



# AGENDA

ORDINARY COUNCIL MEETING

TIME: 5.30PM

8 DECEMBER 2011

TOWN OF VICTORIA PARK

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*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**

25 November 2011

Councillors of the Mindarie Regional Local Government are respectfully advised that an Ordinary Meeting of the Council will be held in the Council Chambers of the Town of Victoria Park, 99 Shepperton Road, Victoria Park, at 5.30pm on Thursday 8 December 2011.

The business papers pertaining to the meeting follow.

Your attendance is requested.



**JOHN BONKER**  
A/Chief Executive Officer

**MINDARIE REGIONAL COUNCIL - MEMBERSHIP**

Cr S Withers (Simon)	Town of Cambridge
Cr R Fishwick (Russ)	City of Joondalup
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 J Bissett (John)	Town of Victoria Park
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 precursor to any alternate member acting 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**

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

**3 DECLARATION OF INTERESTS**

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**

**5 ANNOUNCEMENTS BY THE PRESIDING PERSON**

**6 APPLICATIONS FOR LEAVE OF ABSENCE**

**7 PETITIONS / DEPUTATIONS / PRESENTATIONS**

Deputation - Northern Districts Combined Community Groups Association (NDCCGA) Inc.

The NDCCGA, formerly registered as the “Joondalup Combined Community Groups Association Inc., is *“advocating for a comprehensive policy for WA Wheeled Sport Clubs, and is particularly focussed on securing the concept of a Multi-Wheeled Sports Park for their affiliates and community of the Northern Metropolitan Region.”*

Amongst their goals is the quest to achieve a “Multi-Wheeled Sports Park” in the region to meet the needs of the following 10 key wheeled sport disciplines: 1. Criterium Cycling 2. Para (Hand) Cycling 3. Track Cycling 4. Mountain Bike Cycling 5. BMX Cycling 6. Community Social Cycling 7. Triathlon 8. Contemporary Skating 9. Freestyle Skating 10. Training Facility for Clubs, Schools and Community Groups.

The Association estimates the overall area required to accommodate those needs to be around 15 hectares, including infrastructure for the 10 sports and patron parking. A sketch showing a footprint of a 1,200m cycling circuit, and an area of 15ha, is shown as Appendix 11.

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In May 2011 a delegation of the Association (Tim Argus, Joe Cox and Mike O'Brien) met with the City of Joondalup to discuss the Association's advocacy for the provision of possible Wheeled Sports Facilities in the Northern Corridor. At that meeting it was suggested they direct their advocacy to the Mindarie Regional Council as it was considered these facilities could potentially be accommodated on the Tamala Park leased area, post the landfill closure which at this stage is estimated to be in 2024.

The recently completed post-closure options study for the site has identified a number of constraints and suggests that the end use will likely be predominantly of a conservation and recreational nature. The activities promoted by the Association could potentially fit within that classification.

The Association has acted on the suggestion made at Joondalup and subsequently requested a deputation to the MRC. The Chairman has approved the request and representatives intend to make a presentation to Council at this meeting. The presentation is limited to a maximum of 15 minutes.

It should be noted this deputation is for the members' information only. There is no formal report on the matter on this agenda and no decision is required or will be made.

## **8 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

### **8.1 ORDINARY COUNCIL MEETING – 13 OCTOBER 2011**

The Minutes of the Ordinary Council Meeting held on 13 October 2011 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 13 October 2011 be confirmed as a true record of the proceedings.**

### **8.2 SPECIAL COUNCIL MEETING – 26 OCTOBER 2011**

The Minutes of the Special Council Meeting held on 26 October 2011 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 26 October 2011 be confirmed as a true record of the proceedings.**

### **8.3 SPECIAL COUNCIL MEETING – 17 NOVEMBER 2011**

The Minutes of the Special Council Meeting held on 17 November 2011 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 17 November 2011 be confirmed as a true record of the proceedings.**

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**9 PROJECT MANAGER REPORTS**

<b>ITEM 9.1 RESOURCE RECOVERY FACILITY UPDATE REPORT</b>	
<b>File No:</b>	<b>WST/13-02 (D/11/7007)</b>
<b>Appendix(s):</b>	<b>Appendix 1 (page 2)</b>
<b>Date:</b>	<b>9 November 2011</b>
<b>Project Manager:</b>	<b>Ian Watkins</b>

Summary of activities during the reporting period 13 September 2011 to 9 November 2011. For additional information refer to Appendix 1.

Composter Structural Issues.

BioVision Board has made the decision to replace the composters. The replacement equipment is currently being designed, with installation due in early 2013.

This is good news for the MRC as this will remove all historical issues associated with the failed composters and simplify the future property insurance process.

Standstill Deed

The Second Standstill Deed has been finalised, signed by all parties and replaces the original Standstill Deed.

Waste Delivery

Waste delivery Summary for Reporting Period

<b>MONTH</b>	<b>SCHEDULED TONNES</b>	<b>DELIVERED TONNES</b>	<b>DIFFERENCE TONNES</b>
September 2011	8,800	9,474	+674
October 2011	8,400	6,991	-1,409
Total	17,200	16,465	-735

During the reporting period, the RRF Availability was reduced due to the replacement of ring tightns and wear plates in the composters, resulting in 735 tonnes less than scheduled being delivered. For the Contract Year (16/7/11 to 15/7/12) waste delivery is still 579 tonnes ahead of schedule.

Waste Diversion

Waste Diversion for the past six months (March 2011 to August 2011) has been 50.9%.

Project Insurance

The Industrial Special Risks insurance policy was finalised and taken up before the 30 September 2011 deadline. The new policy has a deductible of \$250,000 or 10 working days, which is not in accordance with the RRFA (\$25,000 and 10 working days), but an improvement on the previous policy (\$1,000,000 or 30 working days).

Project Advisory Group

Following the recent Local Government elections, Cr Laura Gray has been reappointed as the MRC Project Advisory Group elected member representative. There is still a need to nominate an alternative representative.

Quantity of Recyclables

BioVision has recently advised that it is now able to recommence metal extraction as One Steel has agreed to take the scrap metal after it has been hand sorted (cleaned up) by Cleanaway.

**VOTING REQUIREMENT**

Simple Majority

**RESPONSIBLE OFFICER RECOMMENDATION**

- 1. The information on the RRF project for the period 13 August 2011 to 9 November 2011 be received.**
- 2. Councillor..... be appointed as the MRC Alternative Representative on the Project Advisory Group.**

**10 CHIEF EXECUTIVE OFFICER REPORTS**

<b>ITEM 10.1 BUSINESS INFORMATION REPORT</b>	
<b>File No:</b>	<b>COR/8/02 (D/11/7008)</b>
<b>Appendix(s):</b>	<b>Nil</b>
<b>Date:</b>	<b>23 November 2011</b>
<b>Responsible Officer:</b>	<b>CEO</b>

**Process Review Committee**

The Committee overseeing the organisational review held a briefing meeting with Morrison Low Consultants on Wednesday 2 November 2011. The Committee is meeting with them on 24 November 2011 and again on 8 December 2011 to receive their progress reports.

Morrison Low anticipate the draft report will be completed in early 2012.

**City of Stirling Withdrawal** (Refer separate report)

**New Establishment Agreement** (Refer separate report)

**Communications and Education Report – September/October 2011**

This is the start of the Spring fair, fete and festival season presenting the MRC with many great opportunities to mingle and get the waste messages out there. This outreach program being the focus of the MRC activity in the current budget climate with other project areas being scaled back.

The following are some of the key activities and happenings that occurred during September/October.

Tours

Thirty three tours of the MRC facilities took place by school and community groups with groups coming from all Member Council areas.

The Roaming Recycler waste education display

The Roaming Recycler display was out at 10 events during this period.

This included the week long Perth Royal Show where we teamed with the other Regional Councils and Earth Carers display at the four day Conscious Living Expo.

