (b) where the local government has set a fee within the prescribed range for council or committee meeting attendance fees, that fee.
- (2A) A council member who attends a meeting of a prescribed type at the request of the council is entitled to be paid —
- (a) the prescribed minimum fee for attending a meeting of that type; or
 - (b) where the local government has set a fee within the prescribed range for meetings of that type, that fee.
- (2) A council member who incurs an expense of a kind prescribed as being an expense —
- (a) to be reimbursed by all local governments; or
 - (b) which may be approved by any local government for reimbursement by the local government and which has been approved by the local government for reimbursement,
- is entitled to be reimbursed for the expense in accordance with subsection (3).
- (3) A council member to whom subsection (2) applies is to be reimbursed for the expense —
- (a) where the minimum extent of reimbursement for the expense has been prescribed, to that extent; or
 - (b) where the local government has set the extent to which the expense can be reimbursed and that extent is within the prescribed range (if any) of reimbursement, to that extent.
- (4) If an expense is of a kind that may be approved by a local government for reimbursement, then the local government may approve reimbursement of the expense either generally or in a particular case but nothing in this subsection limits the application of subsection (3) where the local government has approved reimbursement of the expense in a particular case.
- (5) The mayor or president of a local government is entitled, in addition to any entitlement that he or she has under subsection (1) or (2), to be paid —
- (a) the prescribed minimum annual local government allowance for mayors or presidents; or
 - (b) where the local government has set an annual local government allowance within the prescribed range for annual local government allowances for mayors or presidents, that allowance.
- (6) A local government cannot —
- (a) make any payment to; or
 - (b) reimburse an expense of,
- a person who is a council member or a mayor or president in that person's capacity as council member, mayor or president unless the payment or reimbursement is in accordance with this Division.
-

-
- (7) A reference in this section to a **committee meeting** is a reference to a meeting of a committee comprising —

- (a) council members only; or
- (b) council members and employees.

[Section 5.98 amended by No. 64 of 1998 s. 36; No. 17 of 2009 s. 33.]

5.98A. Allowance for deputy mayor or deputy president

- (1) A local government may decide* to pay the deputy mayor or deputy president of the local government an allowance of up to the prescribed percentage of the annual local government allowance to which the mayor or president is entitled under section 5.98(5).

* Absolute majority required.

- (2) An allowance under subsection (1) is to be paid in addition to any amount to which the deputy mayor or deputy president is entitled under section 5.98.

[Section 5.98A inserted by No. 64 of 1998 s. 37.]

5.99. Annual fee for council members in lieu of fees for attending meetings

A local government may decide* that instead of paying council members a fee referred to in section 5.98(1), it will instead pay all council members who attend council or committee meetings —

- (a) the prescribed minimum annual fee; or
- (b) where the local government has set a fee within the prescribed range for annual fees, that fee.

* Absolute majority required.

5.99A. Allowances for council members in lieu of reimbursement of expenses

A local government may decide* that instead of reimbursing council members under section 5.98(2) for all of a particular type of expense it will instead pay all council members —

- (a) the prescribed minimum annual allowance for that type of expense; or
- (b) where the local government has set an allowance within the prescribed range for annual allowances for that type of expense, an allowance of that amount,

and only reimburse the member for expenses of that type in excess of the amount of the allowance.

* Absolute majority required.

[Section 5.99A inserted by No. 64 of 1998 s. 38.]

5.100A. Gifts to council members

A local government cannot give a gift to a council member unless —

- (a) the gift is given in prescribed circumstances; and
- (b) the value of the gift is less than a prescribed amount.

[Section 5.100A inserted by No. 17 of 2009 s. 34.]

5.100. Payments for certain committee members

-
- (1) *A person who is a committee member but who is not a council member or an employee is not to be paid a fee for attending any committee meeting.*
 - (2) *Where —*
 - (a) *a local government decides that any person who is a committee member but who is not a council member or an employee is to be reimbursed by the local government for an expense incurred by the person in relation to a matter affecting the local government; and*
 - (b) *a maximum amount for reimbursement of expenses has been prescribed for the purposes of section 5.98(3)(b),*

the local government must ensure that the amount reimbursed to that person does not exceed that maximum.

5.101. Payments for employee committee members

- (1) *A committee member who is an employee is not to be paid a fee for attending any committee meeting.*
- (2) *Nothing in this section prevents a local government from reimbursing an employee for an expense incurred by the employee in relation to a matter affecting the local government.*

5.101A. Regulations about payment of expenses

Regulations may be made about the method of payment of an expense for which a person can be reimbursed.

