



AGENDA

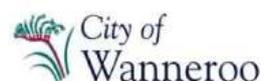
SPECIAL COUNCIL MEETING

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



**MINDARIE REGIONAL COUNCIL
NOTICE OF MEETING**

14 September 2012

Councillors of the Mindarie Regional Local Government are advised that a Special Meeting of the Council will be held in the Council Chambers of the Town of Cambridge, 1 Bold Park Drive, Floreat, at 5.30pm on Thursday 20 September 2012.

The agenda pertaining to the meeting is attached.

Your attendance is respectfully requested.

BRIAN CALLANDER
Chief Executive Officer

MINDARIE REGIONAL COUNCIL - MEMBERSHIP

Cr R Fishwick JP (Russ) - Chair	City of Joondalup
Cr J Bissett (John) – Deputy Chair	Town of Victoria Park
Cr S Withers (Simon)	Town of Cambridge
Cr K Hollywood (Kerry)	City of Joondalup
Cr R Butler (Rob)	City of Perth
Cr D Boothman (David)	City of Stirling
Cr S Cooke (Sharon)	City of Stirling
Cr J Robbins (Jason)	City of Stirling
Cr B Stewart (Bill)	City of Stirling
Cr A MacTiernan (Alannah)	City of Vincent
Cr L Gray JP (Laura)	City of Wanneroo
Cr D Newton JP (Dot)	City of Wanneroo

NB: Although some Councils have nominated alternate members, it is a requirement that a Council carries a specific resolution for each occasion that the alternate member is to act.

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1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS
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2	ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE
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Cr Butler has been granted a leave of absence from 17 September 2012 to 1 October 2012.

3	DECLARATION OF INTERESTS
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Declaration of Financial/Conflict of Interest to be recorded prior to dealing with each item.

Disclosure of Financial and Proximity Interests

- (a) *Members must disclose the nature of their interest in matters to be discussed at the meeting. (Section 5.65 of the Local Government Act 1995).*
- (b) *Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting. (Sections 5.70 and 5.71 of the Local Government Act 1995).*

Disclosure of Interest Affecting Impartiality

- (a) *Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the member or employee has given or will give advice.*

4	PUBLIC QUESTION TIME
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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.**
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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.**
-

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 pasturisation - 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.

5.4	CONTAINER DEPOSIT SCHEME
File No:	WST/193
Appendix(s):	
Date:	
Responsible Officer:	Geoff Atkinson

LATE ITEM

**WILL BE DISTRIBUTED UNDER SEPARATE COVER
TO ELECTED MEMBERS BY CLOSE OF BUSINESS**

MONDAY 17 SEPTEMBER 2012

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

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

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DISTRIBUTED UNDER SEPARATE COVER TO

ELECTED MEMBERS

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

THIS ITEM IS CONFIDENTIAL, NOT FOR PUBLIC VIEWING.

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ELECTED MEMBERS

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

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ELECTED MEMBERS

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

8 NEXT MEETING

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