



MINUTES

ORDINARY COUNCIL MEETING

TIME: 5.30PM

1 DECEMBER 2016

TOWN OF VICTORIA PARK

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



Town of
Cambridge



City of
Joondalup



CITY of PERTH



City of Stirling
City of Choice



TOWN OF
VICTORIA PARK



CITY OF VINCENT



City of
Wanneroo

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1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS
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The Chair declared the meeting open at 5.30pm

2	ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE
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Councillor Attendance

Cr R Fishwick JP (Chairman)	City of Joondalup
Cr D Boothman JP (Deputy Chairman)	City of Stirling
Cr J Adamos	City of Perth
Cr J Carey	City of Vincent
Cr R Driver	City of Wanneroo
Cr A Guilfoyle	City of Stirling
Cr S Jenkinson (<i>arrived at 5.35pm</i>)	City of Stirling
Cr C MacRae	Town of Cambridge
Cr V Maxwell	Town of Victoria Park
Cr D Newton JP	City of Wanneroo
Cr M Norman	City of Joondalup
Cr S Proud JP (<i>arrived at 5.57pm</i>)	City of Stirling

Apologies

Nil

Leave of Absence

Nil

Absent

Nil

MRC Officers

Mr B Callander (Chief Executive Officer)
Ms A Slater (Finance Manager)
Ms L Nyssen (Executive Support)

MRC Observers

Nil

Member Council Observers

Mr N Ahern (City of Perth)
Mr W Bow (Town of Victoria Park)
Mr S Cairns (City of Wanneroo)
Mr N Claassen (City of Joondalup)
Mr C Colyer (Town of Cambridge)
Mr M Littleton (City of Stirling)
Ms R March (City of Joondalup)
Mr H Singh (City of Wanneroo)

Visitors

Nil

Members of the Public

Nil

Press

Nil

3	DECLARATION OF INTERESTS
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Nil

4	PUBLIC QUESTION TIME
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Nil

5	ANNOUNCEMENTS BY THE PRESIDING PERSON
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The Chair thanked the elected members and staff for their valued contribution throughout the year and wished everyone a safe and prosperous Christmas and New Year.

6	APPLICATIONS FOR LEAVE OF ABSENCE
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Nil

7	PETITIONS / DEPUTATIONS / PRESENTATIONS
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Nil

8	CONFIRMATION OF MINUTES OF PREVIOUS MEETING
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8.1 ORDINARY COUNCIL MEETING – 20 October 2016

The Minutes of the Ordinary Council Meeting held on 20 October 2016 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 20 October 2016 be confirmed as a true record of the proceedings.

RESOLVED

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

CARRIED UNANIMOUSLY (10/0)

9	CHIEF EXECUTIVE OFFICER REPORTS
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9.1	FINANCIAL STATEMENTS FOR THE MONTHS ENDED 30 SEPTEMBER 2016 AND 31 OCTOBER 2016
File No:	FIN/5-06
Appendix(s):	Appendix No. 1 Appendix No. 2 Appendix No. 3
Date:	17 November 2016
Responsible Officer:	Director Corporate Services

SUMMARY

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

BACKGROUND

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

The financial statements presented for each month consist of:

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

DETAIL

The Financial Statements attached are for the months ended 30 September 2016 and 31 October 2016 and are attached at **Appendix No. 1 and 2** to this Item. The Tonnage Report for the 4 months to 31 October 2016 is attached at **Appendix No. 3**.

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

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

Summary of results for the four month period ended 31 October 2016

	Actual	Budget	Variance
	t	t	t
Tonnes – Members	290,807	300,470	(9,663)
Tonnes – Others	16,067	16,500	(433)
TOTAL TONNES	306,874	316,970	(9,230)
	\$	\$	\$
Revenue – Members	16,624,833	18,942,654	(2,317,821)
Revenue – Other	1,935,804	2,024,641	(88,837)
TOTAL REVENUE	18,560,637	20,967,295	(2,406,658)
Expenses	17,264,122	18,573,801	1,309,679
Profit on sale of assets	10,403	2,472	7,931
Loss on sale of assets	-	-	-
NET SURPLUS	1,306,918	2,395,966	(1,089,048)

Commentary

Member tonnes for the year to October 2016 are tracking 15% behind budget, which is directly attributable to the change in systems for bulk/verge collection implemented by various councils. Trade and casuals are 548 tonnes behind budget.

This translates into a reduced surplus from that which was budgeted for the 4 months, despite the partial offset achieved in operational expenditure savings.

