



# MINUTES

ORDINARY COUNCIL MEETING

TIME: 6.30 PM

24 SEPTEMBER 2020

CITY OF VINCENT

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*Constituent Members: Cities of Perth, Joondalup, Stirling, Vincent and Wanneroo  
Towns of Cambridge and Victoria Park*



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## CONTENTS

1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS .....	3
2	ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE .....	3
3	DECLARATION OF INTERESTS .....	4
4	PUBLIC QUESTION TIME .....	4
5	ANNOUNCEMENTS BY THE PRESIDING PERSON .....	5
6	APPLICATIONS FOR LEAVE OF ABSENCE .....	5
7	PETITIONS / DEPUTATIONS / PRESENTATIONS .....	5
8	CONFIRMATION OF MINUTES OF PREVIOUS MEETING.....	6
8.1	ORDINARY COUNCIL MEETING – 02 JULY 2020.....	6
8.2	SPECIAL COUNCIL MEETING – 30 JULY 2020 .....	6
8.3	SPECIAL COUNCIL MEETING – 20 AUGUST 2020 .....	6
9.1	CHIEF EXECUTIVE OFFICER REPORTS.....	7
9.1	FINANCIAL STATEMENTS FOR THE MONTHS ENDED .....	7
	31 MAY 2020 AND 30 JUNE 2020.....	7
9.2	LIST OF PAYMENTS MADE FOR THE MONTHS ENDED.....	10
	31 MAY 2020 AND 30 JUNE 2020.....	10
9.3	EXTERNAL AUDIT COMMITTEE MEMBER APPOINTMENT .....	12
9.4	MINDARIE REGIONAL COUNCIL WASTE FACILITY SITE LOCAL LAW 2013 - AMENDMENT.....	14
9.5	MINDARIE REGIONAL COUNCIL MEETING PROCEDURES LOCAL LAW 2020.....	19
9.6	REVIEW OF COUNCIL POLICIES AND DELEGATIONS TO THE CHIEF EXECUTIVE OFFICER.....	26
9.7	SPECIAL RATE FOR DISPOSAL OF RECYCLABLE MATERIAL AT TAMALA PARK.....	32
10	MEMBERS INFORMATION BULLETIN – ISSUE NO. 55.....	40
11	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....	40
12	URGENT BUSINESS.....	40
13	QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN .....	40
14	MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC .....	41
14.1	PROPOSED RRFA KPI SUSPENSION .....	42
14.2	CEO PERFORMANCE REVIEW .....	43
15	NEXT MEETING .....	44
16	CLOSURE.....	44

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**1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

The Chair declared the meeting open at 6.33 pm

**2 ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE**

**Councillor Attendance**

Cr D Boothman, JP (Chair)	City of Stirling
Cr K Vernon (Deputy Chair)	Town of Victoria Park
Cr C May	City of Joondalup
Cr A Jacob, JP	City of Joondalup
Cr J Ferrante	City of Stirling
Cr S Proud, JP	City of Stirling
Cr K Sargent	City of Stirling
Cr E Cole	City of Vincent
Cr F Cvitan, JP	City of Wanneroo
Cr D Newton, JP	City of Wanneroo

**Apologies**

Cr L Kosova	City of Perth
Cr K Shannon	Town of Cambridge

**Leave of Absence**

Cr R Fishwick, JP	City of Joondalup
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**Absent**

Nil

**MRC Officers**

Mr G Hoppe (Chief Executive Officer)  
Ms A Slater (Director Corporate Services)  
Ms D Toward (Executive Support)

**Member Council Observers**

Mr M MacPherson (City of Joondalup)  
Mr R Bryant (City of Stirling)  
Mr A Murphy (City of Vincent)  
Ms Y Plimbley (City of Vincent)  
Mr H Singh (City of Wanneroo)  
Mr S Cairns (City of Wanneroo)  
Mr C Kopec (City of Perth)  
Mr K Hincks (Town of Cambridge)  
Mr J Wong (Town of Victoria Park)

**MRC Observers**

Mr A Griffiths  
Mr B Twine  
Ms S Cherico  
Mr J Shepherd

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### 3 DECLARATION OF INTERESTS

<b>Interest Type</b>	Financial Interest
<b>Name and Position of Person</b>	Gunther Hoppe, Chief Executive Officer
<b>Report No and Topic</b>	14.2 CEO Performance Review
<b>Name of Interest</b>	May affect remuneration

### 4 PUBLIC QUESTION TIME

The following public questions from Mr David Wake were submitted prior to the Council meeting on 23 September 2020.

Mr Wake was seated in the public gallery and invited by the Chair to read out his questions. The Chair asked the Chief Executive Officer to respond to the questions.

The questions and responses are as follows:

Q1. Was the termination of employment of waste education team members considered at the special council meeting held on August 20, 2020?

CEO Response: Item 7.3 MRC Future Waste Options Review was considered as a confidential item at the Special Council Meeting on 20 August 2020. This report considered various matters relating to the future of the MRC, including its function as a provider of regional education services.

Q2. Will further information on the decision, marked as a confidential item, be made public in the interests of transparency?

CEO Response: Given the commercial nature of information contained in the confidential report to council on the matter, the report will remain confidential.

Q3. Why did the Mindarie Regional Council decide to discontinue its waste education program which I would say was a positive way to engage with the community and build awareness and skills to encourage waste reduction, reuse and recycling?

CEO Response: The decision to discontinue the waste education program wasn't taken lightly and was made as part of a larger restructuring of the way that the MRC provides services to its stakeholders. The restructuring will allow the MRC to provide a sustainable, fit-for-purpose service to its member councils and community going forward.

Q4. When did the Mindarie Regional Council start running Earthcarers training courses? How many people were trained to be able to adopt and promote wastewise practices to others?

CEO Response: Earthcarer courses as run by the MRC started in 2008 and put roughly 550 people through the program.

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Q5. Has the Mindarie Regional Council communicated its decision to terminate the waste education team and its activities to Earthcarers or other community stakeholders? If yes, how has this been done? If no, will this be done?

CEO Response: As part of the restructure we kept the Waste manager on and he is in consultation with waste teams, and regional teams. We are in the final stages of distributing assets to the councils and providing guidance to the member council education teams. As part of this process, community stakeholders and Earth Carers have been, or will be, notified of the cessation of the MRC education program and future opportunities. The restructure has also been picked up by Perth Now and is noted on the MRC's website. By next week there will be specific information to the Earth carers.

Q6. Did the council consider working with member councils to coordinate waste education efforts and retain the knowledge and skills of staff in making a determination on the future of the waste education team and program?

CEO Response: The MRC has been and continues to be in active dialogue with its member councils as they consider their waste education programs in the context of the MRC no longer providing a regional education service, including providing access to our education resources and intellectual property. Should they wish to incorporate into their programs this is a fairly seamless process.

Q7. How will the Mindarie Regional Council contribute towards attainment of goals in WA's Waste Strategy without a waste education program?

CEO Response: As a region, the MRC's member councils will continue to engage with their communities on waste education matters. The MRC remains committed to its vision of Winning Back Waste and will continue to advocate for better waste outcomes through our onsite activities including the Re-use shop, the Household Hazardous Waste program and our various recycling programs.

As far as education this will be picked up by each individual council to fulfil this space.