The display continues to be developed to engage people when visiting. New items include:

- The game 'Chutes and Conveyors', based on the 'snakes and ladders' game only with a waste and recycling theme.
- Little soldier, made of waste material for children to interact with at the display
- 'New' brochure holder made from a verge side ironing board and plastic milk containers

### Schools and Visits

Six school visits took place and there was one school that visited to Tamala Park to carrying out a recycling workshop at the Education Centre.

Two community talks were held.

Waste Wise Schools came to Tamala Park to shoot a segment for a DVD they are producing.

### Waste and Recycling Conference

The 2011 Waste and Recycling Conference was held with the following involvement by the MRC:

- Tour of Tamala Park facility, showcasing Tarpomatic system of end of day cover
- Household Hazardous Waste workshop
- Assisted Waste Authority with the facilitation of the Waste Education workshop
- Conference paper
- Waste Awards – Peg Davies Waste Champion

### Earth Carers

A 'Working with waste wood' workshop was held for existing Earth Carers in conjunction with the Earth Carers from other Regions.

Training Course #9 was held with 21 enthusiastic participants. Special thanks to the City of Wanneroo who opened their depot as part of the course to help us discuss the collection side of the business.

### Battery Program

Two new battery bins were delivered to schools. In both cases they were delivered during school assemblies and a brief presentation was given.

During this period steady stream of dry celled batteries continue to be deposited into and collected from the community and school bins. See tables below.

Battery containers were also delivered to aged care facilities throughout the Region to promote the collection of batteries.

### Number of Community & School Battery Bins

<b>Council</b>	<b>Community</b>	<b>School</b>
<b>Joondalup</b>	6	20
<b>Perth</b>	3	0
<b>Vincent</b>	4	5
<b>Wanneroo</b>	5	13
<b>Cambridge</b>	5	4
<b>Victoria Park</b>	3	1
<b>TOTAL</b>	<b>26</b>	<b>43</b>

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Community & School Battery Bin Collection Statistics for 2011 (kilograms)

Council	January-March		April-June		July-September		Year to date		Total
	Community	School	Community	School	Community	School	Community	School	
<b>Joondalup</b>	320	0	372	248	283	40	1222.5	708.5	<b>1931</b>
<b>Perth</b>	138	0	68.5	0	14	0	251	0	<b>251</b>
<b>Vincent</b>	219.5	40	213.5	94.5	96.5	0	623.5	241.5	<b>865</b>
<b>Wanneroo</b>	231	0	170	157	163.5	16	689.5	371	<b>1060.5</b>
<b>Cambridge</b>	173.5	0	294.5	63.5	154.5	0	822.5	101.5	<b>924</b>
<b>Victoria Park</b>	158.5	0	237	9	116	0	569.5	12	<b>581.5</b>
<b>GRAND TOTAL</b>									<b>5613</b>

Contamination

There have been a number of contamination issues with the community battery bins with drink bottles, containers, food, general rubbish, soiled nappies as well as a number of lead acid batteries found in the bins.

Other

- Monthly WESSG meetings were held.  
An update version of 2010 Strategic Waste Minimisation Plan (SWMP) project Events Guidelines were presented for trial and comment.
- A Community Engagement Advisory Group (CEAG) meeting took place 12 October 2011.
- The MRC website, MRC e-news and the Earth Carer's Blog and Forum continue being maintained.

**Waste to Landfill Tonnages Report**

The total Members Processable and Non-Processable waste for the 4 months to 31 October 2011 is in line with the pro-rata year to date projected (budgeted) waste tonnage.

Although City of Joondalup and City of Vincent waste tonnages are slightly lower than the projected targets, these are offset by higher waste tonnages from the Cities of Wanneroo and Perth and Town of Cambridge.

Other

The total Bales and Residues tonnages for this period are about 13% above target. This is mainly due to higher tonnages of Residues from the RRF and Wanneroo WRC.

The Casuals/Commercial tonnages for the 4 months to 31 October 2011 are approximately 7% higher than the pro-rata budget.

During this period, 2,348 tonnes of waste from City of Stirling were processed at the commercial rates following the approval of the exemption, of delivery of waste by City of Stirling to Tamala Park, at the 7 July 2011 Council meeting.

MINDARIE REGIONAL COUNCIL  
ORDINARY COUNCIL MEETING AGENDA – 8 DECEMBER 2011

Landfill, resource recovery & recycling tonnages year to date 2011/12						Month:	Oct-11		
						YTD (%):	33.55%		
TONNAGE						REVENUE			
<u>MEMBERS</u> Processable & Non-processable	RRF Actual	Landfill Actual	Total Tonnage	Y-T-D previous year	Budget 2011/12	Actual G/L \$	Budget 2011/12	Actual % Year to Date	
Cambridge	2,107	1,506	3,613	2,596	10,400	\$ 444,388	\$ 1,279,200	34.7%	
Joondalup	14,860	5,643	20,503	16,756	64,800	\$ 2,521,973	\$ 7,970,400	31.6%	
Perth	-	4,822	4,822	3,520	14,250	\$ 593,102	\$ 1,752,750	33.8%	
Stirling	-	1,260	1,260	20,461	-	\$ 156,096	\$ -		
Victoria Park	2,017	2,421	4,439	3,331	13,200	\$ 546,311	\$ 1,623,600	33.6%	
Vincent	2,597	1,896	4,493	3,258	14,516	\$ 552,665	\$ 1,785,468	31.0%	
Wanneroo	13,849	9,753	23,602	16,557	68,115	\$ 2,904,407	\$ 8,378,145	34.7%	
<b>Sub Total</b>	<b>35,431</b>	<b>27,300</b>	<b>62,731</b>	<b>66,479</b>	<b>185,281</b>	<b>\$ 7,718,942</b>	<b>\$ 22,789,563</b>	<b>33.9%</b>	
<b>Other</b>									
Sita Biovision Residues		14,539	14,539	11,133	37,791	\$ 1,788,270	\$ 4,648,293	38.5%	
Stirling Bales		-	-	2,858	-	\$ -	\$ -		
Wanneroo WRC		5,523	5,523	3,314	15,000	\$ 679,382	\$ 1,845,000	36.8%	
<b>Sub Total Other</b>		<b>20,062</b>	<b>20,062</b>	<b>17,306</b>	<b>52,791</b>	<b>\$ 2,467,652</b>	<b>\$ 6,493,293</b>	<b>38.0%</b>	
<b>Member charged as Trade</b>									
City of Stirling		2,348	2,348	-	-	\$ 328,728	\$ -		
<b>SUB TOTAL MEMBERS</b>	<b>35,431</b>	<b>49,710</b>	<b>85,141</b>	<b>83,784</b>	<b>238,072</b>	<b>\$ 10,515,322</b>	<b>\$ 29,282,856</b>	<b>35.9%</b>	
<b>CASUALS</b>									
South Perth		9	9	14	-	\$ 1,231	\$ -		
Trade & Cash		17,267	17,267	12,627	50,000	\$ 2,454,598	\$ 7,000,000	35.1%	
<b>Sub Total Casuals</b>		<b>17,275</b>	<b>17,275</b>	<b>12,641</b>	<b>50,000</b>	<b>\$ 2,455,829</b>	<b>\$ 7,000,000</b>	<b>35.1%</b>	
<b>TOTAL</b>	<b>35,431</b>	<b>66,985</b>	<b>102,416</b>	<b>96,425</b>	<b>288,072</b>	<b>\$12,971,151</b>	<b>\$ 36,282,856</b>	<b>35.8%</b>	
						Recycling centre sales	\$ 73,873	\$ 400,000	18.5%

Community CFL Collection Statistics for 2011 (kilograms)

Council	Jan-Mar	April-June	Jul-Sept	Year to date
Vincent	19.5	30.5	24	<b>93</b>
Cambridge	63	45.5	28	<b>156.5</b>
<b>GRAND TOTAL</b>				<b>249.5</b>

**New Landfill Site Acquisition**

Following Council adoption of the Gingin land purchase Business Plan, the Administration has worked with Woodhouse Legal to develop a suitable option/sale agreement as well as developed a strategy by which to approach landowners of properties that the MRC may be interested in acquiring. In the near future, the Administration will be making approaches to landowners.