This reduction in waste to landfill is consistent with the MRC's vision of 'Winning Back Waste' but will over time see the cost per tonne to landfill for the remaining waste increasing proportionally over time.

Overall, the MRC has still generated a strong surplus of \$1.3 million for the year to date.

VOTING REQUIREMENT

Simple Majority

RESPONSIBLE OFFICER RECOMMENDATION

That the Financial Statements set out in Appendix No. 1 and 2 for the months ended 30 September 2016 and 31 October 2016, respectively, be received.

RESOLVED

**Cr Norman moved, Cr Carey seconded
That the recommendation be adopted.**

CARRIED UNANIMOUSLY (10/0)

9.2	LIST OF PAYMENTS MADE FOR THE MONTHS ENDED 30 SEPTEMBER 2016 AND 31 OCTOBER 2016
File No:	FIN/5-06
Appendix(s):	Appendix No. 4 Appendix No. 5
Date:	17 November 2016
Responsible Officer:	Director Corporate Services

SUMMARY

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

COMMENT

The lists of payments for the months ended 30 September 2016 and 31 October 2016 are at **Appendix 4 and 5** to this Item and are presented to Council for noting. Payments have been made in accordance with the delegated authority to the CEO which allows payments to be made between meetings. At the Ordinary Council Meeting held on 1 September 2016, the Council delegated to the CEO the exercise of its power to make payments from the Municipal Fund. In order to satisfy the requirements of Clause 13(2) of the Local Government (Financial Management) Regulations, a list of payments made must be submitted to the next Council meeting following such payments.

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

Months Ended	Account	Vouchers	Amount
30 September 2016	General Municipal	Cheques	\$5,532.87
		EFT	\$3,894,949.45
		DP	\$234,463.36
		Inter account transfers	<u>\$2,700,000.00</u>
		Total	\$6,834,945.68
31 October 2016	General Municipal	Cheques	\$9,732.05
		EFT	\$6,297,623.01
		DP	\$303,800.37
		Inter account transfers	<u>\$2,500,000.00</u>
		Total	\$9,111,155.43

VOTING REQUIREMENT

Simple Majority

RESPONSIBLE OFFICER RECOMMENDATION

That the list of payments made under delegated authority to the Chief Executive Officer, for the months ended 30 September 2016 and 31 October 2016, be noted.

RESOLVED

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

CARRIED UNANIMOUSLY (10/0)

9.3	MINDARIE REGIONAL COUNCIL ORDINARY COUNCIL MEETING AND STRATEGY WORKSHOP DATES FOR 2017
File No:	COR/10-02
Appendix(s):	Nil
Date:	7 November 2016
Responsible Officer:	Chief Executive Officer

SUMMARY

The purpose of this report is to provide notice of the dates, times and locations for the Mindarie Regional Council's (MRC) Ordinary Council Meetings and Strategy Workshops for 2017.

BACKGROUND

The Mindarie Regional Council is required to schedule Council meetings for the forthcoming calendar year and in doing so, also sets the date and time for its Strategy Workshops.

DETAIL

In setting the dates for next year consideration is given to the following:

- The six Council meetings be held in the 2017 calendar year.
- The third meeting needs to be held early in July 2017 to accommodate the swearing in of Councillors, and the appointment of Chairman and Deputy Chairman. This assumes that current rules will still apply.
- The meeting scheduled for December needs to be held relatively early in the month to accommodate other commitments of the festive season.
- The Tamala Park Regional Council meeting dates for 2017 need to be considered.
- The WALGA Metropolitan Zone meeting dates for 2017 need to be considered.
- Meetings need to be scheduled taking into account the availability of Member Councils Chambers.

In addition to the above two Strategy Workshops are included in the meeting schedule. These workshops are important as they provide the Councillors, member council CEO's and representatives on the Strategic Working Group and MRC management an opportunity to review and discuss the MRC's strategic direction.

Programme of Meetings

The Ordinary Council meeting scheduled early in November is required to swear in new members after the 2017 Local Government Elections.