#### **5 ANNOUNCEMENTS BY THE PRESIDING PERSON**

Nil

#### **6 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

#### **7 PETITIONS / DEPUTATIONS / PRESENTATIONS**

Nil

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<b>8 CONFIRMATION OF MINUTES OF PREVIOUS MEETING</b>
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**8.1 ORDINARY COUNCIL MEETING – 02 JULY 2020**

The Minutes of the Ordinary Council Meeting held on 02 July 2020 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 02 July 2020 be confirmed as a true record of the proceedings.**

**8.2 SPECIAL COUNCIL MEETING – 30 JULY 2020**

The Minutes of the Special Council Meeting held on 30 July 2020 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 30 July 2020 be confirmed as a true record of the proceedings.**

**8.3 SPECIAL COUNCIL MEETING – 20 AUGUST 2020**

The Minutes of the Special Council Meeting held on 20 August 2020 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 August 2020 be confirmed as a true record of the proceedings.**

**Moved Cr Sargent, seconded Cr Newton  
RESOLVED**

That the recommendations for items 8.1, 8.2 and 8.3 be adopted  
(CARRIED UNANIMOUSLY 10/0)

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## 9.1 CHIEF EXECUTIVE OFFICER REPORTS

<b>9.1</b>	<b>FINANCIAL STATEMENTS FOR THE MONTHS ENDED 31 MAY 2020 AND 30 JUNE 2020</b>
<b>File No:</b>	<b>FIN/5-09</b>
<b>Appendix(s):</b>	<b>Appendix No. 1 Appendix No. 2 Appendix No. 3</b>
<b>Date:</b>	<b>18 AUGUST 2020</b>
<b>Responsible Officer:</b>	<b>DIRECTOR CORPORATE SERVICES</b>

### 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 are for the months ended 31 May 2020 and 30 June 2020 and are attached at **Appendix No. 1 and 2** to this Item. The Tonnage Report for the 12 months to 30 June 2020 is attached at **Appendix No. 3**.

The financial statements are pending external auditor approval and are subject to change.

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.

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.

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Summary of results for the year to date period ended 30 June 2020

	<b>Actual</b>	<b>Budget</b>	<b>Variance</b>
	<b>t</b>	<b>t</b>	<b>t</b>
Tonnes – Members	247,263	243,244	4,019
Tonnes – Others	13,828	14,385	(557)
<b>TOTAL TONNES</b>	<b>261,091</b>	<b>257,629</b>	<b>3,462</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
Revenue – Members	50,698,504	49,868,244	830,260
Revenue – Other	5,494,110	5,834,917	(340,807)
<b>TOTAL REVENUE</b>	<b>56,192,614</b>	<b>55,703,161</b>	<b>489,453</b>
Expenses	56,966,662	57,744,363	777,701
Profit on sale of assets	59,331	257,260	(197,929)
Loss on sale of assets	350,266	118,380	(231,886)
Impairment of assets	-	-	-
<b>NET DEFICIT</b>	<b>(1,064,983)</b>	<b>(1,902,322)</b>	<b>837,339</b>

Commentary

Tonnages for the financial year ended 30 June 2020 were 3,462 tonnes more than budgeted, mainly attributable to the Cities of Stirling and Wanneroo.

The net deficit result variance against budget of \$837,339 is mainly attributable to non-member budgeted tonnage related expenditure, the sale of assets within the year and the adoption of AASB 16 Leases.

RRF

The Resource Recovery Facility residue tonnes are marginally below phased budget by 122 tonnes delivering 59,013 tonnes in total to Tamala Park year to date.

Trade & Casuals

The Casual and Trade tonnages are 557 tonnes lower than forecast for the financial year as trade customers find alternative options for waste disposal.

**VOTING REQUIREMENT**

Simple Majority



**RESPONSIBLE OFFICER RECOMMENDATION**

**That Council:**

**Receive the Financial Statements set out in Appendix No. 1 and 2 for the months ended 31 May 2020 and 30 June 2020, respectively.**

**Moved Cr Cvitan, seconded Cr Vernon**

**RESOLVED**

**That the recommendation be adopted**

**(CARRIED UNANIMOUSLY 10/0)**

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<b>9.2</b>	<b>LIST OF PAYMENTS MADE FOR THE MONTHS ENDED 31 MAY 2020 AND 30 JUNE 2020</b>
<b>File No:</b>	<b>FIN/5-09</b>
<b>Appendix(s):</b>	<b>Appendix No. 4 Appendix No. 5</b>
<b>Date:</b>	<b>19 August 2020</b>
<b>Responsible Officer:</b>	<b>Director Corporate Services</b>

### 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 May 2020 and 30 June 2020 are at **Appendix 4 and 5** to this Item and are presented to Council for noting. Payments have been made in accordance with the delegated authority to the CEO which allows payments to be made between meetings. At the Ordinary Council Meeting held on 19 September 2019, 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 the 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.

<b>Months Ended</b>	<b>Account</b>	<b>Vouchers</b>	<b>Amount</b>
31 May 2020	General Municipal	Cheques	\$3,632.35
		EFT	\$3,219,510.91
		DP	\$211,170.38
		Inter account transfers	\$0.00
		<b>Total</b>	<b>\$3,434,313.64</b>
30 June 2020	General Municipal	Cheques	\$24,882.52
		EFT	\$3,897,898.59
		DP	\$260,678.02
		Inter account transfers	\$2,000,000.00
		<b>Total</b>	<b>\$6,183,459.13</b>

### VOTING REQUIREMENT

Simple Majority

## **RESPONSIBLE OFFICER RECOMMENDATION**

**That Council:**

**Note the list of payments made under delegated authority to the Chief Executive Officer, for the months ended 31 May 2020 and 30 June 2020.**

**Moved Cr Sargent, seconded Cr May**

**RESOLVED**

**That the recommendation be adopted**

**(CARRIED UNANIMOUSLY 10/0)**

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<b>9.3</b>	<b>EXTERNAL AUDIT COMMITTEE MEMBER APPOINTMENT</b>
<b>File No:</b>	<b>GF-20-0000042</b>
<b>Appendix(s):</b>	<b>None</b>
<b>Date:</b>	<b>8 September 2020</b>
<b>Responsible Officer:</b>	<b>Director Corporate Services</b>

### **SUMMARY**

The Mindarie Regional Council (MRC) has historically appointed an external audit committee member to the MRC's Audit Committee in line with good governance practice.

### **BACKGROUND**

The incumbent external audit committee member's term expired at the end of June 2020. After discussion with the Chair of the Audit Committee, the recruitment process to appoint a new external audit committee member commenced in July 2020.

### **DETAIL**

The advert was placed in the West Australian and on the Australian Institute of Company Directors (AICD) website. The adverts resulted in three suitable applications being received. The MRC arranged a face-to-face informal chat with each of the applicants, at which stage one applicant withdrew his application.

The resumes of the remaining two candidates, one of whom was the incumbent member, were presented to the Audit Committee for consideration at the meeting held on 30 July 2020.

The Audit Committee discussed the two applicants and recommended that Phillip Draber be put forward as the most suitable candidate.

There is no remuneration payable for this position, however the member can be compensated for expenses associated with enabling them to discharge their duties of the role up to an annual limit of \$1,000.

### **CONSULTATION**

Nil

### **STATUTORY ENVIRONMENT**

Nil

### **STRATEGIC/COMMUNITY AND CORPORATE/BUSINESS PLAN IMPLICATIONS**

Nil

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### **FINANCIAL IMPLICATIONS**

There is no remuneration payable for this position, however the member can be compensated for expenses associated with enabling them to discharge their duties of the role up to an annual limit of \$1,000.

### **COMMENT**

It continues to be challenging to attract interest in external audit committee member roles in Local Government, given the restrictions in place as regards remuneration of the position.