[Section 5.101A inserted by No. 17 of 2009 s. 35.]

5.102. Expense may be funded before actually incurred

Nothing in this Division prevents a local government from making a cash advance to a person in respect of an expense for which the person can be reimbursed.”

Extract from the Local Government (Administration) Regulations 1996

Part 8 - Local government payments and gifts to members

“30. Meeting attendance fees (Act s. 5.98(1) and (2A))

- (1) *For the purposes of section 5.98(1), subject to subregulation (3) —*
 - (a) *the minimum fee for a council member other than —*
 - (i) *the mayor or president; or*
 - (ii) *in the case of a regional local government, the chairman, attending a council meeting is \$60 for each meeting; and*
 - (b) *the maximum fee for a council member other than —*
 - (i) *the mayor or president; or*
 - (ii) *in the case of a regional local government, the chairman, attending a council meeting is \$140 for each meeting.*
 - (2) *For the purposes of section 5.98(1), subject to subregulation (3) or (5), as the case requires —*
-

-
- (a) *the minimum fee for a council member attending a meeting of a committee of which he or she is also a member is \$30 for each meeting; and*
- (b) *the maximum fee for a council member attending a meeting of a committee of which he or she is also a member is \$70 for each meeting.*
- (3A) *Each of the following meetings is a meeting of a prescribed type for the purposes of section 5.98(2A) —*
- (a) *meeting of a WALGA Zone, where the council member is representing a local government as a delegate elected or appointed by the local government;*
- (b) *meeting of a Regional Road Group established by Main Roads Western Australia, where the council member is representing a local government as a delegate elected or appointed by the local government;*
- (c) *council meeting of a regional local government where the council member is the deputy of a member of the regional local government and is attending in the place of the member of the regional local government;*
- (d) *meeting other than a council or committee meeting where the council member is attending at the request of a Minister of the Crown who is attending the meeting;*
- (e) *meeting other than a council meeting or committee meeting where the council member is representing a local government as a delegate elected or appointed by the local government.*
- (3B) *For the purposes of section 5.98(2A), subject to subregulation (3C), and subregulation (3) or (5) as the case requires —*
- (a) *the minimum fee for a council member attending a meeting of a type referred to in subregulation (3A) is \$30 for each meeting; and*
- (b) *the maximum fee for a council member attending a meeting of a type referred to in subregulation (3A) is \$70 for each meeting.*
- (3C) *A council member is not entitled to be paid a fee for attending a meeting of a type referred to in subregulation (3A) if —*
- (a) *the person who organises the meeting pays the council member a fee for attending the meeting; or*
- (b) *the council member is paid an annual fee in accordance with section 5.99; or*
- (c) *if the meeting is a meeting referred to in subregulation (3A)(c), the member of the regional local government is paid an annual fee in accordance with section 5.99.*
- (3) *The total of fees paid to a council member other than —*
- (a) *the mayor or president; or*
- (b) *in the case of a regional local government, the chairman,*
- for attending meetings (whether of the council, of any committee or a meeting of a type referred to in subregulation (3A)) in each year is not to exceed \$7 000.*
- (4) *For the purposes of section 5.98(1), subject to subregulation (5) —*
- (a) *the minimum fee —*
- (i) *for the mayor or president; or*
-

-
- (ii) *in the case of a regional local government, for the chairman, attending a council meeting is \$120 for each meeting; and*
 - (b) *the maximum fee —*
 - (i) *for the mayor or president; or*
 - (ii) *in the case of a regional local government, for the chairman, attending a council meeting is \$280 for each meeting.*
 - (5) *The total of fees paid —*
 - (a) *to the mayor or president; or*
 - (b) *in the case of a regional local government, to the chairman,*

for attending meetings (whether of the council, of any committee or a meeting of a type referred to in subregulation (3A)) in each year is not to exceed \$14 000.

[Regulation 30 amended in Gazette 23 Apr 1999 p. 1719; 31 Mar 2005 p. 1034; 3 May 2011 p. 1595-6.]