**VOTING REQUIREMENT**

Simple Majority

**RESPONSIBLE OFFICER RECOMMENDATION**

The Business Information Report be received for the period to 31 October 2011.

<b>ITEM 10.2</b>	<b>CITY OF STIRLING WITHDRAWAL</b>
<b>File No:</b>	<b>LEG/14 (D/11/7009)</b>
<b>Appendix(s):</b>	<b>Nil</b>
<b>Date:</b>	<b>23 November 2011</b>
<b>Responsible Officer:</b>	<b>CEO</b>

## **SUMMARY**

The purpose of this report is to update the members on the status quo of the Stirling withdrawal process with a view to facilitating a timely and mutually satisfactory conclusion to the matter.

## **BACKGROUND**

1. On 3 August 2010, the 7 member Councils and the MRC signed a Heads of Agreement consenting to the City of Stirling withdrawing from the MRC.
  2. Section 699 of the repealed Local Government Act 1960 applies to a withdrawal from the MRC which culminates in the Governor being authorised to make an Order to that effect on the recommendation from the Minister.
  3. Section 699 envisages a period of 12 months from the service of a withdrawal request for agreement to be reached between the parties as to the adjustment of assets and liabilities, and the making of a new establishment agreement for the remaining parties. If this has not been achieved to the satisfaction of the Minister within 12 months the Minister can grant an extension of time or waive the requirement for an agreement, or decline to make any recommendation to the Governor at all.
  4. The Minister has the same powers at the end of any extension to the initial 12 month period.
  5. If there is no agreement as to the “adjustment of assets and liabilities between them” (i.e. between the City of Stirling and the MRC) then the Governor, on the recommendation of the Minister, may by Order make those adjustments.
  6. The Minister must not make a recommendation to the Governor for an Order unless he has approved 2 different agreements i.e.
    - (i) between the City of Stirling and the MRC as to “the adjustment of assets and liabilities between them”.
    - (ii) between the remaining 6 councils varying the establishment agreement to provide for the determination of contributions between them and for the alteration of the number of regional councillors.
  7. The preparation of a new establishment agreement is nearing finalisation and is the subject of a separate report on the agenda of this meeting.
  8. In August 2010 the City of Stirling made a request to the Minister to withdraw from the MRC.
  9. On 30 September 2011 the City of Stirling wrote to the Minister requesting an extension until 31 December 2011.
  10. The Minister granted the extension in a letter dated 25/10/2011.
  11. In the meantime the MRC commissioned PricewaterhouseCoopers (PwC) to undertake a valuation of the assets and liabilities of the MRC. In a Stage 2 report
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dated 3 August 2011 PwC valued it in the range of \$30.1M - \$47.8M under Scenario A, and \$29.3 - \$41.3 under Scenario B.

12. In a letter dated 21 September 2011 (Attachment 1) the City of Stirling submitted a withdrawal “proposal” consisting of the following elements:
  - (i) Receipt of a financial settlement of \$11.14M;
  - (ii) Release from the BioVision Guarantee; and
  - (iii) Retention of their share of the ownership in Tamala Park.
13. Although section 699 envisages an agreement being reached between the MRC and the City of Stirling, inevitably such an agreement would have an impact on the 6 remaining councils. For that reason there is a reluctance to make any recommendation to the MRC until the position of those councils is known.
14. At a meeting of member council CEOs on 6 October 2011 it was evident that Stirling’s withdrawal “proposal” had, at that time, yet to be considered by the 6 councils.
15. The Acting CEO subsequently wrote to the 6 councils requesting their response to Stirling’s proposal or, if the matter was being referred to their respective Councils, advice as to if and when that would occur.
16. As at 24 November, the following responses have been received:

City of Perth (Attachment 2)

- Agrees with PwC’s valuation methodology.
- Considers Stirling’s offer of \$12.38M less 10% discount (i.e. \$11.14M) “is a figure from which negotiations can progress”. The final figure is subject to Council approval.
- Suggests a discount of 35 – 40% would be more acceptable (i.e. net \$7.5 - \$8.0M).
- City of Perth will not accept any increase in financial exposure in relation to Stirling’s withdrawal from the BioVision Guarantee.
- Has no objection to Stirling’s ongoing Shareholding of the Tamala Park site.

City of Vincent (Attachment 3)

The City has not responded to the specifics of Stirling’s withdrawal offer. They list 2 conditions under which the Mayor and CEO are authorised to *negotiate the matter* these being: i) *that the MRC and all member councils jointly continue to participate in the negotiations in good faith*, and ii) *the City of Stirling give an undertaking that it will not recommence legal action in the Supreme Court during the negotiations*.

City of Wanneroo

The City advised that a full report on the withdrawal offer will be going to the next Ordinary Council meeting scheduled for 13 December. The City “*remains committed to the process and working in good faith with all parties, to seek a resolution to this matter.*”

**COMMENT**

Cash Component of Stirling’s Proposal (\$11.14M)

17. The valuation used by Stirling in arriving at the \$11.14M is the average of the valuations calculated under Scenarios A and B prepared by PwC. PwC recommended the Scenario B valuation, the average of which was \$11.8M before the application of a discount.
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18. A 10% discount on the \$11.8M would reduce it to \$10.62M; a 20% discount would result in \$9.44M.
19. The Acting CEO believes a negotiated figure within a range of \$10M - \$11M is reasonable. This would place the liability on each of the remaining 8 shares at between \$1.25M and \$1.375M.

#### Withdrawal from the BioVision Guarantee

20. A withdrawal from the Guarantee is a separate matter that was not part of the requirements under the Heads of Agreement signed in August 2010.
21. It is doubtful when section 699 refers to the “adjustment of assets and liabilities between them” that it extends to the BioVision Guarantee. The Guarantee involves liabilities not just between the MRC and the City of Stirling but also between BioVision and the other 6 municipalities.
22. Stirling cannot withdraw from the Guarantee without BioVision’s consent and BioVision is not obliged to give its consent.
23. The MRC earlier wrote to Stirling advising that it will not request BioVision to consent to a withdrawal. One of the reasons was that at least 3 of the other participants did not agree to it.
24. The BioVision Guarantee is a contractual matter between BioVision and 7 Councils which does not involve the assets and liabilities of the MRC, making it unlikely that both the Minister and the Governor would have any jurisdiction in making an Order to release Stirling from its Guarantee.
25. It may however be possible for the 6 member Councils to negotiate a trade-off with Stirling in relation to their withdrawal price, their ongoing ownership in the leased area of the Tamala Park land and/or future obligations following closure of the landfill. However that would require the member Councils who have previously advised that they would not entertain an increase in their share of the BioVision Guarantee to reverse their position.

#### Retention of Shareholding in the Area of Tamala Park Leased by the MRC

26. The transfer of ownership of this land is not part of the withdrawal Heads of Agreement and it is currently not an asset of the MRC.
  27. However following closure of the landfill operations there will be post closure liabilities on the land which would either require:
    - (i) the MRC to continue to lease the land for as long as it needs to fulfil its post-closure obligations, or
    - (ii) prior to, or at the time of the landfill closure, the owners agreeing to transfer the ownership to the MRC, in which it case it would become both an asset and a liability, the net effect of which could be positive or negative dependent on the ongoing costs of monitoring and/or remediation of the site, and what other uses may be permitted on the landfilled and non-landfilled parts of the land.
  28. From an administrative point of view obtaining MRC’s ownership of the leased area is clearly preferable to a lease of indeterminate duration. The Acting CEO understands that the 6 councils have previously expressed support for this preference.
  29. Should Stirling retain its shareholding in the leased land following withdrawal there should be a formal agreement between Stirling and the other parties (6 Councils and the MRC) setting out the circumstances and extent to which they will be party to any ongoing management decisions relating to the land. This to guard against possible
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future obstructionism and the vetoing of proposals the other shareholders may wish to progress.