Given the above, the proposed schedule of Council meetings for 2017, commencing at 5.30pm, is as follows:

- Ordinary Council Meeting – 9 February 2017 (City of Joondalup)
- Ordinary Council Meeting – 6 April 2017 (City of Wanneroo)
- Ordinary Council Meeting – 6 July 2017 (City of Stirling)
- Ordinary Council Meeting – 14 September 2017 (City of Vincent)
- Ordinary Council Meeting – 9 November 2017 (City of Perth)
- Ordinary Council Meeting - 14 December 2017 (Town of Victoria Park)

The Strategy Workshops for 2017 will be held directly after the following council meetings:

- 9 February 2017
- 14 September 2017

STATUTORY ENVIRONMENT

Part 12 (1) and (2) of the Local Government (Administration) Regulations 1996 requires local government to issue public notice of its meeting dates at least once per year stating:

“12. Meetings, public notice of (Act s. 5.25(1)(g))

- (1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which —*
 - (a) the ordinary council meetings; and*
 - (b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public,**are to be held in the next 12 months.*
- (2) A local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).*

S.1.7 of the Local Government Act 1995 prescribes local public notice as:

“1.7. Local public notice

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

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

COMMENT

The proposed schedule for Ordinary Council meetings for 2017 is now submitted for approval. In addition it is recommended that the Council endorse the scheduling of the two Strategy Workshops directly following on from the Council meetings in February and September.

VOTING REQUIREMENT

Simple Majority

RESPONSIBLE OFFICER RECOMMENDATION

That the Council:

1. adopt the following schedule for Ordinary Council Meetings for 2017, commencing at 5.30pm:
 - Ordinary Council Meeting – 9 February 2017 (City of Joondalup)
 - Ordinary Council Meeting – 6 April 2017 (City of Wanneroo)
 - Ordinary Council Meeting – 6 July 2017 (City of Stirling)
 - Ordinary Council Meeting – 14 September 2017 (City of Vincent)
 - Ordinary Council Meeting – 9 November 2017 (City of Perth)
 - Ordinary Council Meeting - 14 December 2017 (Town of Victoria Park) and
2. issue Public Notice on the meetings detailed in (1) above in accordance with Part 12 (1) of the *Local Government (Administration) Regulations 1996* and the *Local Government Act 1995*.
3. adopt the following schedule for the two Strategy Workshops for 2017 as follows:
 - 9 February 2017; and
 - 14 September 2017

RESOLVED

Cr Norman moved, Cr Driver seconded
That the recommendation be adopted.

CARRIED UNANIMOUSLY (10/0)

9.4	TAMALA PARK REGIONAL COUNCIL - REQUEST TO REALIGN THE FENCE BETWEEN THE TWO LEASED AREAS AND UNDERTAKE EARTHWORKS WITHIN THE BUFFER ZONE
File No:	COR/26-02
Attachment(s):	Attachment 1: Fencing Alignment & Lease Boundary Attachment 2: Tamala Park - Buffer Zone
Date:	7 November 2016
Responsible Officer:	Chief Executive Officer

SUMMARY

The report refers to Mindarie Regional Council's (MRC) response to a request from the Tamala Park Regional Council (TPRC) to realign the current fence located on the current northern lease boundary between the MRC and the TPRC landholding to a new location within MRC's lease area. The request to realign the fence is to allow the bulk earthworks for the proposed school (refer Preferred Lease Boundary indicated in Attachment 1 of this report). TPRC have advised that there are no current plans to build the proposed school.

BACKGROUND

In correspondence dated 6 July 2016 the TPRC advised the MRC that it is seeking approval to realign the fence that is currently located on the northern lease boundary between the two properties to accommodate earthworks for the proposed school. The new fence line is proposed to be on the Preferred Lease Boundary (refer Attachment 1), consistent with the approved Tamala Park Local Structure Plan boundary apart from a small additional area of land to accommodate an expanded stormwater catchment area on the East side of the property. In part, the correspondence reads:

"The proposed works are forecast to be undertaken during this winter (August – September) to avoid impacts on the surrounding residents. At this stage the TPRC does not believe it is necessary to modify the MRC lease area to facilitate the proposed earthworks, however, the TPRC seeks the MRC's approval to undertake the proposed earthworks on the following basis:

- 1. The existing fence adjacent the school site would be re-aligned as per the approved Local Structure Plan (green line) on the attached Clearing and Earthworks plan.*
- 2. During and following the works, the TPRC would take care and control of the area north of the re-aligned fencing.*
- 3. The costs of the fence realignment and future care and control of the area would be borne by the TPRC.*
- 4. The TPRC would commence formal actions to modify the lease area in accordance with the approved Tamala Park Local Structure Plan."*

The correspondence includes a map (refer Attachment 1) providing the location of:

