



AGENDA

SPECIAL COUNCIL MEETING

TIME: 6.00PM

THURSDAY 7 NOVEMBER 2013

MINDARIE REGIONAL COUNCIL

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



**MINDARIE REGIONAL COUNCIL
NOTICE OF MEETING**

31 October 2013

Councillors of the Mindarie Regional Council are respectfully advised that a Special Meeting of the Council will be held in the Conference Room of the Mindarie Regional Council, 1700 Marmion Avenue, Tamala Park at 6.00pm on Thursday 7 November 2013.

The business papers pertaining to the meeting follow.

Your attendance is 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 J Davidson OAM JP (Janet)	City of Perth
Cr D Boothman (David)	City of Stirling
Cr S Proud (Stephanie)	City of Stirling
Cr E Re (Elizabeth)	City of Stirling
Cr B Stewart (Bill)	City of Stirling
Cr J Carey (John)	City of Vincent
Cr R Driver (Russell)	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.

CONTENTS

1	COUNCILLOR SEATING ARRANGEMENTS	4
2	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS.....	4
3	ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE	4
4	DECLARATION OF INTERESTS.....	4
5	PUBLIC QUESTION TIME	4
6	ANNOUNCEMENTS BY THE PRESIDING PERSON	4
7	APPLICATIONS FOR LEAVE OF ABSENCE	4
8	REPORTS	5
	8.2 Appointment on Committees.....	5
8	NEXT MEETING	17
9	CLOSURE	17

Prior to the commencement of the meeting, newly appointed Councillors will be required to make the required declaration of office as a councillor of the Mindarie Regional Council. The prescribed form for that purpose is enclosed.

1 COUNCILLOR SEATING ARRANGEMENTS

The Chief Executive Officer has set the seating arrangements for this and future Council meetings in accordance with Part 4.2 of the MRC Standing Orders Local Law 2010, which states:-

- (1) At the first meeting following each ordinary election, the CEO is to allocate a seat in the Council chamber to each member.*
- (2) Each member is to occupy his or her allocated position at each Council meeting until the Council decides to reallocate positions.*

2 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

3 ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

4 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.*

5 PUBLIC QUESTION TIME

6 ANNOUNCEMENTS BY THE PRESIDING PERSON

7 APPLICATIONS FOR LEAVE OF ABSENCE

8	REPORTS
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8.2	APPOINTMENT ON COMMITTEES
File No:	GOV/1-02
Attachment(s):	1. Audit Committee Details; 2. CEO's Performance Review Committee Details; 3. RRF Project Advisory Group Details; and 4. Municipal Waste Advisory Council Details
Date:	28 October 2013
Responsible Officer:	Chief Executive Officer

SUMMARY

The purpose of this report is to appoint Mindarie Regional Council (MRC) Councillors on to the committees and working groups of the MRC as a result of the recent elections held by Local Government in accordance with the *Local Government Act 1995* and decisions of member councils to change their representatives on the MRC.

BACKGROUND

The MRC currently has two Committees, formulated in accordance with the *Local Government Act 1995*, and two Working Groups that have Councillors as members, which are as follows:

- Audit Committee (established in accordance with the Local Government Act 1995)
- Chief Executive Officer's Performance Review Committee (established in accordance with the Local Government Act 1995)
- Project Advisory Group (established in accordance with the Resource Recovery Facility Agreement).
- Municipal Waste Advisory Council (established as part of MRC's commitment to the Western Australia Local Government Association membership)

Attachments 1 to 4 of this agenda item provide details of the tenure, membership, duties and responsibilities associated with each of the Committees and Working Groups named above.

DETAILS

The *Local Government Act 1995* and the recently held Local Government Election have resulted in the need for the MRC to swear in new Councillors and appoint members to its Committees and Working Groups. The following provides a brief explanation of the purpose of the Committees and Working Groups:

Audit Committee

The Audit Committee is established as a requirement of the Local Government Act 1995 and in accordance with its Terms of Reference. The Committee consists of at least three elected members and an appointed independent member. The Administration provides secretarial support to the Committee and both the Chief Executive Officer and the Director of Corporate Services attend the meetings to provide advice and guidance to the committee members on the issues represented in the agendas.

Chief Executive Officer's Performance Review Committee

This committee was established to review the Chief Executive Officer's (CEO) performance annually in accordance with the *Local Government Act 1995* and traditionally uses a consultant to assist it in assessing the CEO's performance.