### **Funding Options**

30. From a commercial perspective, the City of Stirling withdrawal settlement amounts to a buyout of an existing shareholder and this is usually funded by the shareholders themselves.
31. However it is anticipated the MRC will be called upon to facilitate the buyout on behalf of the 6 councils and, if so, the following options are available:
- (i) Funded internally from funds available within MRC.
  - (ii) Funded externally through loans.
  - (iii) Funded by a combination of internal and external funds.
  - (iv) Funded by stakeholders individual to their share of the settlement.
32. The options below are based on a projected final settlement between \$8M to \$11M.

#### **Option (i)**

The investments in Bank Deposits held by MRC at 31 October 2011 total approximately \$9.5M and are made up as follows:

Guarantee from BioVision 2020 Pty Ltd (under RRF Agreement)	524,000
Cash backed Reserve Investments	8,745,000
Municipal Investment	188,000
	<u>9,457,000</u>

#### *Bank Guarantee from BioVision 2020 Pty Ltd*

The Guarantee from BioVision 2020 Pty Ltd relates to funds held on deposit in lieu of a bank guarantee. The funds are held in trust for BioVision and can only be called on in an event which, under the terms of the RRF Agreement, triggers the right for MRC to use the Guarantee. For example, if BioVision is unable to meet its commitments under the RRF Agreement.

The \$0.5M only forms part of the total Guarantee. The remaining Guarantee is in the form of a Bank Guarantee.

#### *Cash Backed Investments*

These investments support the following Reserves:

- *Reserve for Capital Expenditure* \$1.1M  
Purpose: Reserve for Capital Expenditure to fund capital expenditure committed for the Regional Council for the current or future financial years.
  - *Carried Forward Expenditure* \$0.4M  
Purpose: Carried Forward Expenditure Reserve to be used to fund operational expenditure committed and brought forward from previous years.
  - *Reserve for Resource Recovery Facility (RRF) Operational Requirements* \$5.3M
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Purpose: This reserve was established to overcome the need to establish an overdraft facility of \$5M to meet any unexpected payments which may arise under the terms of the Resource Recovery Facility Agreement (RRFA). Under the RRFA, MRC is required to pay the first \$5M of any claims, determined in favour of BioVision, promptly within 20 days of determination as required by the Financing Parties.

- *Reserve for Members Revenue Equalisation* \$1.9M

Purpose: Members Revenue Equalisation Reserve is to be used to fund any under recovery of the Members Gate Fees in the current and future years, or any exceptional / abnormal expenditure.

Total \$8.7M

The cash backed Reserves are retained for specific purposes but a purpose can be changed subject to one month's local public notice of an intention to do so. [s.6.11(2)]

An amount of around \$2M is the maximum the MRC administration would recommend as being sourced from current bank deposits and it would be drawn from the Members Revenue Equalisation Reserve. However this would erode council's flexibility to fund any future mid-year adjustments in Members' Gate Fees, abnormal expenditure or ad-hoc items.

Alternatively the MRC could make available the \$5m held in the RRF Operational Reserve but this would then require the establishment of a substitute \$5M bank overdraft facility which, if required to be accessed, would be very expensive.

**Option (ii)**

The Administration has held discussions with MRC's principal banker and WA Treasury Corporation (WATC) and the settlement can be funded through a commercial loan from the Bank or WATC, the details of which are summarized below:

***Funding through Commercial Bank***

A commercial loan can be arranged by MRC and the repayments reimbursed by the 6 councils in proportion to their equity in the MRC.

Loan	\$8M to \$11M
Term	10 years
Rate of Interest	6% (Variable) 6.5% to 8% (fixed for 3 to 10 years)

***Funding through WATC***

Funding through WATC can be done in two ways:

**1. Loan to MRC**

The WATC loans to MRC and the remaining participants reimburses MRC the repayments on the loan. An application would need to be completed and the criteria for the loan and conditions are summarised below.

The borrowing terms are as follows:

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- **Quantitative Criteria** – Net Debt Ratio and Debt Service Cover Ratio
- **Qualitative Criteria** – Credit assessment to determine credit worthiness
- Only those local government participants with a credit risk assessment that meets the above criteria will be permitted to provide the necessary security over their general funds, for their share of the borrowings by the Regional Council.
- Participants will need to provide Key Financial Information (Annual Report, Budget and Monthly financials).
- Outstanding debt servicing obligations of each participant – Council loans and participant's share of the proposed regional council's loans are taken into consideration.

#### Documentation

- Loan Agreement between WATC and the Regional Council. This agreement would need to be signed by the Regional Council and each individual Participant.
- An individual Charge Agreement between WATC and each Participant. The Charge Agreement ties the Regional Council's loans by way of a charge over its general funds.
- The cost of drawing up the legal documentation would be passed back to the Regional Council.
- Estimated time frame to draw up the necessary documents through the State Solicitors Office 3 – 6 months.
- Estimated cost of the above documentation \$18,000.00 (2011 costing).

## 2. Loans to each remaining participant for their respective share of the City of Stirling settlement

MRC arranges with WATC for a loan for the total amount of the Stirling settlement and the participants will borrow their respective share of the settlement and will be responsible for the debt individually. The process is detailed below.

- Each participant would approach WATC for its share of the required loan and then provide the funds to the Regional Council.
- The participants would need to comply with WATC's credit criteria including:  
**Quantitative Criteria** – Net Debt Ratio and Debt Service Cover Ratio  
**Qualitative Criteria** – Credit assessment to determine credit worthiness
- Participants will be able to determine their own loan structure.
- Documentation is in the form of a standard Loan Agreement direct to the participant which requires security over the Council's general funds.
- Participant is responsible for the debt servicing obligations of this loan.
- WATC absorbs the cost of preparing the Loan Agreement.
- If all credit criteria are met, the loan can be provided within 21 days.

The interest rates under both options of funding from WATC are similar and estimated at between 4.9% to 5.1% depending on the term of the loan. It should be noted that if the Stirling settlement is funded through a direct loan to MRC it will take 3 – 6 months to finalise in view of the documentation requirements, compared to about a month where lending is direct to the individual member councils.

### Option (iii)

Under this option the Stirling settlement can be funded through a combination of internal funds from MRC and an external loan.

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**Option (iv)**

Under this option, the remaining participants will arrange their own funding for their share of the Stirling settlement.

**SUMMARY**

To honour the commitment given in the Heads of Agreement the member councils need to give the MRC direction on the terms of the proposed withdrawal. Empowering a committee of elected members to negotiate these with the City of Stirling is considered an expeditious and practical way of achieving this.

It is recommended that the member councils strive to reach agreement with Stirling in a timely manner rather than run the risk of potential further court action or having the matter decided by the Minister. Either eventuality would not be in the financial and public interest of the member councils, and the MRC, and should be avoided at all cost.

**CONSULTATION**

Member council CEOs were requested to provide information in relation to Stirling's withdrawal offer. (Refer Clause 15 above)

**STATUTORY ENVIRONMENT**

The statutory instruments relating to this item are:

- the Constitution Agreement made under the 1960 Local Government Act,
- the transitional sections applicable from the 1960 Act, and
- the current Local Government Act 1995.