Fortunately, both candidates who applied for the role were of a high calibre, providing the MRC with credible options.

### **VOTING REQUIREMENT**

Absolute Majority

### **AUDIT COMMITTEE RECOMMENDATION**

That Council:

**Appoint Phillip Draber as the MRC external audit committee member, subject to his acceptance of the appointment, for the period from 24 September 2020 to 16 October 2021, the date of the next Local Government elections.**

**Moved Cr Proud, seconded Cr Ferrante**

**RESOLVED**

**That the recommendation be adopted**

**(CARRIED UNANIMOUSLY 10/0)**

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<b>9.4</b>	<b>MINDARIE REGIONAL COUNCIL WASTE FACILITY SITE LOCAL LAW 2013 - AMENDMENT</b>
<b>File No:</b>	<b>GF-20-0000550</b>
<b>Appendix(s):</b>	<b>Appendix 6 – Proposed Mindarie Regional Council Waste Facility Site Local Law 2020 Appendix 7 – Proposed Mindarie Regional Council Waste Facility Site Local Law 2020 Summary Purpose and Effect Appendix 8 – Proposed Mindarie Regional Council Waste Facility Site Local Law 2020 Tracked Changes</b>
<b>Date:</b>	<b>7 September 2020</b>
<b>Responsible Officer:</b>	<b>Chief Executive Officer</b>

### **SUMMARY**

The purpose of this report is to seek Council's approval to amend the Mindarie Regional Council Waste Facility Site Local Law 2013 to take into account current updates that are required.

### **BACKGROUND**

The existing Mindarie Regional Council Waste Facility Site Local Law 2013 ("the Local Law") was adopted by Council on 7 March 2013. Section 3.16 of the Local Government Act 1995 ("the Act") requires a periodic review of the Local Law, which for the Mindarie Regional Council falls due on 7 March 2021.

In summary, the review process requires:

- A statewide and local public notice to be given, this is to include:
  - a summary of the proposed amendments and their effect;
  - an invitation of submissions regarding the changes to the proposed amended Local Law before the date specified in the notice.
- The MRC's Administration is to prepare a report to the Council the outlining any submissions / changes / recommendations and their merit.
- The MRC is then to consider the recommendations in the report and may, by an absolute majority, proceed with the Local Law as proposed, or make minor alterations to the extent that the final document is not significantly different to that which was put to public notice.
- The adopted Local Law is to be published in the Government Gazette, with a copy to be sent to the Minister, and a memorandum to be sent to the Parliament's Joint Standing Committee.
- A final local public notice is to be given after publication in Gazette.

### **DETAIL**

The MRC Administration has completed an internal review of the Local Law in preparation for the formal review in line with Section 3.16 of the Act, see Appendix 6 *Proposed Mindarie Regional Council Waste Facility Site Local Law 2020*.

Section 3.12(2) of the Act states that the first action in the process of making a local law is for the Presiding Member to give notice to the meeting of the purpose and effect of the proposed

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local law. Regulation 3 of the Local Government (Functions and General) Regulations 1996 states that this is achieved by ensuring that:

- (a) the purpose and effect of the proposed local law is included in the agenda for that meeting
- (b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.

The **purpose** of the proposed changes is to provide the MRC with a contemporary Local Law that governs activities at the Tamala Park waste facility.

The **effect** of the amendment is to assist the MRC administration to implement changes that reflect the MRC's current operating environment and to provide relevant fees and charges for enforceable offences at the Tamala Park waste facility.

A detailed summary of the proposed amendments' purpose and effect is detailed in Attachment 2.

### **CONSULTATION**

The development of local laws requires statutory advertising and consultation with members of the public throughout the local law-making process. This includes:

- giving state-wide public notice advertising the proposed local law and inviting submissions to be made within no less than six weeks from the date of advertising, including:
  - advertising in a newspaper circulating throughout the state
  - displaying a public notice at the MRC Administration Building
  - displaying a public notice at the Member Council's public libraries and customer service centres
  - advertising on the MRC website
  - providing a copy of the notice and a copy of the proposed local law to the Minister responsible for the Act under which the proposed local law is being made.

### **STATUTORY ENVIRONMENT**

The process for advertising the Local law is covered in s1.7 and s1.8 of the *Local Government Act 1995*, which reads as follows:

#### *“1.7. Local public notice*

*(1) Where under this Act local public notice of a matter is required to be given, a notice of the matter is to be —*

- (a) published in a newspaper circulating generally throughout the district; and*
- (b) exhibited to the public on a notice board at the local government's offices; and*
- (c) exhibited to the public on a notice board at every local government library in the district.*

*(2) Unless expressly stated otherwise it is sufficient if the notice is —*

- (a) published under subsection (1)(a) on at least one occasion; and*
- (b) exhibited under subsection (1)(b) and (c) for a reasonable time, being not less than —*
  - (i) the time prescribed for the purposes of this paragraph; or*
  - (ii) if no time is prescribed, 7 days.*

#### *1.8. Statewide public notice*

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*Where under this Act Statewide public notice of a matter is required to be given, section 1.7 applies except that the newspaper referred to in section 1.7(1)(a) is required to circulate generally throughout the State.”*

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.*
- (2A) Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.*
- (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 local 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; and*
    - (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;*
  - and*
  - (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.*
- (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; and*
    - (b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
    - (c) advising that the local law is published on the local government’s official website and that copies of the local law may be inspected at or obtained from the local government’s office.*
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(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 14<sup>th</sup> 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.*

*[Section 3.14 amended: No. 1 of 1998 s. 9.]*

3.15. *Local laws to be publicised*

*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 local public notice stating that —*

*(a) the local government proposes to review the local law; and*

*(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.*

(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."*

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**STRATEGIC/COMMUNITY AND CORPORATE/BUSINESS PLAN IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Advertising cost of \$2000 for the statewide and local public notices.

**COMMENT**

Nil

**VOTING REQUIREMENT**

Absolute majority

**RESPONSIBLE OFFICER RECOMMENDATION**

That Council:

1. Approves the proposed amendment to the Mindarie Regional Council Waste Facility Site Local Law 2020 as detailed in Appendix 8 for the purposes of public advertising, under section 3.16 of the Local Government Act 1995; and
2. Notes that the MRC is to invite submissions to the amended Mindarie Regional Council Waste Facility Site Local Law 2020 by way of a statewide public notice; and
3. Notes that a copy of the proposed amendment to the Mindarie Regional Council Waste Facility Site Local Law 2020 will be sent to the Minister for Local Government under section 3.12 of the Act; and
4. Notes that the matter will be referred back to the Council after the last day for submissions in relation to the proposed amendment to the Mindarie Regional Council Waste Facility Site Local Law 2020.

Moved Cr Jacob, seconded Cr May

**RESOLVED**

That the recommendation be adopted

CARRIED UNANIMOUSLY (10/0)

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<b>9.5</b>	<b>MINDARIE REGIONAL COUNCIL MEETING PROCEDURES LOCAL LAW 2020</b>
<b>File No:</b>	<b>GF-20-0000550</b>
<b>Attachment(s):</b>	<b>Appendix 9 Proposed Mindarie Regional Council Meeting Procedures Local Law 2020 Appendix 10 Comparison Table Appendix 11 Mindarie Regional Council Standing Orders Amendment Local Law 2013</b>
<b>Date:</b>	<b>7 September 2020</b>
<b>Responsible Officer:</b>	<b>Chief Executive Officer</b>

### **SUMMARY**

The purpose of this report is to seek Council's approval to repeal the Mindarie Regional Council Standing Orders Local Law 2013 (Standing Orders) and propose the new Mindarie Regional Council Meeting Procedures Local Law 2020 (Local Law).