31. Expenses to be reimbursed (Act s. 5.98(2)(a) and (3))

- (1) *For the purposes of section 5.98(2)(a), the kinds of expenses that are to be reimbursed by all local governments are —*
 - (a) *rental charges incurred by a council member in relation to one telephone and one facsimile machine; and*
 - (b) *child care and travel costs incurred by a council member because of the member's attendance at a council meeting or a meeting of a committee of which he or she is also a member.*
- (2) *The extent to which an expense referred to in subregulation (1)(a) can be reimbursed is the actual amount.*
- (3) *The extent to which child care costs referred to in subregulation (1)(b) can be reimbursed is the actual cost per hour or \$20.00 per hour, whichever is the lesser amount.*
- (4) *The extent to which travel costs referred to in subregulation (1)(b) can be reimbursed —*
 - (a) *if the person lives or works in the local government district or an adjoining local government district, is the actual cost for the person to travel from the person's place of residence or work to the meeting and back; or*
 - (b) *if the person does not live or work in the local government district or an adjoining local government district, is the actual cost, in relation to a journey from the person's place of residence or work and back —*
 - (i) *for the person to travel from the person's place of residence or work to the meeting and back; or*
 - (ii) *if the distance travelled referred to in subparagraph (i) is more than 100 km, for the person to travel from the outer boundary of an adjoining local government district to the meeting and back to that boundary.*
- (5) *For the purposes of subregulations (2) to (4), actual amounts and actual costs are to be verified by sufficient information.*

[Regulation 31 amended in Gazette 31 Mar 2005 p. 1034.]

32. Expenses that may be approved for reimbursement (Act s. 5.98(2)(b) and (3))

- (1) For the purposes of section 5.98(2)(b), the kinds of expenses that may be approved by any local government for reimbursement by the local government are —
- (a) an expense incurred by a council member in performing a function under the express authority of the local government; and
 - (b) an expense incurred by a council member to whom paragraph (a) applies by reason of the council member being accompanied by not more than one other person while performing the function if, having regard to the nature of the function, the local government considers that it is appropriate for the council member to be accompanied by that other person; and
 - (c) an expense incurred by a council member in performing a function in his or her capacity as a council member.
- (2) The extent to which an expense referred to in subregulation (1) can be reimbursed is the actual amount, verified by sufficient information.

33. Annual local government allowance for mayors or presidents (Act s. 5.98(5))

- (1) For the purposes of section 5.98(5) —
- (a) the minimum annual local government allowance for a mayor or president is \$600; and
 - (b) the maximum annual local government allowance for a mayor or president is —
 - (i) \$12 000; or
 - (ii) 0.002 of the local government's operating revenue, whichever is the greater amount, but in any case no more than \$60 000.
- (2) In this regulation —
- operating revenue** has the meaning that it has in the Local Government (Financial Management) Regulations 1996.
- [Regulation 33 amended in Gazette 23 Apr 1999 p. 1719; 31 Mar 2005 p. 1034.]

33A. Annual local government allowance for deputies (Act s. 5.98A)

For the purposes of section 5.98A(1) the prescribed percentage is 25%.

[Regulation 33A inserted in Gazette 23 Apr 1999 p. 1719.]

34. Annual attendance fees (Act s. 5.99)

- (1) For the purposes of section 5.99 —
- (a) the minimum annual fee for a council member other than —
 - (i) the mayor or president; or
 - (ii) in the case of a regional local government, the chairman, attending meetings (whether of the council or of any committee) is \$2 400; and
 - (b) the maximum annual fee for a council member other than —
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- (i) *the mayor or president; or*
 - (ii) *in the case of a regional local government, the chairman, attending meetings (whether of the council or of any committee) is \$7 000.*

(2) *For the purposes of section 5.99 —*

(a) *the minimum annual fee —*

- (i) *for the mayor or president; or*
- (ii) *in the case of a regional local government, for the chairman, attending meetings (whether of the council or of any committee) is \$6 000; and*

(b) *the maximum annual fee —*

- (i) *for the mayor or president; or*
- (ii) *in the case of a regional local government, for the chairman, attending meetings (whether of the council or of any committee) is \$14 000.*

[Regulation 34 amended in Gazette 23 Apr 1999 p. 1719-20; 31 Mar 2005 p. 1035.]

34A. Allowances in lieu of reimbursement of telephone etc. expenses (Act s. 5.99A)

For the purposes of section 5.99A(b), the maximum total annual allowance for telephone and facsimile machine rental charges referred to in regulation 31(1)(a) and any other telecommunications expenses that might otherwise have been approved for reimbursement under regulation 32 is \$2 400.

[Regulation 34A inserted in Gazette 23 Apr 1999 p. 1720; amended in Gazette 31 Mar 2005 p. 1035.]

34AA. Allowances in lieu of reimbursement of information technology expenses (Act s. 5.99A)

For the purposes of section 5.99A(b), the maximum total annual allowance for information technology expenses that have been approved for reimbursement under regulation 32 is \$1 000.

[Regulation 34AA inserted in Gazette 31 Mar 2005 p. 1035.]