**VOTING REQUIREMENT**

Simple Majority / Absolute Majority

**RESPONSIBLE OFFICER RECOMMENDATION**

That:

1. **An occasional committee consisting of the Chairman, Crs ..... and.....be appointed for the purpose of negotiating the terms and conditions of the withdrawal with the Mayor and CEO of the City of Stirling. (Absolute majority required)**
  2. **The Committee not be authorised to commence the negotiations until at least 4 of the 6 councils have provided the MRC with a written response to the withdrawal proposal submitted by the City of Stirling in their letter dated 21 September 2011.**
  3. **Once an agreement has been successfully negotiated the Committee be authorised to recommend its acceptance to the 6 member councils in any manner it considers appropriate, including personal representation and deputations to meetings of the respective councils.**
  4. **In view of the fact that acceptance by the 6 member councils of any negotiated settlement cannot be achieved by 31 December 2011, the City of Stirling be requested to seek from the Minister a further 6 months' extension to their current withdrawal request.**
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**ATTACHMENT 1**  
**TO ITEM 10.2**  
**ORDINARY COUNCIL MEETING**  
**8 DECEMBER 2011**  
**LETTER DATED 21 SEPTEMBER 2011**  
**FROM CITY STIRLING**

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**ATTACHMENT 2**  
**TO ITEM 10.2**  
**ORDINARY COUNCIL MEETING**  
**8 DECEMBER 2011**  
**LETTER DATED 1 NOVEMBER 2011**  
**FROM CITY OF PERTH**

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**ATTACHMENT 3**  
**TO ITEM 10.2**  
**ORDINARY COUNCIL MEETING**  
**8 DECEMBER 2011**  
**LETTER DATED 23 NOVEMBER 2011**  
**FROM CITY OF VINCENT**

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<b>ITEM 10.3</b>	<b>CITY OF STIRLING REQUEST FOR EXTENSION OF EXEMPTION TO DISPOSE OF WASTE TO MRC FACILITIES</b>
<b>File No:</b>	<b>LEG/14/06 (D/11/7010)</b>
<b>Appendix(s):</b>	<b>Nil</b>
<b>Date:</b>	<b>11 November 2011</b>
<b>Responsible Officer:</b>	<b>CEO</b>

### **SUMMARY**

The City of Stirling has requested an extension to the previously granted exemption to dispose of waste to MRC facilities, these being the Tamala Park landfill and the Neerabup RRF.

### **BACKGROUND**

Council, at its meeting held on 7 July, exempted the City from its obligations to deposit waste at its facilities commencing on 1 July 2011 and ending on 31 December 2011 on the condition that the MRC's fees and charges applicable to casual and commercial users would also apply to the City for any of their waste received during this period.

Council also agreed to reconsider this matter *"prior to 31 December 2011 in the event that the withdrawal of the City of Stirling from the MRC has not been completed"*.

### **COMMENT**

Granting the requested extension is consistent with, and in the spirit of, Stirling's withdrawal and should therefore be supported.

### **STATUTORY ENVIRONMENT**

Under the current Establishment Agreement the City of Stirling is obliged to deliver waste to MRC facilities but the MRC may grant an exemption (i) for any period; (ii) subject to any conditions; and (iii) in respect of any type or quantity of waste, determined by the MRC Council from time to time.

### **VOTING REQUIREMENT**

Simple Majority

### **RESPONSIBLE OFFICER RECOMMENDATION**

**That the application from the City of Stirling for an extension to be exempted from the obligation to deliver waste to MRC facilities for a further six (6) months until 30 June 2012 or until the withdrawal has been finalised, whichever is the sooner, be approved on the condition that MRC fees and charges applicable to casual and commercial users will continue to apply to any waste delivered by the City of Stirling during the exemption period.**

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<b>ITEM 10.4</b>	<b>NEW ESTABLISHMENT AGREEMENT</b>
<b>File No:</b>	<b>LEG/2-02 (D/11/6972)</b>
<b>Appendix(s):</b>	<b>Appendix 2 (page 10)</b>
<b>Date:</b>	<b>23 November 2011</b>
<b>Responsible Officer:</b>	<b>CEO</b>

## **SUMMARY**

This report seeks to obtain the Council's concurrence with the contents of the draft new Establishment Agreement, developed by Woodhouse Legal in consultation with the Strategic Projects Committee, with a view to recommending it to the 6 member Councils for adoption.

## **BACKGROUND**

1. At present the MRC operates in accordance with the Constitution Agreement made in 1988 under the Local Government Act 1960.
  2. This Agreement was subsequently amended to include as constituent municipalities the local governments of Cambridge, Vincent and Victoria Park (following the break-up of the City of Perth), as well as the City of Joondalup following its excision from the City of Wanneroo,.
  3. The Agreement remains in force by virtue of the transitional provisions of the current Local Government Act 1995.
  4. A prior attempt, commencing in 2004, to amend the Constitution Agreement by revoking it and substituting it with a new Establishment Agreement under the provisions of the 1995 Act, languished.
  5. To accommodate the agreed withdrawal of the City of Stirling necessitates a further variation to the Agreement and again the preferred option is to revoke the original 1988 version and replace it with a whole new Establishment Agreement.
  6. Both the City of Stirling Withdrawal Agreement and the new Establishment Agreement for the 6 remaining municipalities need to be lodged with the Minister concurrently. The two separate agreements are interdependent and must both be approved by the Governor before they take effect.
  7. The MRC Administration acknowledges that the Establishment Agreement is principally a matter for, and between, the 6 member Councils and recognises its role is limited to facilitating the development of the Agreement and recommending it for adoption by the member Councils.
  8. The present draft Agreement, with the accompanying explanatory notes, have been considered by members of the Strategic Projects Committee who, at its meeting held on 24 October, resolved to recommend ***that the draft Establishment Agreement be referred to the Council for consideration with 1 minor drafting change which has been highlighted and the timing of Councillor Tenure clause.*** (Refer Item 11.1, this agenda)
  9. In November two members of the Strategic Projects Committee conducted a further review of the draft and apart from discovering a number of typographical errors and querying some of the wording, questioned whether Schedules 4 and 5 could be replaced by a single simplified Schedule that could be more readily comprehended;
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claiming the complexity of the two Schedules was a barrier to having the member councils consent to the new Agreement.

10. These members subsequently presented a conceptual outline of how they envisaged the single Schedule could be applied and this was referred to the MRC's CFO and Deloittes (the producers of the formulae for Schedules 4 and 5) for analysis and evaluation.
11. At the date of this report the analysis and evaluation is yet to be received but initial feedback suggests the single Schedule proposal has potential.

### **COMMENT**

12. Apart from possible modifications to Schedules 4 and 5, the remainder of the draft has been endorsed by the officer representatives of the 6 member councils. Any subsequent amendment can readily be made in the event the City of Stirling withdrawal should not eventuate. The Local Government Act 1995 also permits the Agreement to be amended in the future to include another local government to the Agreement.
13. It should be noted that the need for a new Establishment Agreement is not exclusively necessitated because of Stirling's planned withdrawal. It has been the MRC's objective to achieve this updated new instrument since 2004 and it's high time this item was finalised.
14. It is recommended the MRC endorse the draft Agreement for referral to the member councils for approval after the Strategic Planning Committee has unanimously agreed to changes, if any, to Schedules 4 and 5. This will enable the draft to be sent to the member councils without the need for further prior endorsement by the MRC.

### **CONSULTATION**

Member council senior officers/CEOs.

### **STATUTORY ENVIRONMENT**

Local Government Act 1995

### **VOTING REQUIREMENT**

Simple Majority

### **RESPONSIBLE OFFICER RECOMMENDATION**

1. **That the draft Establishment Agreement dated 15 November 2011 (Appendix 2) be endorsed and approved for referral to the 6 member councils for their formal approval after the Strategic Planning Committee has unanimously agreed to changes, if any, to Schedules 4 and 5 of this draft, as well as any consequential amendments to clauses of the draft resulting from changes to those Schedules.**
  2. **That the officer representative of the City of Stirling on the Strategic Planning Committee be authorised to participate in any discussion, but not voting, on the final draft.**
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<b>ITEM 10.5</b>	<b>LEASE AT TAMALA PARK – MARKET RENT REVIEW</b>
<b>File No:</b>	<b>FIN/91 (D/11/7011)</b>
<b>Appendix(s):</b>	<b>Appendix 3 (page 39)</b>
<b>Date:</b>	<b>10 November 2011</b>
<b>Responsible Officer:</b>	<b>Kalwant Dhillon</b>

## **SUMMARY**

The purpose of this report is to brief the Council on the findings of the Market Rent Review on the Tamala Park lease, conducted by Landgate (formerly Valuer General Office) in line with the terms of the Lease Agreement between Mindarie Regional Council and the seven participating Member Councils.