Project Advisory Group

The MRC has invested heavily in resource recovery of the waste provided to it by the member councils by entering into a build-own-operate contract with BioVision 2020 for a resource recovery facility. The facility takes 100,000 tonnes of municipal waste annually and converts it to compost, providing a diversion rate from landfill of just over 50%. This significant investment is managed through a contract entitled the Resource Recovery Facility Agreement (RRFA). The Contract includes a requirement to have a Project Advisory Group consisting of an independent Chair, three representatives from the MRC and three representatives from BioVision, plus deputies for each party.

Municipal Waste Advisory Council

The Municipal Waste Advisory Council (MWAC) was established in December 1994 as a Standing Committee of the Western Australian Local Government Association (WALGA) with delegated authority to represent the Association in respect of matters relating to municipal waste issues. MWAC is established under a partnership agreement with WALGA, Eastern Metropolitan Regional Council, City of Geraldton/Greenough, Mindarie Regional Council, Rivers Regional Council, Southern Metropolitan Regional Council and Western Metropolitan Regional Council.

The objective of MWAC is to encourage and promote economically sound, environmentally safe waste management practices and to ensure that the shared interests of all Western Australian Local Governments, as they relate to waste management, are effectively managed. An Officer Advisory Group has been created as an advisory committee to the MWAC.

LEGAL COMPLIANCE

Refer attachments 1 through to 4 to determine the varying compliance requirements of the Committees and the Working groups.

FINANCIAL IMPLICATIONS

There is no remuneration attached to the positions on any of the MRC's Committees and/or Working Groups.

COMMENT

These Committees and Working Groups are an integral part of the operations of the Mindarie Regional Council and Councillor representation provides valuable input into the issues presented to the Committees and Working Group in line with good governance practices.

VOTING REQUIREMENT

Absolute/Simple Majority

RESPONSIBLE OFFICER RECOMMENDATION

That Council:

1. **Appoint Cr _____, Cr _____ and Cr _____ on to the Audit Committee. (Absolute Majority Required)**
 2. **Appoint Cr _____, Cr _____, Cr _____ and Cr _____ on to the Chief Executive Officer's Performance Review Committee.
(Absolute Majority Required)**
 3. **Appoint Cr _____ as a member and Cr _____ as a Deputy Member on to the Resource Recovery Facility - Project Advisory Group.**
 4. **Appoint Cr _____ on to the Municipal Waste Advisory Council.**
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ATTACHEMENT 1

AUDIT COMMITTEE

MEMBERSHIP/SUPPORT STAFF

Three Councillors (Minimum)
One Independent Member (Sourced from the Community)
MRC Chief Executive Officer (Support Staff)
MRC Director Corporate Services (Support Staff)

MEETING FREQUENCY

The Committee shall meet as and when required. Normally twice a year being:

- (a) November to review and make recommendations to Council on the previous year's audited financials; and
- (b) February/March to review MRC's response to the Statutory Compliance Audit Return required by the State Government and make recommendations to Council.

DUTIES AND RESPONSIBILITIES

The duties and responsibilities of the Committee will be –

- (a) Provide guidance and assistance to Council as to the carrying out the function of the local government in relation to audits.
 - (b) Develop and recommend to Council an appropriate process for the selection and appointment of a person as the local government's auditor.
 - (c) Develop and recommend to Council –
 - a list of those matters to be audited; and
 - the scope of the audit to be undertaken.
 - (d) Recommend to Council the person or persons to be appointed as auditor.
 - (e) Develop and recommend to Council a written agreement for the appointment of the auditor. The agreement is to include –
 - the objectives of the audit;
 - the scope of the audit;
 - a plan of the audit;
 - details of the remuneration and expenses to be paid to the auditor; and
 - the method to be used by the local government to communicate with, and supply information to, the auditor.
 - (f) Meet with the auditor once in each year and provide a report to Council on the matters discussed and outcome of those discussions.
 - (g) Liaise with the CEO to ensure that the local government does everything in its power to –
 - assist the auditor to conduct the audit and carry out his or her other duties under the *Local Government Act 1995*; and
 - ensure that audits are conducted successfully and expeditiously.
 - (h) Examine the reports of the auditor after receiving a report from the CEO on the matters and –
 - determine if any matters raised require action to be taken by the local government; and
 - ensure that appropriate action is taken in respect of those matters.
 - (i) Review the report prepared by the CEO on any actions taken in respect of any
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- matters raised in the report of the auditor and presenting the report to Council for adoption prior to the end of the next financial year or 6 months after the last report prepared by the auditor is received, whichever is the latest in time.
- (j) Review the scope of the audit plan and program and its effectiveness.
 - (k) Review the appropriateness of special internal audit assignments undertaken at the request of Council or Chief Executive Officer.
 - (l) Review the level of resources allocated to internal audit and the scope of its authority.
 - (m) Review reports of internal audits and by monitoring the implementation of recommendations made by the audit and reviewing the extent to which Council and management reacts to matters raised.
 - (n) Facilitate liaison between the internal and external auditor to promote compatibility, to the extent appropriate, between their audit programs.
 - (o) Address issues brought to the attention of the committee, including responding to requests from Council for advice that are within the parameters of the Committee's terms of reference.
 - (p) Seek information or obtain expert advice through the CEO on matters of concern within the scope of the Committee's terms of reference following authorisation from the Council.