### **BACKGROUND**

The existing Mindarie Regional Council Standing Orders Local Law 2013 (Amended) was adopted by Council on 4 July 2013. Section 3.16 of the Local Government Act 1995 (the Act) requires a periodic review of the Local Law, which for the Mindarie Regional Council falls due on 4 July 2021.

In summary, the review process requires:

- A statewide and local public notice to be given, this is to include:
  - a summary of the proposed amendments and their effect;
  - an invitation of submissions regarding the changes to the proposed amended Local Law before the date specified in the notice.
- The MRC's Administration is to prepare a report to the Council outlining any submissions / changes / recommendations and their merit.
- The MRC is then to consider the recommendations in the report and may, by an absolute majority, proceed with the Local Law as proposed, or make minor alterations to the extent that the final document is not significantly different to that which was put to public notice.
- The adopted Local Law is to be published in the Government Gazette, with a copy to be sent to the Minister, and a memorandum to be sent to the Parliament's Joint Standing Committee.
- A final local public notice is to be given after publication in Gazette.

### **DETAIL**

The MRC Administration has completed an internal review of the Standing Orders in preparation for the formal review in line with Section 3.16 of the Act, see Appendix 9 *Proposed Mindarie Regional Council Meeting Procedures Local Law 2020*.

The review identified a number of opportunities to improve the overall arrangement and operation of the Local Law. The MRC used the WALGA template as the basis for the proposed

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Local Law, and in addition, a number of member council local laws were referred to for comparison.

Due to the number of changes identified to the existing Standing Orders it is proposed that the current Standing Orders be repealed and a new local law created.

A comparison table is provided at Appendix 10 which demonstrates how the provisions of the Standing Orders have been incorporated into the proposed Local Law.

The procedure for making local laws is detailed in the Act and is a specific legislative process that must be adhered to in order for the local law to be accepted by the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation.

Section 3.12(2) of the Act states that the first action in the process of making a local law is for the Presiding Member to give notice to the meeting of the purpose and effect of the proposed local law. Regulation 3 of the Local Government (Functions and General) Regulations 1996 states that this is achieved by ensuring that:

- (a) the purpose and effect of the proposed local law is included in the agenda for that meeting
- (b) the minutes of the meeting of the Council include the purpose and effect of the proposed local law.

The **purpose** of the proposed Mindarie Regional Council Meeting Procedures Local Law 2020 is to provide the rules that apply to the conduct of meetings of the Council and its committees.

The **effect** of the Mindarie Regional Council Meeting Procedures Local Law 2020 is intended to result in:

- (a) better decision making by the Council and its committees
- (b) the orderly conduct of meetings dealing with Council business
- (c) better understanding of the process of conducting meetings
- (d) more efficient and effective use of time at meetings.

## CONSULTATION

The development of local laws requires statutory advertising and consultation with members of the public throughout the local law-making process. This includes:

- giving state-wide public notice advertising the proposed local law and inviting submissions to be made within no less than six weeks from the date of advertising, including:
    - advertising in a newspaper circulating throughout the state
    - displaying a public notice at the MRC Administration Building
    - displaying a public notice at the Member Council's public libraries and customer service centres
    - advertising on the MRC website
  - providing a copy of the notice and a copy of the proposed local law to the Minister responsible for the Act under which the proposed local law is being made.
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## STATUTORY ENVIRONMENT

The process for advertising the Local law is covered in s1.7 and s1.8 of the *Local Government Act 1995*, which reads as follows:

### *“1.7. Local public notice*

- (1) Where under this Act local public notice of a matter is required to be given, a notice of the matter is to be —*
  - (d) published in a newspaper circulating generally throughout the district; and*
  - (e) exhibited to the public on a notice board at the local government’s offices; and*
  - (f) exhibited to the public on a notice board at every local government library in the district.*
- (2) Unless expressly stated otherwise it is sufficient if the notice is —*
  - (c) published under subsection (1)(a) on at least one occasion; and*
  - (d) exhibited under subsection (1)(b) and (c) for a reasonable time, being not less than —*
    - (i) the time prescribed for the purposes of this paragraph; or*
    - (ii) if no time is prescribed, 7 days.*

### *1.8. Statewide public notice*

*Where under this Act Statewide public notice of a matter is required to be given, section 1.7 applies except that the newspaper referred to in section 1.7(1)(a) is required to circulate generally throughout the State.”*

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.*
- (2A) Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.*
- (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 —*
  - (d) give local 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; and*
    - (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;*

*and*

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- (e) *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*
  - (f) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (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 —*
- (d) *stating the title of the local law; and*
  - (e) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
  - (f) *advising that the local law is published on the local government's official website and that copies of the local law may be inspected at 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 14<sup>th</sup> 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.*

*[Section 3.14 amended: No. 1 of 1998 s. 9.]*

3.15. *Local laws to be publicised*

*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.*

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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 local public notice stating that —*
  - (d) *the local government proposes to review the local law; and*
  - (e) *a copy of the local law may be inspected or obtained at any place specified in the notice; and*
  - (f) *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.*
- (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.”*

**STRATEGIC/COMMUNITY AND CORPORATE/BUSINESS PLAN IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Advertising costs of approximately \$2,000 for statewide, local public notices and Government Gazette.

**COMMENT**

Nil

**VOTING REQUIREMENT**

Absolute majority

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## RESPONSIBLE OFFICER RECOMMENDATION

That Council:

1. Approves the proposed Mindarie Regional Council Meeting Procedures Local Law 2020 as detailed in Attachment 1 for the purposes of public advertising, under section 3.16 of the Local Government Act 1995; and
2. Notes that the MRC is to invite submissions to the Mindarie Regional Council Meeting Procedures Local Law 2020 by way of a statewide public notice; and
3. Notes that a copy of the proposed Mindarie Regional Council Meeting Procedures Local Law 2020 will be sent to the Minister for Local Government under section 3.12 of the Act; and
4. Notes that the matter will be referred back to the Council after the last day for submissions in relation to the proposed Mindarie Regional Council Meeting Procedures Local Law 2020.

**Moved Cr Cole, seconded Cr Proud**

**AMENDMENT 1 to the Meeting Procedures Local Law 2020, Part 6 Public Participation, Clause 6.7 (8) to delete the word 'two' and replace with the word three, so that the new clause reads 'A member of the public shall have three minutes to ask a question.**

(CARRIED UNANIMOUSLY 10/0)

**Moved Cr Cole, seconded Cr May**

**AMENDMENT 2 to the Meeting Procedures Local Law 2020, Part 6 Public Participation, Clause 6.9 to add the word 'Statement' so that the title of clause 6.9 now reads 'Deputations and Statements'; and that any consequential changes required to give effect to amendments 1 and 2 be made.**

(CARRIED UNANIMOUSLY 10/0)

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**Moved Cr Cole, seconded Cr Cvitan  
RESOLVED**