34AB. Allowances in lieu of reimbursement of travelling and accommodation expenses (Act s. 5.99A)

(1) *For the purposes of section 5.99A(b), the maximum annual allowance for travelling and accommodation expenses —*

- (a) *prescribed as being a kind of expense to be reimbursed by all local governments under regulation 31; or*
- (b) *that have been approved for reimbursement under regulation 32,*

is the same amount as the amount to which a person would be entitled for those expenses in the same circumstances under the Public Service Award.

(2) *In this regulation —*

Public Service Award means the Public Service Award 1992 issued by the Western Australian Industrial Relations Commission as amended from time to time.

[Regulation 34AB inserted in Gazette 31 Mar 2005 p. 1035.]

34AC. Gifts to council members, when permitted etc. (Act s. 5.100A)

- (1) The retirement of a council member who has served at least one full 4 year term of office is prescribed under section 5.100A(a) as circumstances in which a gift can be given to the council member.
- (2) The amount of \$100 for each year served as a council member to a maximum of \$1 000 is prescribed under section 5.100A(b) in respect of a gift given to a council member in the circumstances set out in subregulation (1).

[Regulation 34AC inserted in Gazette 3 May 2011 p. 1596.]

34AD. Method of payment of expenses for which person can be reimbursed (Act s. 5.101A)

- (1) The provision of a vehicle owned by a local government —
 - (a) to a council member who is a mayor or president of the local government; or
 - (b) to a council member who is not a mayor or president of the local government if —
 - (i) no reasonable alternative method of travel is available to the council member; and
 - (ii) the CEO, mayor or president of the local government has given prior written approval for the provision of the vehicle,

is prescribed under section 5.101A as a method of payment of expenses for which a council member can be reimbursed.
- (2) Before a vehicle owned by a local government is provided to a council member the local government and the council member must sign an agreement setting out the responsibilities of the council member in relation to the use of the vehicle.”

POLICY IMPLICATIONS

Proposed increase in council members' fees, allowances and expenses is in line with Council Policy (No. 2A)

FINANCIAL IMPLICATIONS

The increase in council members' fees, allowances and expenses was not anticipated at the time the 2012/13 Budget was prepared and as such there has been no allocation for this increase. In addition to this, the amount set aside for council members was reduced based on the anticipated withdrawal of the City of Stirling. The additional funds required to accommodate the proposed increases and the shortfall due to the City of Stirling withdrawal not being finalised, is \$42,500. It is proposed to address the shortfall in the half yearly budget review.

STRATEGIC IMPLICATIONS

Nil

COMMENT

It has been some time since the council members' fees, allowances and expenses have been reviewed and the proposed increases are in line with the marketplace. As such, it is recommended that the increases as provided for in the Detail section of this report be approved and commence retrospective from 1 July 2012.

VOTING REQUIREMENT

Simple Majority / Absolute Majority

RESPONSIBLE OFFICER RECOMMENDATION

That Council:

- Approves the following increase to the Fees, Allowances and Expenses for council members as follows:**

Changes to the Mindarie Regional Council Fees, Allowances and Expenses						
Member Type	Fees		Allowances		Expenses (Technology)	
	Current	Proposed	Current	Proposed	Current	Proposed
Chairperson	\$13,000	\$14,000	\$6,000	\$8,000	\$1,000	\$1,000

Deputy Chairperson	\$6,000	\$7,000	\$1,500	\$2,000	\$1,000	\$1,000
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Council Members	\$6000	\$7,000			\$1,000	\$1,000
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Changes to the Mindarie Regional Council Fees, Allowances and Expenses						
Member Type	Fees					
	Current	Proposed				
Deputy Member	\$140 per meeting	\$140 per meeting				
TOTAL VALUE OF INCREASE					\$10,500	

- Acknowledges the shortfall of \$32,000 (based on the revised rates proposed in (1) Above) in the 2012/13 Budget in the council member area due to the Budget being developed in anticipation of the withdrawal of the City of Stirling being settled prior to the end of the 2011/12 financial year.**
- The increase in Fees and Allowances detailed in (1) above and the shortfall detailed in (2) above amounting to \$42,500 be funded in the Half Yearly review.**

(Absolute Majority Required)

- The increases detailed in (1) above be effective from the 1 July 2012.**

RESOLVED

**Cr Pickard moved, Cr Newton seconded
 That the recommendation be adopted.**

CARRIED: (10/1)

For: Cr Bissett, Cr Butler, Cr Cooke, Cr Gray, Cr Hollywood, Cr MacTiernan, Cr Pickard, Cr Proud, Cr Robbins, Cr Stewart,