## **BACKGROUND**

The land on which the Tamala Park Landfill Facility resides, is owned by the seven participating member Councils namely Cities of Joondalup, Perth, Stirling, Wanneroo and Vincent and Towns of Cambridge and Victoria Park. The land was leased to Mindarie Regional Council (MRC) for an initial term from 1 July 1990 to 30 June 2011 with an option for extension of the term to 30 June 2032.

The option to extend the lease was exercised and the lease was extended by a Deed of Variation dated 25 September 2006, from 1 January 2006 to 30 June 2032.

Under this Deed of Variation, a Market Rent Review need to be conducted every five years with the first review to be conducted on 1 January 2011.

Landgate was appointed in early 2011 to conduct this review but the review was only conducted in July 2011 due to Landgate's 'heavy' commitment.

## **DETAIL**

The final Report, in respect of the Market Rent Review pertaining to the lease of the land for the Tamala Park Landfill Facility, has been received and is attached under Appendix 3.

The Report has placed an annual Market Rental Value of \$623,000 on the lease of the land for the Tamala Park Landfill Facility. The lease rental, in accordance with the Deed of Variation, need to be adjusted from 1 January 2011.

### *Financial Implications.*

The Financial impact of the increase in rental of the land for the Tamala Park Facility, in line with this Market Rent Review, relating to the period 1 January 2011 to 30 June 2012 is summarised below:

Additional Rental (1 January to 30 June 2011)	\$13,456
Additional Rental (1 July to 31 December 2011)	\$6,000
Additional Rental (1 January to 30 June 2012)	<u>\$15,345</u>
	<u>\$34,801</u>

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## **CONSULTATION**

Consultation was carried out with the following:

- Landgate
- Minter Ellison

## **STATUTORY ENVIRONMENT**

Nil

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

The shortfall in funding of approximately \$35,000 arising from the revision of the lease rental as a result of the Market Rental Review will be funded from the Operating Surplus for this financial year and will be reflected in the mid year review.

## **STRATEGIC IMPLICATIONS**

Nil

## **VOTING REQUIREMENT**

Absolute Majority

## **RESPONSIBLE OFFICER RECOMMENDATION**

That:

1. **The Landgate Report, pertaining to the Market Value Review in respect of the land leased to the Tamala Park Landfill Facility, be received.**
  2. **The revised Lease Rental, as recommended in the Landgate Report be adopted effective from 1 January 2011 in accordance with the Deed of Variation for the lease dated 25 September 2006.**
  3. **An additional budget allocation of \$35,000 for the land lease rental to cover the increase in rent from the Market Rental Review, be approved.**
  4. **The funding shortfall of \$35,000 arising from the increased lease rental be funded from the Operating Surplus in the mid-year review.**
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<b>ITEM 10.6</b>	<b>MINDARIE REGIONAL COUNCIL MEETING DATES FOR 2012</b>
<b>File No:</b>	<b>COR/10 (D/11/7012)</b>
<b>Appendix(s):</b>	<b>Nil</b>
<b>Date:</b>	<b>24 November 2011</b>
<b>Responsible Officer:</b>	<b>Kathleen van Son</b>

## **SUMMARY**

The purpose of this report is to provide the proposed meeting dates for Ordinary Council Meetings and Agenda Review Committee Meetings for 2012.

## **BACKGROUND**

The Mindarie Regional Council has previously considered, in December of each year, the Council meeting schedule for the forthcoming calendar year.

## **DETAIL**

The business rules used in the formulation of Council meetings scheduled for Year 2012 are as follows:

- That six Council meetings be held in the calendar year 2012
- That no meetings be held in June, but that this meeting be held in early July 2012 to accommodate the swearing in of Councillors, and the appointment of Chairman and Deputy Chairman. This assumes that current rules will still apply
- That the meeting scheduled for December be held relatively early in the month to accommodate other commitments of the festive season
- That all other meetings of the Council i.e. February, April, August and October be held on the fourth Thursday of those months.
- That meetings be scheduled at the Chambers of Member Councils

## **Programme of Meetings for Year 2012**

### **Ordinary Council Meeting (OCM)**

The proposed schedule for Ordinary Council meetings for Year 2012 is as follows:

- Thursday 1 March (City of Stirling)  
**(NOTE: Clashes with WALGA Zone meetings)**
- Thursday 26 April (City of Joondalup)  
**(NOTE: Clashes with WALGA Zone meetings)**
- Thursday 5 July (City of Wanneroo)
- Thursday 23 August (City of Vincent)
- Thursday 25 October (City of Perth)
- Thursday 6 December (Town of Victoria Park)

All meetings will commence at 5.30pm.

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### **Agenda Review Committee (ARC)**

The proposed schedule for Agenda Review Committee meetings for Year 2012 is as follows:

- Friday 10 February
- Thursday 5 April (6 April is Good Friday)
- Friday 15 June
- Friday 3 August
- Friday 5 October
- Friday 16 November

### **Strategic Projects Committee (SPC)**

The proposed schedule for Strategic Projects Committee meetings for Year 2012 is as follows:

- Monday 16 January
- Monday 12 March
- Monday 21 May
- Monday 9 July
- Monday 10 September
- Monday 29 October
- Monday 3 December

### **Chief Executive Officer's Meetings**

It is proposed that two (2) meetings will be held during 2012 to enable discussion between CEO of MRC and CEOs of Member Councils on matters related to Mindarie Regional Council. These meetings are scheduled for April and October. The dates, location and duration to be confirmed and advised.

### **Arrangements for Special Meetings**

Special Council Meetings will be held on an 'as required' basis.

### **Project Advisory Group (PAG)**

The proposed schedule for the Project Advisory Group (PAG) meetings for Year 2012 is that they be held on the 2nd Wednesday of each month, commencing at 10am.

### **Community Engagement Advisory Group (CEAG)**

The proposed schedule for Community Engagement Advisory Group (CEAG) meetings for 2012 is that the meetings shall be held on the second Wednesday, bi-monthly commencing February 2012.

### **Waste Education Strategy Steering Group (WESSG)**

The proposed schedule for Waste Education Strategy Steering Group (WESSG) meetings for 2012 is to be held on the last Tuesday of each month.

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## **STATUTORY ENVIRONMENT**

s.5.3(2) of the Local Government Act 1995, requires that “Ordinary Meetings are to be held not more than 3 months apart.”

## **POLICY IMPLICATIONS**

Not applicable.

## **STRATEGIC IMPLICATIONS**

Not applicable.

## **FINANCIAL IMPLICATIONS**

MRC Members are paid an annual attendance fee. A deputy appointed by the Member Council to a meeting in the place of the Member is paid a fee per meeting attended.

## **COMMENT**

The proposed schedule for Ordinary Council meetings for Year 2012 is submitted for approval. The Administration proposes the February meeting be deferred for 1 week (to 1 March) to provide extra time for preparing the mid-year budget review, completing the annual statutory compliance report and having that considered by the Audit Committee before the Council meeting.

The rotational order of meeting venue has been modified by moving the City of Stirling to be the first host in 2012 in case their withdrawal takes effect in the first half of 2012.