**That Council,**

- 1. Approves the proposed Mindarie Regional Council Meeting Procedures Local Law 2020 as detailed in Attachment 1 for the purposes of public advertising, under section 3.16 of the Local Government Act 1995 with:**
  - a) Clause 6.7 (8) deleting the word ‘two’ and replacing with the word ‘three’, so that the new clause reads ‘A member of the public shall have three minutes to ask a question’;**
  - b) Clause 6.9 adding the word ‘Statement’ so that the title of clause 6.9 now reads ‘Deputations and Statements’;**
  - c) including any consequential changes to give effect to a) and b); and**
- 2. Notes that the MRC is to invite submissions to the Mindarie Regional Council Meeting Procedures Local Law 2020 by way of a statewide public notice; and**
- 3. Notes that a copy of the proposed Mindarie Regional Council Meeting Procedures Local Law 2020 will be sent to the Minister for Local Government under section 3.12 of the Act; and**
- 4. Notes that the matter will be referred back to the Council after the last day for submissions in relation to the proposed Mindarie Regional Council Meeting Procedures Local Law 2020.**

(CARRIED UNANIMOUSLY 10/0)

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<b>9.6</b>	<b>REVIEW OF COUNCIL POLICIES AND DELEGATIONS TO THE CHIEF EXECUTIVE OFFICER</b>
<b>File No:</b>	<b>GF-20-0000032</b>
<b>Appendix(s):</b>	<b>Appendix 12 - Council Policies – with tracked changes Appendix 13 - Council Policies – clean copy</b>
<b>Attachment(s):</b>	<b>Attachment 1 - Register of Delegations</b>
<b>Date:</b>	<b>8 September 2020</b>
<b>Responsible Officer:</b>	<b>Chief Executive Officer</b>

### **SUMMARY**

The report seeks endorsement of the review undertaken by the Chief Executive Officer (CEO) on the current Council Policies and delegations to the CEO.

### **BACKGROUND**

Sections 5.18 and 5.46 of the *Local Government Act 1995* (the Act) require that at least once every financial year, delegations are to be reviewed by the Council.

The MRC's Corporate Business plan requires that the Council Policies are relevant and reviewed by Council.

Council are requested to endorse the reviewed Delegations Register and Council Policies to ensure they are operating effectively, providing for efficient and timely administrative decisions and services in relation to discretionary decisions the Council has the ability to make by virtue of the Act and other statutes.

### **DETAIL**

The 2020 annual review of the Register of Delegations of Authority and Council Policies and was undertaken to determine the appropriateness of existing delegations and Council Policies.

The Chief Executive Officer's review of the Register of Delegations and Council Policies identified a number minor changes.

Proposed amendments/additions to the Register of Delegations and Council Policies are submitted in Attachment 1 (Register of Delegations) and Appendices 12 and 13 (Council Policies).

The Register of Delegations identified only minor changes to text which can be found at Attachment 1.

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A summary of the changes for the Council Policies is as follows:

**CP01** – Annual Fees, Allowances and Expenses for Councillors  
No change

**CP02** – Affixing of the Common Seal  
No change

**CP03** – Councillor Arrangements when attending an Overseas/Interstate/Intrastate Conference  
No Change

**CP04** – Employee Arrangements when attending an Overseas/Interstate/Intrastate Conference  
No change

**CP05** - Deleted (removed by approval at OCM on 06/08/2018)

**CP06** - Purchase of Goods and Services  
Minor changes to incorporate State of Emergency conditions.

**CP07** – Deleted (removed by approval at OCM on 20/8/2015)

**CP08** - Provision and Use of Council Vehicles  
No change

**CP09** - Investments  
No change

**CP10** – Donations – Financial Assistance/Support  
Minor change

**CP11** – Use of Corporate Credit Cards  
No change

**CP12** – Gate Fee Setting  
No change

**CP13** – Budget Variance Reporting Threshold  
No change

**CP14** – Acting Chief Executive Officer Appointment  
No change

**CP15** – Employer/Employee Matching Community Contributions  
No change

**CP16** – Legal Representation for Mindarie Regional Council Elected Members, Committee Members, Committee Members and Employees  
No Change

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**CP17** – Continuing professional development for Council Members  
New draft policy for Council adoption

**CP18** - IT Policy  
New draft policy for Council adoption

**EP01** – Environmental Policy  
Minor change

## **CONSULTATION**

Nil

## **STATUTORY ENVIRONMENT**

### ***Local Government Act 1995***

The following extracts from the Act relate to Council's obligations in the areas of policy development and delegations to the CEO.

#### *“2.7. Role of Council*

##### *(1) The Council —*

- (a) governs the local government's affairs; and*
- (b) is responsible for the performance of the local government's functions.*

##### *(2) Without limiting subsection (1), the Council is to —*

- (a) oversee the allocation of the local government's finances and resources; and*
- (b) determine the local government's policies.*

#### *5.42. Delegation of some powers and duties to CEO*

##### *(1) A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under —*

- (a) this Act other than those referred to in section 5.43; or*
- (b) the Planning and Development Act 2005 section 214(2), (3) or (5).*

*\* Absolute majority required.*

##### *(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*

#### *5.43. Limits on delegations to CEO*

*A local government cannot delegate to a CEO any of the following powers or duties —*

- (a) any power or duty that requires a decision of an absolute majority of the council;*
  - (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
  - (c) appointing an auditor;*
  - (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*
  - (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;*
  - (f) borrowing money on behalf of the local government;*
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- (g) *hearing or determining an objection of a kind referred to in section 9.5;*
- (ha) *the power under section 9.49A (4) to authorise a person to sign documents on behalf of the local government;*
- (h) *any power or duty that requires the approval of the Minister or the Governor;*
- (i) *such other powers or duties as may be prescribed.”*

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

Nil

#### **STRATEGIC/COMMUNITY AND CORPORATE/BUSINESS PLAN IMPLICATIONS**

<b>Strategic Community Plan 2018 -2037</b>		
OBJECTIVE 1	Long Term Viability	
Sub Objective	Good Corporate Governance	
This report is required by legislation to ensure that the Council has the opportunity to review its current policies and the delegations it has provided to the Chief Executive Officer thus maintaining the relevance of the documents.		
<b>Corporate Business Plan 2018 – 2037</b>		
Strategies	Actions	Responsible Officer
<b>1.1.2</b>	Ensure Council Policies are relevant and reviewed by Council	<b>CEO</b>
<b>1.1.3</b>	Review the relevance of the delegations from the Council and report findings to Council	<b>CEO</b>
These actions ensure that an officer within the organisation, in this case the CEO, has a direct responsibility to review the current Council Policies and Instrument of Delegation and report the review findings to Council.		

#### **COMMENT**

The MRC is to keep a register of the delegations made and review the delegations at least once every financial year.

#### **VOTING REQUIREMENT**

Simple/Absolute Majority

## RESPONSIBLE OFFICER RECOMMENDATION

That the Council:

1. Approve the addition of policy CP17 - Continuing professional development for Council Members.
2. Approve the addition of policy CP18 - IT Policy.
3. Retain the remaining Council Policies with changes as contained in Appendix 6.
4. Endorses the delegations made to the Chief Executive Officer as detailed in Attachment 1 of this report.  
*(absolute majority required)*

Moved Cr Cole, seconded Cr Newton

**RESOLVED**

**That the recommendation be adopted**

(CARRIED UNANIMOUSLY 10/0)

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**ATTACHMENT 1**  
**MINDARIE REGIONAL COUNCIL – Delegations of Authority Register**  
**COUNCIL TO CHIEF EXECUTIVE OFFICER**