Against: Cr Newton

ATTACHMENT 1
TO ITEM 9.3
ORDINARY COUNCIL MEETING
25 OCTOBER 2012
BREAKDOWN OF THE CURRENT FEES, ALLOWANCES AND EXPENSES

Cr Withers joined the meeting at 5.55pm

9.4	RRFA PERFORMANCE MEASURES – COMPOST MANAGEMENT
File No:	WST/173
Appendix(s):	Nil
Date:	11 October 2012
Responsible Officer:	Ian Watkins

SUMMARY

This Item provides a response to a question raised by Cr Newton asking for clarification on the reported non-compliance of compost produced at RRF as detailed in Item 14 - Resource Recovery Update Report in the agenda of the Ordinary Council Meeting held on 5 July 2012 and to bring to the attention of Council the current status with regards to compost quality.

Excerpt from 5 July 2012 Ordinary Council Meeting, Quality of Compost non-compliances highlighted in **Bold** text:

Performance Indicators

KPI's as per the RRFA are as follows:

Table No. 1 – KPI Summary (to 31 May 2012)

KPI	Target	Previous 6 Months	Mar	April	May
Availability	95%*	103%	101%	109%	104%
Environmental Standard - Number of	0	0	0	0	0
Waste Diversion	51.3%	49.9%	47.8%	48.6%	51.2%
Quality of Compost - Number of Breaches**	0	24	4	4	4
Quantity of Recyclable Packaging	0.8%	0.17%	0.73%	0.49%	0.49%
Health and Safety - Number of LTI's	0	0	0	0	1
Community Acceptance - Number of	0	0	0	0	0
Project Culture - PAG Chairperson Score	100	100	100	100	100

* The Target Availability during the Initial Operating Period is to achieve an Availability of greater than 95% over a six-month period.

** The compost standard within the RRFA is currently under review.

*** Numerous complaints relating to a single event are treated as a single complaint. Biofilter odour is not registered as a complaint as this is seen as a normal operating odour condition.

BACKGROUND

In developing a response to Cr Newton's question it became apparent that the quality of the compost at the RRF has been the subject of negotiation between the parties since the facility was commissioned. This was primarily due to the facility's inability to meet some of the compost targets set in the RRFA, including compost.

The recent RRFA Deed of Amendment approved by Council at the Council meeting on 5 July 2012 included a revised suite of compost targets were established. The MRC and BioVision agreed to commence interpreting the contract as per the Deed of Amendment from the start of the new Contract Year (16 July 2012). This decision meant that BioVision/SITA were liable for a fee abatement based on non-conformance with the

amended compost targets. This has subsequently raised concerns for BioVision/SITA about having the fee abated for non-conformances relating to compost targets for which BioVision/SITA have no control and are unable to influence by the RRF process.

DETAIL

The original KPI target for compost quality in the RRFA was based on some parameters from the Canadian compost standard (Sorrel Tracy facility), some from AS 4454-2003 and some from the DEC WA Biosolids Guidelines - February 2002. The recent Deed of Amendment to the RRFA changed the compost quality target to be in line with the latest AS 4454-2012 and the DEC WA Biosolid Guidelines - February 2002, with the exception of the glass (including metal and rigid plastic) content which was determined based on the BioVision tended commitments.

The compost quality covers a range of parameters for physical and chemical requirements, some of which are influenced by the quality of the incoming feedstock and others that are influenced by the composting and refining process within the RRF. The aerobic composting process is only able to influence compost moisture, aeration and physical content. It is not able to influence the chemical composition of the product.

The RRF process is designed for a 28-day (4 week) maturation period and according to the Australian Standard (AS 4454), this maturation period results in the production of a "Pasteurised Product" and not a "Composted Product". To produce a compost, the maturation duration would need to be extended by 50% to 100% (6 to 8 weeks). Consequently, the product should technically be referred to as a pasteurised product and not a compost.

The compost is tested weekly and the results are compared against the KPI target for compost quality. Historically, all of the weekly tests (based on an assessment of 96 weeks to June 2012) have failed to fully comply with the original compost target. The parameters that have failed included:

Parameter	% of Tests That Fail		Comment Reference No.
	Old Target	New Target	
Moisture Content	1%	0%	1)
pH	24%	24%	2)
Magnesium	59%	0%	3)
Boron	89%	0%	4)
Lead	16%	0%	5)
Mercury	46%	0%	6)
Zinc	3%	0%	7)
Glass	82%	0%	8)
E.Coli	4%	4%	9)
Wettability	0%	4%	10)

Note: A total of 96 weeks of compost tests were used for the comparison.