## **VOTING REQUIREMENT**

Simple Majority

## **RESPONSIBLE OFFICER RECOMMENDATION**

The following schedule for Ordinary Council Meetings for Year 2012 be adopted:

- **Thursday 1 March 2012 (City of Stirling)**
  - **Thursday 26 April 2012 (City of Joondalup)**
  - **Thursday 5 July 2012 (City of Wanneroo)**
  - **Thursday 23 August 2012 (City of Vincent)**
  - **Thursday 25 October 2012 (City of Perth)**
  - **Thursday 6 December 2012 (Town of Victoria Park)**
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<b>ITEM 10.7</b>	<b>Mindarie Regional Council Tamala Park Local Law 2002 – Review</b>
<b>File No:</b>	<b>LAW/5 (D/11/7013)</b>
<b>Appendix(s):</b>	<b>Appendix 4 (page 56)</b>
<b>Date:</b>	<b>22 November 2011</b>
<b>Responsible Officer:</b>	<b>Kathleen van Son</b>

## **SUMMARY**

The purpose of this report is to obtain Council's approval to repeal and replace the Tamala Park Local Law 2002.

## **BACKGROUND**

The existing Local Law dealing with conduct on the Tamala Park site is the Mindarie Regional Council Tamala Park Local Law 2002. This Local Law was gazetted on 20 December 2002.

Under the Local Government Act 1995 the Local Laws are required to be reviewed every 8 years.

The CEO gave Statewide public notice of the proposed review of the Local Law. Public notice was given in the Western Australian newspaper of 6 August 2011 with a closing date for submissions of 26 September 2011.

No submissions have been received.

It is proposed that the Mindarie Regional Council Tamala Park Local Law 2002 be repealed and that a new Local Law be made. A copy of the proposed new Local Law, the Mindarie Regional Council Waste Facility Site Local Law 2011, is attached at Appendix 4.

## **DETAIL**

The proposed new Local Law has been developed by the MRC's administration in consultation with Woodhouse Legal. The proposed new Local Law is based on the previous Local Law and has borrowed provisions and the modern legislative drafting style of the Botanic Gardens and Parks Regulations 1999.

The proposed new Local Law continues to deal with various types of restricted or prohibited behaviour at the Tamala Park site including unauthorised entry, observance of parking and traffic signs, protection of flora and fauna, lighting of fires and unauthorised removal of property.

The modified penalties are proposed to increase from \$100 to \$200.

## **COMMENT**

The purpose of the Local Law is to regulate the conduct of the public whilst they are on the Council's leased area of Tamala Park.

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The effect of the Local Law is to regulate and prohibit certain conduct by the public whilst on the site. It provides that some activities may only take place with permission and that some activities are restricted or prohibited. Restricted activities include parking and removal of flora, fauna and other property.

### **CONSULTATION**

Statewide public notice was given.

### **STATUTORY ENVIRONMENT**

Local Government Act 1995, Section 3.16

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil

### **STRATEGIC IMPLICATIONS**

Nil

### **VOTING REQUIREMENT**

Absolute Majority

### **RESPONSIBLE OFFICER RECOMMENDATION**

**That:**

- 1. It be noted that no submissions were received in relation to the review of the Mindarie Regional Council Tamala Park Local Law 2002.**
  - 2. In accordance with section 3.12(3) and section 3.16(4) of the Local Government Act 1995, the Council authorises the giving of Statewide public notice that the Mindarie Regional Council proposes to make the Mindarie Regional Council Waste Facility Local Law 2011 (a copy of which is attached as Appendix 4 which will repeal the Mindarie Regional Council Tamala Park Local Law 2002.**
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<b>ITEM 10.8</b>	<b>FINANCIAL STATEMENTS FOR THE PERIODS ENDED 30 SEPTEMBER 2011 AND 31 OCTOBER 2011</b>
<b>File No:</b>	<b>FIN/5-02 (D/11/7015)</b>
<b>Appendix(s):</b>	<b>Appendix 5 (page 67) Appendix 6 (page 79)</b>
<b>Date:</b>	<b>22 November 2011</b>
<b>Responsible Officer:</b>	<b>Kalwant Dhillon</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

### **DETAIL**

The Financial Statements attached are for the months ended 30 September 2011 and 31 October 2011 are attached at Appendix 5 and 6 to this Item.

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

These Statements includes:

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

to provide meaningful reporting to Stakeholders.

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

### **VOTING REQUIREMENT**

Simple Majority

### **RESPONSIBLE OFFICER RECOMMENDATION**

**That the Financial Statements attached at Appendix 5 and 6 for the months ended 30 September 2011 and 31 October 2011 be noted.**

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<b>ITEM 10.9</b>	<b>LIST OF PAYMENTS MADE FOR THE MONTHS ENDED 30 SEPTEMBER 2011 AND 31 OCTOBER 2011</b>
<b>File No:</b>	<b>FIN/5-02 (D/11/7016)</b>
<b>Appendix(s):</b>	<b>Appendix 7 (page 91) Appendix 8 (page 97)</b>
<b>Date:</b>	<b>22 November 2011</b>
<b>Responsible Officer:</b>	<b>Kalwant Dhillon</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 delegated authority to the Chief Executive Officer, 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 30 September 2011 and 31 October 2011 are at Appendix 7 and 8 to this Item and are presented to Council for noting. Payments have been made in accordance with the delegated authority to CEO that allow payments between meetings. At the Ordinary Council Meeting held on 13 October 2011, the Council delegated to the Chief Executive Officer the exercise of its power to make payments from the Municipal Fund. In order to satisfy the requirements of Clause 13(2) of the Local Government (Financial Management) Regulations, a list of payments made must be submitted to the next Council meeting following such payments.

It should be noted that generally all payments are GST inclusive and Mindarie Regional Council is able to claim this tax as an input credit when remittance of GST collected is made each month to the ATO.

Months Ended	Account	Vouchers	Amount
30 September 2011	General Municipal	Cheques 8628 - 8784 EFT 00355 - 00361 DP 00605 - 00623	\$3,608,099.29
31 October 2011	General Municipal	Cheques 8785 - 8924 EFT 00362 - 00369 DP 00624 - 00632	\$5,066,635.98

**VOTING REQUIREMENT**

Simple Majority

**RESPONSIBLE OFFICER RECOMMENDATION**

**That Council note the list of payments made under the delegated authority to the Chief Executive Officer, for the months ended 30 September 2011 and 31 October 2011.**

<b>ITEM 10.10</b>	<b>MINDARIE REGIONAL COUNCIL – AMENDMENT STANDING ORDERS LOCAL LAW 2010</b>
<b>File No:</b>	<b>LAW/6 (D/11/7188)</b>
<b>Appendix(s):</b>	<b>Nil</b>
<b>Date:</b>	<b>24 November 2011</b>
<b>Responsible Officer:</b>	<b>Kathleen van Son</b>

## **SUMMARY**

On 13 October 2011, the Council met to approve a request from the Joint Standing Committee on Delegated Legislation to delete clause 5.9(3) from the Mindarie Regional Council Standing Orders Local Law 2010. The Mindarie Regional Council (MRC) agreed to provide an undertaking to make the requested changes.

## **BACKGROUND**

It was agreed that steps be taken under s3.12 of the Local Government Act 1995 for the Council to amend the local Law by deleting clause 5.9(3).

The first step was to give Statewide public notice. The purpose and effect of the proposed amendment to the Local Law is as follows:

- Clause 5.9(3) is to be deleted.
- The deletion will remove the power of the presiding person to rule that a member must not speak again on a matter.
- The deletion is made to satisfy an undertaking given to the Joint Standing Committee on Delegated Legislation.

The requested undertaking was submitted to the Joint Standing Committee by on Monday 17 October 2011.

Statewide public notice was given of the amendment to proposed new Local Law. Submissions close on 7 December 2011. This report assumes that no submissions will be received.