<b>1. GOVERNANCE</b>				
No.	Reference	Delegation	Condition(s)	Assignee(s)?
1.1	LGAct 1995 s.9.10	Appoint persons or classes of persons to be authorised for the purposes of performing particular functions	Each authorised person to be issued with a certificate of authorisation	NO
1.2	LGAct 1995 s.5.42	Appoint an employee of the MRC to the position of Acting CEO where the CEO is unable, or expected to be unable by reason of illness, temporary absence from WA, or any other reason, to perform the functions of the position	Not exceeding 3 months in any period of 12 months	NO
<b>2. FINANCE</b>				
2.1	LG (Functions and General) Regulations 1996 Reg. 11A	Approve requisitions and purchase orders for the supply of goods and services	Requisitions and purchase orders to be within the budget allocation as reviewed from time to time	YES
2.2	LG(Financial Management Regulations) 1996 Reg.8	Open and close bank accounts, access accounts electronically and transfer funds electronically		YES
2.3	LG(Financial Management Regulations) 1996 Reg. 11, 12 and 13	Approve and make payment of accounts	1. In accordance with approved procedure set out in Reg.11; 2. Where funds have been provided in the budget and the accounts are acquitted prior to payment; 3. List of accounts paid to be reported to Council as required by Reg.13	YES
2.4	LG(Financial Management Regulations) 1996 Reg.34(1)(a)	Prepare monthly financial reports	In accordance with Reg.34	YES
2.5	LGAct s.6.14	Invest funds surplus to the immediate needs of the Council	Subject to the internal control procedures set out in Reg.19	YES
2.6	LGAct s.6.12	Waive Fees and Write Off Debts	1. Not exceeding a total of \$10,000 for any one debtor in any financial year; 2. Ensure all reasonable effort has been made to recover the debt; 3. Where fees or debts have been waived, or concessions granted, they are to be reported in the mid-year budget review	NO
2.7	LGAct s.3.57	Seek Expressions of Interest and/or call tenders for goods or services	For items listed on the budget and subsequently approved for proceeding by Council	YES
2.8	LG(Functions & General) Regs.14(2a) and 20	Vary contracts up to \$50,000 or 10% of the contract value, whichever is the lesser	1. For the RRFA only if it incurs no additional risk or liability to the MRC; 2. Variations approved for significant contracts, including all contracts awarded following public tenders, to be reported to the next following Council meeting	NO
2.9	LGAct s.3.58(5) and LG(Functions & General) Regs.30(3)	Dispose, which includes writing off, of property (assets)	1. The value of the property (assets) is less than \$20,000; 2. Ensure all reasonable effort has been made to secure current market prices for the item or material	NO

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<b>9.7</b>	<b>SPECIAL RATE FOR DISPOSAL OF RECYCLABLE MATERIAL AT TAMALA PARK</b>
<b>File No:</b>	<b>GF-20-0001436</b>
<b>Appendix(s):</b>	<b>Nil</b>
<b>Date:</b>	<b>8 September 2020</b>
<b>Responsible Officer:</b>	<b>Chief Executive Officer</b>

*At the Ordinary Council Meeting held on 2 July 2020, a procedural motion was carried to hold this item over to the next Council Meeting.*

#### **SUMMARY**

The purpose of this report is to present to Council the additional information requested at the Ordinary Council Meeting (OCM) of 23 April 2020.

#### **BACKGROUND**

A fire at Cleanaway's Material Recovery Facility (MRF) in South Guildford on 25 November 2019 rendered the processing infrastructure used by a number of the Mindarie Regional Council's (MRC) member councils unavailable.

This resulted in some recyclable material being landfilled at Tamala Park. A request for the consideration of a discounted rate for member councils in respect of this material was received from a member council, discussed at the Strategic Working Group (SWG) meeting in December 2019 and presented to Council for consideration.

In response to reports on this matter presented to Council at the OCM of 27 February 2020 and at the OCM of 23 April 2020, at the OCM on 23 April 2020, it was resolved:

*That Council:*

- 1. Authorise the CEO and the Chairman to engage with the Environment Minister on the creation of additional strategic recycling capacity in the northern corridor, through the identification of preferred sites, and through the provision of incubation funding from the WARR account for a defined period of time.*
  - 2. Requests a further report investigating the option to provide a special rate to Member Councils for the disposal of recycling materials at Tamala Park Landfill between 25 November 2019 and 30 June 2020 taking into consideration the recycling processing market rate/s at the time and the information stipulated in the reasons for the amendment.*
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The reasons for amendment included the following narrative and nine specific points:

*A reduced rate equivalent to the current market recycling processing rate is considered to be a fairer proposition. To enable an informed decision on this matter, the report needs to provide further information as per the following questions:*

- 1. It appears that not all questions asked by Councillors at MRC OCM on 27 February 2020 have been answered in the additional information to Item 9.3. Could Administration provide a copy of all questions that were asked by Councillors relating to this item and Administration's answers in the order they were asked?*
- 2. Was the offer of a reduced rate to accept recycling materials at Tamala Park Landfill made to all member councils or to only some of them?*
- 3. What was the basis of this offer – presumably to demonstrate a regional approach? Could Administration advise and confirm that this is the case?*
- 4. When this issue was first discussed at the December SWG meeting, how was the proposal to provide a potentially reduced gate fee to affected member councils received?*
- 5. Please provide financial modelling on the anticipated financial impact of the COVID-19 Pandemic on MRC and how this impacts on the revised recommendation, as presented by Administration;*
- 6. An \$80/tonne difference between the rates of \$205/tonne and \$125/tonne will equate to \$294,800. Does Administration think that this additional revenue to MRC will have a material impact on the Gate Fee for 2020/21?*
- 7. Why has no comment been provided within the officer's report to offer a non-member's gate fee for any affected member councils?*
- 8. Why was no consideration given to offer a rate equivalent to the current market recycling processing rate, which would have been a fairer proposition?*
- 9. Could Administration confirm if this potential offer to member councils was first discussed and proposed when the impact of the Cleanaway fire was unknown on the four of the seven member councils that had Cleanaway as a contractor? If yes and had there been an opportunity for MRC to consider a reduced rate then, would Administration have recommended a reduced rate or not?*

#### **DETAIL**

The MRC does not have direct access to information on market rates for recycling of yellow bin material. Only two councils responded to the MRC's request for information on their per tonne recycling rates. Based on research into publicly available information, it would appear that recycling rates currently range anywhere between \$50 and \$140 per tonne<sup>1</sup>.

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<sup>1</sup> <https://www.watoday.com.au/national/western-australia/please-keep-recycling-perth-urged-to-trust-the-system-after-landfill-crisis-20200226-p544oa.html>

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The MRC currently charges member councils \$205 per tonne for waste delivered to the MRC.

The original officer recommendation in the 27 February 2020 report to Council recommended a discounted rate of \$125 per tonne in respect of kerbside recycling material that would otherwise have gone to Cleanaway for processing, applicable to the recycling material sent to the MRC between 25 November 2019 and 30 June 2020.

Council has the option to provide a discounted rate, that it determines is appropriate, to member councils for the disposal of recycling materials at Tamala Park for the period specified, through an absolute majority decision.

Responses to the specific questions raised at the OCM on 23 April 2020 are provided below.

- Q0. *A reduced rate equivalent to the current market recycling processing rate is considered to be a fairer proposition.*
- A0. It is unclear to whom this would present a 'fairer proposition' and given that market rates range between \$50 and \$140 per tonne, it is unclear on what basis an objective 'market rate' would be determined.
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Q1. *It appears that not all questions asked by Councillors at MRC OCM on 27 February 2020 have been answered in the additional information to Item 9.3. Could Administration provide a copy of all questions that were asked by Councillors relating to this item and Administration's answers in the order they were asked?*

A1. The MRC has the following questions recorded from the OCM on 27 February 2020 in no particular order:

*Q1.1 Should the councillors from councils affected by the proposal have made a declaration of interest?*

MRC. This would seem to be impractical and inappropriate given that every item that MRC councillors deal with which has a financial impact, by default, has an impact on their nominating local government.