Comments:

- 1) Moisture Content: Function of process. Single failure in week two of operation – Process Failure.
- 2) pH: Impacted by feedstock quality and maturation duration - Not Process Failure.
- 3) Magnesium: Function of feedstock quality - Not Process Failure. The new KPI has removed this as a parameter.
- 4) Boron: Function of feedstock quality. Failures have been due to too little Boron in the product. - Not Process Failure. The new KPI has removed the lower limit for Boron.

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- 5) Lead: Function of the feedstock quality; however, the vast majority of failures occurred within the first few months of the facility operation and it was thought that paint wearing off newly painted equipment may have accounted for some of the lead content - Not Process Failure. The new KPI has increased the upper limit for lead from 250 mg/kg to 420 mg/kg.
 - 6) Mercury: Function of feedstock quality. Failures have been due to too little mercury in the product - Not Process Failure. The new KPI has removed the lower limit (as well as increased the upper limit from 0.8 mg/kg to 15 mg/kg).
 - 7) Zink: Function of feedstock quality - Not Process Failure. The new KPI has removed the lower limit and increase the upper limit from the 700 mg/kg to 2,500 mg/kg.
 - 8) Glass: Function of both a feedstock quality and process. The new KPI increases the limit for glass from 0.5% to 1.4%. This is consistent with the removal efficiency tended by BioVision, based on the input quantity of glass - Not Process Failure.
 - 9) E.Coli: Function of pasteurisation - Process Failure.
 - 10) Wettability: A function of RRF process - Process Failure. Four consecutive test failures.

In summary, all of the 96 weeks of tests analysed, based on the original KPI there have been 1% of the tests fail due to process failure for Moisture Content (1 test), 82% (80 tests) Glass failure and 4% (4 tests) E.Coli failure. Comparing to the new KPI, there have been 4% (4 tests) E.Coli and 4% (4 test) wettability failure.

Since the adoption of the amended compost targets by the MRC from 16 July 2012, there has been a single sampling failure relating to pH and nitrogen in July and no failures up to the third week in August (available test results).

Consequence of Non-Compliance

The RRFA sets out a mechanism for fee abatement in the event of non-compliance with the Compost Target KPI. Effectively, for one test failure the fee is abated by approximately \$15,000 and \$15,000 for each subsequent failure in the month up to a maximum of 4 tests. This equates to a maximum monthly fee abatement of approximately \$60,000. If there are no test failures in the preceding month and there is only one failure in month being considered, then there is no fee abatement.

BioVision Position

On 13 August 2012, BioVision wrote to the MRC clarifying its position regarding the compost quality KPI and stated "*the MRC is aware that BioVision has no control on inputs and can only influence process control including time, aeration and moisture. We seek an inclusion [in the RRFA Deed of Amendment] with respect to this KPI, that test failures relating to uncontrolled waste inputs not result in adjustments to the performance score as contemplated in Annexure E and the proposed Deed of Amendment. BioVision accepts adjustments for test failures that it can influence during process. We contemplate these to be moisture content, particle size, wettability and the physical contaminants*".

On 4 September 2012, MRC responded to the BioVision letter requesting additional information and explanations prior to the MRC being able to consider modifying the Deed of Amendment.

On 10 September 2012, BioVision provided some additional information as requested, but this was insufficient for the MRC to fully consider the issue. This was mainly due to limited time available in order to try and get an Item to this Special Council Meeting (20 September 2012).

Status of the Deed of Amendment

The MRC has approved the Deed of Amendment (05/07/2012 Council Meeting). BioVision and the ANZ Bank are yet to sign off on the Deed. Once the Deed has been signed by BioVision and the ANZ Bank, the MRC will sign it.

Way Forward

The MRC Administration proposes to request BioVision to provide additional information substantiating its request for modifying the Deed of Amendment. In the interim, the fee will not be abated due to non-compliance with the Compost Quality KPI until this matter has been resolved.

CONSULTATION

Consultation was held with the following parties:

- BioVision/SITA
- Freehills

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The suspension of the fee abatement mechanism until this matter is finalised would restrict the MRC from reducing the Gate Fee in the event of Compost Quality KPI non-conformances. The maximum fee abatement being approximately \$60,000 for all four test failures in a single month.

STRATEGIC IMPLICATIONS

Nil

COMMENT

The mechanism of suspending the consequences of issues that are being discussed between the parties is consistent with past practice and prevents “unwinding” the consequences once a final position has been agreed.

ADDITIONAL COMMENTS

Contractual Implications

The RRFA sets out the Compost Target to be achieved with the KPI and also the fee abatement mechanism applicable to any associated non-compliance.