## **DETAIL**

A summary of the changes is set out below:

- That all consequential undertakings arising from the undertaking will be made;
  - Clause 5.9(3) will not be enforced in a manner contrary to the undertakings that the Council gives;
  - The undertaking will be completed within six months of the date of the MRC's letter giving the undertaking;
  - The MRC will provide a copy of the minutes of the meeting at which the Council resolves to provide the undertaking; and
  - Where the Local law is made publicly available, whether in hard copy or electronic form, it is accompanied by a copy of these undertakings.
-

## **CONSULTATION**

Statewide public notice was provided of the decision to amend the Draft Standing Orders Local Law 2010.

## **STATUTORY ENVIRONMENT**

Following the giving of Statewide public notice of the proposed new Local Law, the Council is required under section 3.12(4) of the Act to consider any submissions (none are expected to be received) and the Council is authorised to make a proposed new Local Law

## **VOTING REQUIREMENT**

Absolute Majority

## **RESPONSIBLE OFFICER RECOMMENDATION**

- 1. That it be noted the undertaking set out by the Joint Standing Committee on Delegated Legislation regarding the deletion of clause 5.9(3) from the Mindarie Regional Council Standing Orders Local Law 2010, has been implemented.**
- 2. That the Mindarie Regional Council Amendment Standing Orders Local Law 2010 be adopted.**

<b>ITEM 10.11</b>	<b>Tamala Park Weighbridges Upgrade Report</b>
<b>File No:</b>	<b>(D/11/7200)</b>
<b>Appendix(s):</b>	<b>Nil</b>
<b>Date:</b>	<b>24 November 2011</b>
<b>Responsible Officer:</b>	<b>Mike Tolson</b>

### **SUMMARY**

The purpose of this item is to inform the elected members in regard to the condition of the weighbridges at Tamala Park.

### **BACKGROUND**

The annual calibration of the weighbridges was conducted earlier this month by Mettler Toledo Limited. They reported that because of the age of the load cell components the bridges were vulnerable to a major failure.

### **DETAIL**

The two sixty-tonne weighbridges were installed at Tamala Park circa 1991. The bridges are structurally sound however the Mettler Toledo Limited post action report indicated that in the event of a load cell failure on either of the weighbridges, the original analog load cells could not be replaced as there are no spares available. Mettler Toledo recommended to ensure the reliability of the weighbridges for the next 20 years, the analog load cells and the associated peripherals be upgraded to digital load cells and digital peripherals. Quotes to upgrade the bridges were sought from Western Australian suppliers indicating an upgrade cost in the order of \$60,000.

### **CONSULTATION**

Acuweigh Pty Ltd  
Mettler Toledo Ltd

### **COMMENT**

The weighbridges are critical to MRC provision of waste services to council business and to meet legislative requirements. The weighbridge load cell system should therefore be upgraded as soon as practical to avoid possible operational disruption. At this stage it is planned that the work be completed in January

### **FINANCIAL IMPLICATIONS**

There is no allocation for the upgrade of the weighbridges at Tamala Park in the current 2011/12 budget.

### **VOTING REQUIREMENT**

Absolute Majority

### **RESPONSIBLE OFFICER RECOMMENDATION**

That Council:

- 1. Approve a budget allocation of \$60,000 to fund the upgrade of the Tamala Park weighbridge load cell systems.**
  - 2. Approve the re-allocation of \$60,000 from the RRF Vehicle Washdown Bay Facility allocation of \$650,000 to the Tamala Park Weighbridge upgrade as the RRF Washdown Bay Facility project, should it proceed, is not likely to be fully utilised in FY 2011/12.**
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**11 COMMITTEE REPORTS**

<b>ITEM 11.1</b>	<b>MINUTES - STRATEGIC PROJECTS COMMITTEE – 24 OCTOBER 2011</b>
<b>File No:</b>	<b>GOV/28/05 (D/11/7017)</b>
<b>Appendix(s):</b>	<b>Appendix 9 (page 103)</b>
<b>Date:</b>	<b>22 November 2011</b>
<b>Responsible Officer:</b>	<b>CEO</b>

**BACKGROUND**

The Strategic Projects Committee (SPC) was established by absolute majority decision at Ordinary Council Meeting 25 February 2010.

The primary objective of the Strategic Project Committee is to undertake planning, research and development of strategic projects for recommendation to and consideration by the Mindarie Regional Council (MRC).

As the Strategic Projects Committee is an appointed committee of MRC reports from the Strategic Projects Committee will be formally presented to the MRC at each meeting of the MRC. The reports will contain recommendations, progress reports on matters under consideration and such other matters relevant to the Strategic Projects Committee's terms of reference.

Reports and recommendations of each Strategic Projects Committee meeting shall be presented to the next ordinary meeting of the Council.

Minutes of Strategic Projects Committee meeting held on 24 October 2011 at Appendix 9.

**1. RESPONSIBLE OFFICER RECOMMENDATION**

**1.1 MINUTES – 24 October 2011 (Appendix 9)**

**The Unconfirmed Minutes of the Strategic Projects Committee meeting held on 24 October 2011 be received.**

**2. RECOMMENDATIONS FROM SPC MEETING**

**2.1 MRC Establishment Agreement**

**The Committee recommend that the Draft Establishment Agreement be referred to the Council for consideration with 1 minor drafting change which has been highlighted and the timing of Councillor Tenure clause.**

**2.2 Use of DEC Waste Minimisation Funding**

- a. The Project Manager be requested to prepare a Tender Specification and distribute this to the Committee members.**
  - b. The Committee recommendation that when the funding is available from the DEC Waste Minimisation Funding it be used for an Audit to be completed twice (summer and winter) on waste in the Green and yellow bins and output of the RRF.**
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<b>ITEM 11.2</b>	<b>AUDIT COMMITTEE MEETING MINUTES – 22 NOVEMBER 2011</b>
<b>File No:</b>	<b>COR/22 (D/11/7018)</b>
<b>Appendix(s):</b>	<b>Appendix No. 10 (page 163)</b>
<b>Date:</b>	<b>22 November 2011</b>
<b>Responsible Officer:</b>	<b>Kalwant Dhillon</b>

### **BACKGROUND**

The Internal Audit Committee was established during the 2005/2006 financial year and it held its Inaugural meeting in June 2006.

### **DETAIL**

#### **Establishment of Audit Committee**

The Audit Committee was established by Ordinary Council Meeting resolution on 7 July 2005. The Terms of Reference for this Committee were approved by Council at its Ordinary Council Meeting on 27 October 2005.

Powers of the Audit Committee, as stated in the Terms of Reference, can be summarised by the following extract:

*“The Committee is to report to Council and provide appropriate advice and recommendations ....”*

In summary, the Audit Committee does not have delegated authority from Council for decision making.

### **STATUTORY ENVIRONMENT**

An Internal Audit Committee is required under the Local Government Act 1995 and Regulations. The Committee is required to meet at least once a year and report any matters discussed including outcomes to the Council.

#### **1. RESPONSIBLE OFFICER RECOMMENDATION**

##### **1.1 MINUTES – 22 November (Appendix 10)**

**The Unconfirmed Minutes of the Audit Committee meeting held on 22 November 2011 be received.**

#### **2. RECOMMENDATIONS FROM AUDIT COMMITTEE MEETING**

##### **2.1 Annual Report 2010/11**

**That Council accepts the Annual Report, including the audited Financial Statements for year ended 30 June 2011.**

*(By Absolute Majority voting)*

##### **2.2 Audit Management Letter 2010/11**

**That Council note the Audit Management Letter issued upon completion of the 2010/11 audit.**

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**12 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

**13 URGENT BUSINESS**

**14 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

**15 MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC**

**16 NEXT MEETING**

**17 CLOSURE**

**These Minutes were confirmed by the Council as a true and accurate record of the Ordinary Meeting of the Council held on 8 December 2011.**

**Signed .....Chairman**

**Dated this ..... day of .....2011**

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