*Q1.2 Would it not be more appropriate to charge the affected councils the casual (non-members') gate rate?*

MRC. Refer the answer to Question 7.

*Q1.3 Would it not be a better proposition to charge the affected councils the market rate for recycling?*

MRC. Refer the answer to Question 8.

*Q1.4 Would providing the reduced rate to the affected Councils not simply be subsidising Cleanaway?*

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MRC. The MRC is not privy to the member councils' commercial arrangements with Cleanaway and what contractual protections they might contain to recover additional cost / losses from Cleanaway. The individual member councils would be better placed to be able to answer this question.

*Q1.5 What other recycling processing capacity is there in Perth?*

MRC. There are only three MRF operators in Perth, Cleanaway, SUEZ and the Southern Metropolitan Regional Council (SMRC).

SUEZ and the SMRC have expanded their operations by adding additional shifts to run their MRFs for longer and at a higher throughput.

Based on the information we have, all the contents of the yellow-lidded bins coming from the MRC's member councils are now being processed through a MRF, rather than going to landfill.

*Q1.6 Which member councils had been impacted by the fire and which councils had brought recycling tonnes to the MRC?*

MRC. The Cities of Joondalup, Wanneroo and Vincent and the Town of Victoria Park all had contracts with Cleanaway. Only the City of Wanneroo has delivered any recycling tonnes to the MRC.

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*Q2. Was the offer of a reduced rate to accept recycling materials at Tamala Park Landfill made to all member councils or to only some of them?*

A2. The report submitted to the 27 February 2020 OCM refers. The original proposal put to Council was to provide a discounted rate to all member councils impacted by the Cleanaway fire.

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*Q3. What was the basis of this offer – presumably to demonstrate a regional approach? Could Administration advise and confirm that this is the case?*

A3. The Comments section of the report submitted to the 27 February 2020 OCM refers, where the intent of the report was expressed.

*“The unforeseen failure of a significant commercial contractor in the WA market has resulted in a crisis situation for a number of member councils.*

*Rather than take full commercial advantage of the situation, the MRC is looking to support affected member councils through the provision of a discounted rate for recyclable materials that would otherwise have been processed by Cleanaway.”*

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Q4. *When this issue was first discussed at the December SWG meeting, how was the proposal to provide a potentially reduced gate fee to affected member councils received?*

A4. There was a neutral response to the proposition – it was neither strongly endorsed, nor strongly opposed.

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Q5. *Please provide financial modelling on the anticipated financial impact of the COVID-19 Pandemic on MRC and how this impacts on the revised recommendation, as presented by Administration;*

A5. As a result of the COVID-19 Pandemic, the re-use shop has been closed for roughly 4 months, resulting in direct loss of revenue of approximately \$140,000. The MRC has also had an increase in staff costs as a result of changes to rosters as a result of the pandemic. Overall however, it is not anticipated that COVID-19 will have had a material impact on the MRC's financial position for 2019/20.

Where the pandemic will have a material impact, is on the 2020/21 financial year as the MRC budgets toward a zero increase in the members' gate fee in support of its member councils. Based on the initial budget presentation for 2020/21, the MRC is forecasting a \$3.3 million deficit.

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Q6. *An \$80/tonne difference between the rates of \$205/tonne and \$125/tonne will equate to \$294,800. Does Administration think that this additional revenue to MRC will have a material impact on the Gate Fee for 2020/21?*

A6. \$80 per tonne applied to the 3,685 tonnes of recycling material that the City of Wanneroo delivered to the MRC during the period under consideration equates to \$294,800.

The MRC is set to incur a \$3.3 million deficit in 2020/21 based on the first version of the budget. Given that \$294,800 represents close to 10% of that forecast deficit, it could be considered to be material.

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Q7. *Why has no comment been provided within the officer's report to offer a non-member's gate fee for any affected member councils?*

A7. The non-members' gate fee is currently \$194 per tonne and does not represent a significant discount to the members' gate fee of \$205 per tonne. The intention at the time for first drafting was to provide a more meaningful discounted rate that covered the MRC's direct costs of landfilling the material and yielded a reasonable contribution margin.

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Q8. *Why was no consideration given to offer a rate equivalent to the current market recycling processing rate, which would have been a fairer proposition?*

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- A8. Based on publicly available information, market rates at the time were as low as - \$50 per tonne in some instances or as high as \$150 per tonne. The \$125 rate originally proposed was closer to the top end of that range.

It is also worth noting that there is no uniform '*current market recycling processing rate*'. Member councils have individual contracts with different recyclers at a variety of rates and so it is unclear on what basis an objective 'market rate' would be determined.

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- Q9. *Could Administration confirm if this potential offer to member councils was first discussed and proposed when the impact of the Cleanaway fire was unknown on the four of the seven member councils that had Cleanaway as a contractor? If yes and had there been an opportunity for MRC to consider a reduced rate then, would Administration have recommended a reduced rate or not?*

- A9. The idea of a discounted rate was first discussed at the Strategic Working Group meeting on 4 December 2019. A report was subsequently distributed to Council on 14 February 2020. On the same day, the SMRC issued a press release noting that they had reached a processing agreement with Cleanaway.<sup>2</sup> Up to that point, there was no certainty as to the future of the recyclables originating from the member councils contracted with Cleanaway. As a result, the MRC's report issued on the same day was advocating for a discounted rate for the affected member councils.

## **CONSULTATION**

Nil

## **STATUTORY ENVIRONMENT**

Nil

## **STRATEGIC/COMMUNITY AND CORPORATE/BUSINESS PLAN IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

In the period from 25 November 2019 and 30 June 2020 the MRC has received 3,685 tonnes of recyclable material from the City of Wanneroo at the members' gate fee of \$205 per tonne, generating \$775,425 in unbudgeted revenue.

Based on the proposed budgeted for 2020/21 the MRC has kept its members' gate fee static at \$205 per tonne, which will yield a forecast deficit of \$3.3 million.

## **COMMENT**

When the matter of a discounted rate for recyclables being sent to landfill at Tamala Park was first discussed in December 2019, there was an expectation that more than one of the member councils may make use of Tamala Park to dispose of their material.

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<sup>2</sup> <https://smrc.com.au/media-release-agreement-reached-to-divert-recyclables/>

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At the time the original report and recommendation were drafted, the continuation of Cleanaway's temporary arrangement with the SMRC for processing recyclables was uncertain.

Given the recent impact of the COVID-19 pandemic on the MRC's member councils and their ratepayers, it seems more appropriate that the MRC focus on reducing its forecast budget deficit for 2020/21 rather than providing a discounted rate for the material in question.

#### **VOTING REQUIREMENT**

Simply majority

#### **ORIGINAL RESPONSIBLE OFFICER RECOMMENDATION**

That Council note the officer's report.