The fee abatement mechanism was originally set up to compensate the MRC for any additional expenses that were incurred as a result of the KPI non-compliance. The fee abatement mechanism is not a windfall for the MRC, but a cost recovering mechanism. The abatement value was estimated as the likely cost recovery required in the event of the KPI non-compliance.

Based on the RRFA, the MRC is within its rights to abate the BioVision fee if there is a non-compliance with any of the KPI targets.

If there was a non-compliance with the compost KPI and the MRC was to insist on the fee abatement being implemented (as is the MRC’s contractual entitlement), it is possible that BioVision, through the dispute mechanism could request that the MRC demonstrate that it

has incurred losses equivalent to the abated fee. This would be extremely difficult for the MRC to substantiate and hence, BioVision is likely to have an entitlement to request a further change to the RRFA.

In addition, the RRFA has an ability for either Party to request an Agreed Variation to amend any part of the RRFA. This mechanism could also be used by BioVision if it felt that the KPI target mechanism and/or fee abatement mechanism was inappropriate. The request for an Agreed Variation would need to be fully substantiated by BioVision and given due consideration by the MRC.

Technical Argument

The MRC Administration acknowledges that the technical argument put forward by BioVision for the MRC not to abate the gate fee appears to be reasonable. Consequently, the Administration has requested that BioVision provide additional supporting information to substantiate its claim. This additional information is likely to be received in November 2012.

The MRC Administration is of the opinion that it is preferable to provide BioVision with sufficient “breathing space” to substantiate its technical argument and not abate the fee as opposed to abating the fee and then having to unwind the consequences if this matter is resolved in accordance with BioVision’s request. This is a consistent methodology that has been used throughout the past three years to resolve the numerous contractual differences between the parties.

Financial Implications

Based on the fee abatement mechanism, if there was a single compost test failure in one month and no failures in the preceding month then there would be no fee abatement. If there was one failure in both the previous months and the current month then the fee for the current month would be abated by between \$13,000 and \$15,000 (25% of SITA’s monthly profit). The exact value is a function of the number of tonnes that were delivered to the RRF during the month. For each subsequent failure, in the current month, the fee would be further abated by \$13,000 to \$15,000 up to a maximum of four test results or equivalent to approximately \$60,000 per month (100% of SITA’s monthly profit).

As can be seen from the above, there are significant consequences to SITA if there are any fee abatements during the month. Hence SITA’s concern about being abated for Compost Targets to which they have no influence and the likelihood that they would consider the RRFA dispute mechanism or Agreed Variation to resolve this matter.

It is pointed out that the fee abatement mechanism is a “pass through” from BioVision to SITA; hence, the above reference to the consequences to SITA as the facility operator (Asset Manager) and not BioVision.

Since the implementation of the revised conditions within the Deed of Amendment, there have only been two compost sample failures (mid-July and early September) and both of these have been more than a month apart; hence, there has been no entitlement for the MRC to abate the BioVision gate fee. However, based on past records, it is only a matter of time before there are two consecutive months of failures and the MRC will be obliged to abate the fee and hence the above scenarios become reality.

VOTING REQUIREMENT

Simple Majority

RESPONSIBLE OFFICER RECOMMENDATION

That Council agree to suspend the fee abatement mechanism relating to the Compost Quality KPI until the Ordinary Council Meeting of 6 December 2012 to allow the parties time to address the compost quality issues and the MRC administration to report back to Council.

RESOLVED

**Cr Gray moved, Cr Butler seconded
That the recommendation be adopted.**

CARRIED UNANIMOUSLY

9.5	CITY OF STIRLING WITHDRAWAL – SUBMISSION TO THE MINISTER FOR LOCAL GOVERNMENT
File No:	LEG/14
Appendix(s):	
Date:	
Responsible Officer:	CEO

The CEO advised that Item 9.5 was withdrawn and that a Special Meeting of Council will be called to consider the report. Proposed dates are 15 or 22 November 2012.

10 MEMBERS INFORMATION BULLETIN – ISSUE NO. 7

Cr MacTiernan advised Council that the Cash for Containers campaign is proceeding and urges councils that are interested in this project to get involved. WALGA is investigating the possibility of obtaining a Reverse Vending Machine for the campaign. Also the State Government has cut back funding to WALGA for waste promotions and that an increase in contributions from members is being considered.

RESPONSIBLE OFFICER RECOMMENDATION

That the Members Information Bulletin Issue No. 7 be received.

RESOLVED

Cr Proud moved, Cr Stewart seconded

That the recommendation be adopted.