APPOINTMENT/TENURE

Extract from Local Government Act

1995 "5.10. *Committee members, appointment of*

- (1) *A committee is to have as its members —*
 - (a) *persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
 - (b) *persons who are appointed to be members of the committee under subsection (4) or (5).*
- * Absolute majority required.*
- (2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*
 - (3) *Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government. (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*

(5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —*

(a) to be a member of the committee; or

(b) that a representative of the CEO be a member of the committee,

the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

5.11. Committee membership, tenure of

(1) *Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —*

(a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or

(b) the person resigns from membership of the committee; or

(c) the committee is disbanded; or

(d) the next ordinary elections day,

whichever happens first.

(2) *Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —*

(a) the term of the person's appointment as a committee member expires; or

*(b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant;
or*

(c) the committee is disbanded; or

(d) the next ordinary elections day,

whichever happens first."

ATTACHEMENT 2

CHIEF EXECUTIVE OFFICER'S PERFORMANCE REVIEW COMMITTEE

MEMBERSHIP/SUPPORT CONSULTANT

Four Councillors
One support HR Consultant

MEETING FREQUENCY

The Committee shall meet as and when required. Normally three or four meetings between February and June.

DUTIES AND RESPONSIBILITIES

The duties and responsibilities of this committee is to review annually:
the CEO's performance in accordance with the Key Performance Indicators set by the Committee in the previous year; and
the outcome of a survey of the Councillors undertaken by the support HR Consultant

APPOINTMENT/TENURE

Extract from Local Government Act

1995 "5.10. *Committee members, appointment of*

- (1) *A committee is to have as its members —*
- (a) *persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
 - (b) *persons who are appointed to be members of the committee under subsection (4) or (5).*
- * Absolute majority required.*
- (2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*
- (3) *Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.*
- (4) *If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*
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- (5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —*
- (a) *to be a member of the committee; or*
 - (b) *that a representative of the CEO be a member of the committee,*
- the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.*

5.11. Committee membership, tenure of

- (1) *Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —*
- (a) *the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or*
 - (b) *the person resigns from membership of the committee; or*
 - (c) *the committee is disbanded; or*
 - (d) *the next ordinary elections day,*
- whichever happens first.*
- (2) *Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —*
- (a) *the term of the person's appointment as a committee member expires; or*
 - (b) *the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant; or*
 - (c) *the committee is disbanded; or*
 - (d) *the next ordinary elections day,*
- whichever happens first."*

ATTACHEMENT 3

PROJECT ADVISORY GROUP

MEMBERSHIP

Three members from the Mindarie Regional Council consisting of;

- one Councillor;
- two staff members being the CEO and Director Corporate Services; and
- two deputy Members being one Councillor and one staff member.
- three members from BioVision 2020.
- one Independent Chairperson.

MEETING FREQUENCY

Bi-Monthly

DUTIES AND RESPONSIBILITIES

The Project Advisory Group will have the primary responsibility of overseeing the execution of this agreement and ensuring that this agreement runs as smoothly and as efficiently as is possible having regard to the undertakings, commitments and obligations of the parties set out in this agreement and will, subject to this agreement:

- (a) establish and maintain the Project culture;
- (b) assist the parties in fulfilling their obligations under this agreement;
- (c) provide visible leadership for the Project;
- (d) provide a forum through which the parties may discuss matters pertaining to, or to provide advice, guidance and support for, the implementation of the Project;
- (e) assist in resolving conflicts related to the MRC Project Agreements in a prompt, open and transparent manner including referring matters to MRC and the Contractor if required, and otherwise participate in the dispute resolution process as set out in clause 31.3;
- (f) inquire into and report to the parties upon any matter related to the operation, disclosure or performance of this agreement, including providing corporate governance to the parties for compliance with the MRC Project Agreements;
- (g) review all procedures and policies (but not Plans) which are not imposed under this agreement provided that those procedures and policies are not in any way inconsistent with the terms of this agreement, including procedures and policies for:
 - (1) financial matters such as accounts, reviews of finances and costs;
 - (2) the systems, including operating, accounting and IT systems;
 - (3) environmental matters;
 - (4) occupational health and safety issues;
 - (5) human resources and industrial relations matters;
 - (6) resourcing of the Project, including the need for sub-contractors and the necessary arrangements for staffing and labour;
 - (7) community and stakeholder liaison;
 - (8) programming the Project under this agreement;
 - (9) auditing the Project, including legal and financial audits;