#### **Moved Cr Fishwick, seconded Cr Cole**

Cr Newton foreshadowed an alternate motion:

#### **FORESHADOWED ALTERNATE MOTION**

That Council:

1. note the officer's report;
2. approves the charging of a discounted rate of \$150 per tonne, equivalent to an estimate of the currently available recycling market rate, effective from 25 November 2019 and to be reviewed annually as part of the budget process, to any member council for comingled recyclable materials disposed of at Tamala Park Landfill, in the event that those member councils' respective recycling contractor's facility is not available to receive recyclable materials; and
3. approves that the funding of the retrospective application of the discounted rate in 2) as part of the 2020/21 midyear budget review.  
(Absolute majority required)

#### **REASON FOR ALTERNATE MOTION**

It is important for Mindarie Regional Council to provide a regional service to all members. The amendment offers the members a provision to dispose of their recyclable materials at Tamala Park at the rate equivalent to the recycling market rate at that time in the event their respective recycling facility is unavailable as was the case in November 2019 when Cleanaway's facility was destroyed in a fire.

A reduced rate equivalent to the prevailing market recycling processing rate is considered to be a fairer proposition.

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**PROCEDURAL MOTION**

**Moved Cr Newton, seconded Cr Cvitan**

**RESOLVED**

**To defer the item to the next Council meeting.**

**(CARRIED 7/4)**

*For Crs Boothman, Cvitan, Cole, Ferrante, Newton, Shannon, Vernon*

*Against: Crs Fishwick, Proud, Sargent, Taylor*

**ADDITIONAL COMMENTARY PROVIDED FOR OCM 24 SEPTEMBER 2020**

Based on its preliminary financial position for the 2019/2020 financial year, the MRC is expected to reflect a \$1 million deficit.

Based on the final 2020/2021 budget, the MRC is expecting to reflect a \$4.2 million deficit, prior to any impact of the recent business restructuring. This is as a direct result of the MRC not increasing its gate fees for members in the year to assist them in managing the impacts of the COVID-19 pandemic.

With the cumulative effective of these successive deficit result results, it is not recommended that any discounts be provided to member councils for any of their recyclable materials brought to landfill at Tamala Park.

**REVISED RESPONSIBLE OFFICER RECOMMENDATION**

That Council:

1. note the officer's report; and
  2. resolves not to provide a discounted fee to member councils in respect of any of their recyclable materials brought to landfill at Tamala Park.
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At the Ordinary Council meeting on 24 September 2020, Council voted on the substantive motion moved by Cr Fishwick at the Ordinary Council meeting on 02 July 2020.

(LOST 0/10)

An alternative motion was then moved in line with the officer's revised recommendation.

**Moved Cr Jacob, seconded Cr Cole  
RESOLVED**

**That Council:**

- 1. note the officer's report; and**
- 2. resolves not to provide a discounted fee to member councils in respect of any of their recyclable materials brought to landfill at Tamala Park.**

(CARRIED 8/2)

*For: Crs Boothman, Proud, Ferrante, Sargent, Jacob, May, Cole, Vernon  
Against: Crs Cvitan, Newton*

<b>10 MEMBERS INFORMATION BULLETIN – ISSUE NO. 55</b>
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**RESPONSIBLE OFFICER RECOMMENDATION**

**That the Members Information Bulletin Issue No. 55 be received.**

**Moved Cr Proud, seconded Cr Sargent  
RESOLVED**

**That the recommendation be adopted  
(CARRIED UNANIMOUSLY 10/0)**

<b>11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>
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Nil

<b>12 URGENT BUSINESS</b>
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Nil

<b>13 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN</b>
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Nil

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<b>14 MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC</b>
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The Chair requested that in accordance with clause 7.1(e) of the Mindarie Regional Council Standing Orders Local Law 2012 and s5.23 of the Local Government Act 1995, Council proceed to meet “behind closed doors” to allow the Council to consider items 14.1 and 14.2 as the items are of a confidential nature.

The Chair invited MRC Officers and members of the MRC Project Working Group (PWG) and MRC officers to remain in the meeting in the meeting for item 14.1. The Chair requested members of the public to leave the public gallery.

The Chair announced that there were no limitations on the number of speeches made in accordance with clause 7.9(4) of the Mindarie Regional Council Standing Orders Local Law 2012.

**Moved Cr Boothman, seconded Cr Proud  
RESOLVED**

**To close the meeting to the public  
(CARRIED UNANIMOUSLY 10/0)**

Doors closed at 7.28 pm.

The MRC officers and members of the PWG remained in the public gallery. There was one member of the public present and this person left the Council Chambers.

Note: The Chief Executive Officer has not released the reports for items 14.1 and 14.2 for public information.

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**This report is Confidential and dealt with in a confidential session, under Section 5.23 (2) (c) of the *Local Government Act 1995* as the report deals with a matter where a contract is entered into.**

<b>14.1 Proposed RRFA KPI suspension</b>	
<b>File No:</b>	<b>GF – 20 - 0000811</b>
<b>Attachments(s):</b>	<b>Nil</b>
<b>Date:</b>	<b>9 September 2020</b>
<b>Responsible Officer:</b>	<b>Chief Executive Officer</b>

#### **RESPONSIBLE OFFICER RECOMMENDATION**

**That the Council:**

**Endorse the indefinite suspension of the QC KPIs in respect of Soluble Phosphorus and Electrical Conductivity under the RRFA.**

**Moved Cr Newton, seconded Cr May  
RESOLVED**

**That the recommendation be adopted  
(CARRIED UNANIMOUSLY 10/0)**

The meeting remained closed to the public for the next item, item 14.2 CEO Performance Review.

The Chair requested that the following persons leave the Council Chambers/Public Gallery:

- MRC Chief Executive Officer
- MRC Director Corporate Services
- All other MRC Officers except for Manager HR and Governance Officer
- All Member Council PWG Officers

All officers left the meeting at 7.32 pm, Ms Cherico and Ms Toward remained in their seats.

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This report is Confidential and dealt with in a confidential session, under Section 5.23 (2) (a) of the *Local Government Act 1995* as the report deals with a matter affecting an employee.

**14.2 CEO PERFORMANCE REVIEW**

<b>File No:</b>	<b>GOVERNANCE – MRC Membership – Committees GF – 20 - 000044</b>
<b>Attachments(s):</b>	<b>1. Summary Report to Council – CEO Performance Review 2019/20</b>
<b>Date:</b>	<b>21 September 2020</b>
<b>Responsible Officer:</b>	<b>Manager Human Resources</b>

**RECOMMENDATION**

**That Council:**

1. Notes that the appraisal of Gunther Hoppe, Chief Executive Officer, has been undertaken for the period of 7 September 2019 to 6 September 2020.
2. Endorses the findings of the 2019/2020 Performance Review Report as presented by Price Consulting.
3. Endorses that no increase will be applied to the CEO's Total Remuneration package this year.
4. Approves the CEO's Performance Criteria for the 2020/2021 period, as per attachment 1.

**Moved Cr Jacob, seconded Cr May**

**RESOLVED**

**That the recommendation be adopted**

(CARRIED UNANIMOUSLY 10/0)

**Motion to reopen the meeting**

**Moved Cr Proud, Seconded Cr Cvitan**

**RESOLVED**

**That the meeting be reopened**

(CARRIED UNANIMOUSLY 10/0)

Doors were reopened 7.48 pm and the Chair declared the meeting reopened.

Mr Hoppe and Ms Slater returned to their seats. No other persons returned to the Public Gallery. The Chair noted the resolutions passed behind closed doors.

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**15 NEXT MEETING**

The next Ordinary Council meeting to be held on Thursday 22 October 2020 in the Council Chambers at the Town of Victoria Park commencing at 6.30 pm.

**16 CLOSURE**

The Chair closed the meeting at 7.48pm and thanked the City of Vincent for their hospitality and use of their meeting facilities.

Signed .....Chair

Dated ..... day of .....2020

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