CARRIED UNANIMOUSLY

11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12 URGENT BUSINESS

Nil

13 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

Cr Robbins moved that in accordance with s5.23 of the Local Government Act 1995, Council proceed to meet “behind closed doors” to allow the Council to consider Confidential Item 14.1 of this agenda as they relate to legal advice obtained. Cr Cooke seconded.

CARRIED UNANIMOUSLY

There were no members of the public or journalists present. Member Council Chief Executive Officers (or their delegate/s) in attendance who were provided a copy of the confidential report were invited to stay in the chamber whilst the report was debated. Other staff members departed the Chamber at 6.15pm.

14 MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC

14.1	RESOURCE RECOVERY FACILITY – REQUEST FOR RELOCATION OF ADJOINING TENANT
File No:	WST/118
Attachment(s):	One
Date:	7 September 2012
Responsible Officer:	CEO

COUNCIL RESOLVED

1. Mr Nick Trandos as the person acting on behalf of the Tulls be advised that the MRC does not accept that it is liable for the claim presented in correspondence to the MRC dated 12 April 2012 by Mr Nick Trandos on behalf of the Tulls.
 2. Notwithstanding (1) above, Mr Nick Trandos be advised that the MRC, acting in good faith and on a “without prejudice” basis, is prepared to present a “first and final” offer to the Tulls allowing them to live in a unit on a property purchased by the MRC (value not to exceed \$330,000, including GST, stamp duty, settlement costs and agency fees), managed by a real estate agent (chosen by the MRC) using a common rental agreement that requires the Tulls to pay ALL outgoings including the local government’s annual rates and FESA charges subject to:
 - a. Mr Nick Trandos and any other owners of lot 508 Pederick Street Neerabup agreeing to:
 - i. enter into an agreement preventing any further claims, and releasing any claims, against the MRC or BioVision in relation to the normal operations of the Resource Recovery Facility, arising in relation to lot 508 Pederick Street Neerabup or any other property;
 - ii. not allowing any of the buildings on the properties detailed in (a) above to be used for habitable purposes including a caretakers residence;
 - iii. be guarantor for the Tulls to cover any shortfall associated with the ongoing financial obligations placed upon them by the rental agreement detailed in (2) above and other utility expenses incurred for the term of their residency in the unit; and
 - iv. agreeing to the lodgement of a notification on the title of lot 508 and any other properties, under section 70A of the Transfer of Land Act 1893, of the existence of the Resource Recovery Facility.
 - b. The Tulls entering into an agreement preventing any further claims, and releasing any claims, against the MRC or BioVision.
 3. The Tulls tenancy of the property as detailed in (2) above will end when the Tulls give up the property or when the property has been vacated for a period of three months.
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4. The legal arrangements for the settlement with Mr Nick Trandos and any other owners of lot 508 Pederick Street Neerabup or any other properties owned by the owners of lot 508 Pederick Street Neerabup within 500 metres of the RRF as detailed in (2) above being drafted by the MRC's solicitors, Herbert Smith Freehills, at the expense of the MRC and BioVision.
 5. If the offer and associated conditions detailed in (2) above are accepted, and once the required legal agreements are drafted and duly signed by the parties concerned, then the MRC authorises the Chief Executive Officer to proceed to purchase a unit on a property up to a value of \$330,000 including GST.
 6. The costs associate with the purchase of the unit (estimated \$330,000) and the legal fees (estimated \$10,000) be funded in the half yearly budget review.
(Absolute Majority Required)
 7. The Council notes that at the time of the acquisition of the land from the owners of lot 508 Pederick Street Neerabup, Mr Trandos being one of the owners was aware that the Mindarie regional Council was intending to construct an Alternative Waste Treatment Facility on the site and that the house located on lot 508 Pederick Street Neerabup was occupied for residential purposes.

CARRIED UNANIMOUSLY

Cr Proud moved, Cr MacTiernan seconded to reopen the meeting to the public.

CARRIED UNANIMOUSLY

The attendees were invited back to the meeting at 6.29pm

On return of the attendees the Deputy Chairperson read out the resolution, made behind closed doors, of the Council Item 14.1.

NOTE: The Chief Executive Officer has NOT released this report for Public information due to legal privilege.

15	NEXT MEETING
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Next meeting to be held on Thursday 6 December 2012 in the Council Chambers at Town of Victoria Park commencing at 5.30pm.

16	CLOSURE
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The Deputy Chairman closed the meeting at 6.30 pm and thanked the City of Perth for their hospitality and the use of their meeting facilities.

These Minutes were confirmed by the Council as a true and accurate record of the Ordinary Meeting of the Council held on 25 October 2012.

Signed Chairman

Dated this day of 2012