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- (10) ensuring compliance with statutory obligations; and
 - (11) obtaining and maintaining the Authorisations as set out in the MRC Project Agreements;
 - (h) make recommendations to the parties with respect to:
 - (1) the parties' performance under this agreement;
 - (2) any existing provision of this agreement or any Law relating to the responsibilities of the parties and any changes to this agreement;
 - (3) any matter which affects or may affect the proper performance of the provisions of this agreement;
 - (4) the most appropriate methods for investigating and reporting issues, implementing the Innovation and Continuous Improvement Plan and apportioning the costs and benefits which would result from any proposed process or productivity improvement; and
 - (5) variations to this agreement from time to time in accordance with the variation clauses of this agreement (including Agreed Variations) to ensure that this agreement properly reflects the intentions of the parties;
 - (i) disseminate Project information to relevant stakeholders in accordance with the MRC Project Agreements; and
 - (j) consider any other matter that the parties may from time to time agree and or which may be referred to the Project Advisory Group by any of the parties.

For the avoidance of doubt, nothing in this clause 2 affects the rights and responsibilities of MRC's Representative and MRC.

APPOINTMENT/TENURE

Membership continues until notification is given to the other party advising of a change in the membership

ATTACHEMENT 4

MUNICIPAL WASTE ADVISORY COUNCIL

MEMBERSHIP

One Councillor Supported by one staff member who is on a sub-group of MWAC entitled the Officers' Advisory Group.
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MEETING FREQUENCY

Bi-Monthly

DUTIES AND RESPONSIBILITIES

General Functions of the MWAC

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| <p>(a) The principal role of the MWAC in exercise of the delegated authority is to govern the Municipal Waste Program and to represent the interests of the Parties and Local Government generally, in all matters relating to local government waste management.</p> <p>(b) Without limiting the MWAC's principal role, the broad functions and responsibilities of the MWAC include:</p> <ul style="list-style-type: none">(i) defining policy and providing the overall strategic direction of the Municipal Waste Program to achieve the interests of the Parties to this Partnership Agreement;(ii) maintaining the MWAC as a credible, active and effective peak body in the area of waste management;(iii) facilitating and encouraging cooperative linkages between Local, State and Federal Government, Regional Councils, FORC, WMAA, Waste Authority, industry and the community;(iv) representing the interests of the Association in all matters relating to local government waste management in accordance with the Association's policy statements and formal positions on an issue, and without prior reference to the Association where a formal Association position on an issue is not current or has not yet been developed PROVIDED THAT any such position is subsequently put to the Association as soon as practicable for confirmation;(v) acting as an interface between the Parties to this Partnership Agreement and other local governments;(vi) promoting economically sound, environmentally safe and socially acceptable waste management and minimisation strategies;(vii) coordinating and initiating research on waste management issues;(viii) through the WALGA Chief Executive Officer and the MWAC Chair, monitoring and evaluating the performance of the Executive Officer against established key performance indicators;(ix) approving major operating plans, including the strategic plan;(x) approving the Annual Budget in accordance with the terms of this Partnership Agreement; and(xi) ensuring the Municipal Waste Program complies with the law and the |
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Association's operational policies and procedures.

- (c) Under the terms of the delegated authority, the MWAC may not make decisions:
- (i) concerning the acquisition, holding and disposition of real property or the borrowing of money or setting Association subscription levels;
 - (ii) that are inconsistent with an existing formal policy statement of the Association without prior reference to and the prior approval of the State Council; and
 - (iii) relating to operational matters as such matters remain the responsibility of the Executive Officer, reporting to the WALGA Chief Executive Officer or to their delegate.

APPOINTMENT/TENURE

Membership continues until notification is given to the other party advising of a change in the membership

8 NEXT MEETING

Next meeting to be held on Thursday 12 December 2013 in the Council Chambers at Town of Victoria Park commencing at 5.30pm.

9 CLOSURE