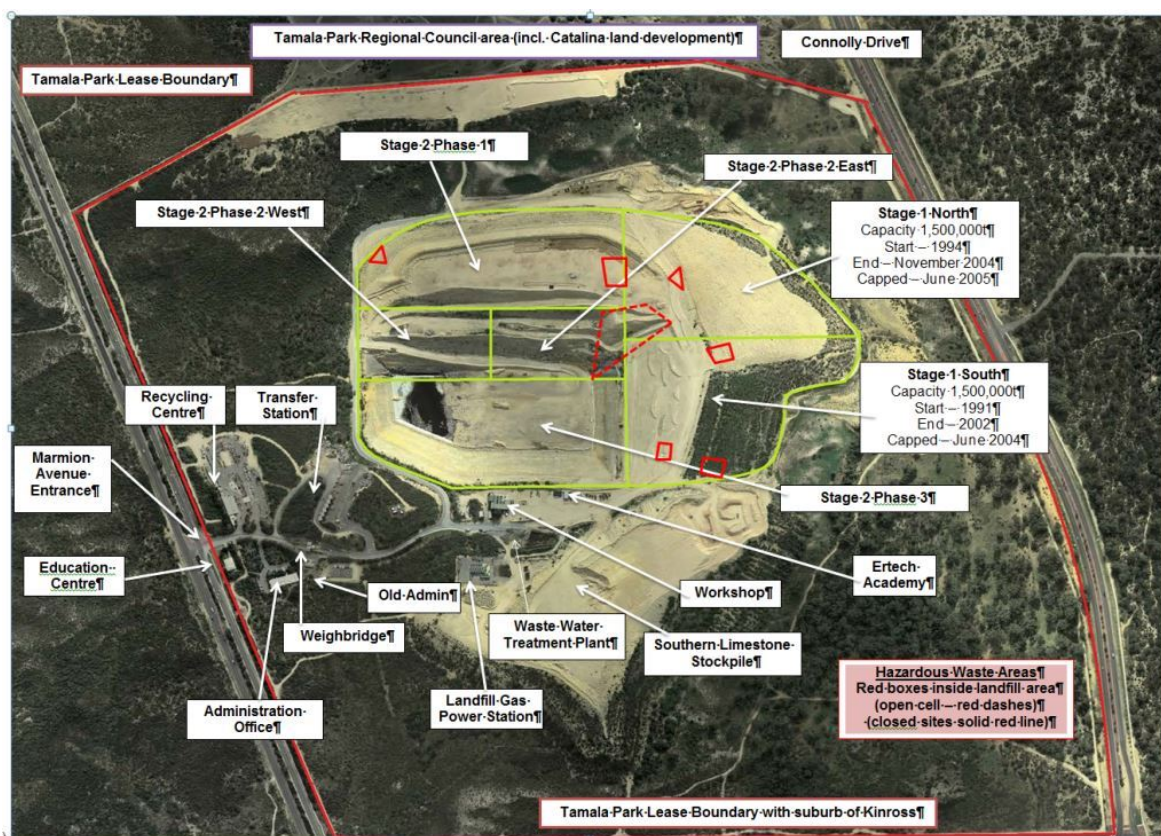
- the current fence line, which is located on the current lease boundary between the MRC and the TPRC;
 - the approved Local Structure Plan Alignment (TPRC future boundary);
 - the proposed fencing alignment to accommodate the proposed clearing and earthworks; and
 - the TPRC's Preferred Lease Boundary to accommodate a larger stormwater catchment area.
-

The MRC and the TPRC have met on a number of occasions to discuss the request and have agreed to commence the necessary arrangements to facilitate the boundary realignment and the earthworks for the school.

DETAIL

Both the MRC and the TPRC lease land bordered by Marmion Avenue, Neerabup Road, Connolly Drive and Blairgowrie Heights/Midlothian Crescent in Tamala Park (part of Lot 9005 on Deposited Plan 76936) from seven local governments being the cities of Wanneroo, Joondalup, Stirling, Perth and Vincent and the towns of Cambridge and Victoria Park (the Owners).

The plan below provides an overview of the land leased by the MRC and the types of uses and services provided by the MRC on its portion of the land. The TPRC residential development known as Catalina is located to the North of the landfill (top of picture below).



The MRC has appropriately managed, and progressively improved its knowledge of, the environmental issues associated with the landfill at Tamala Park on the public over the lease period. A series of bores have been drilled around the site (refer attachment 2) specifically to test for both landfill gas and leachate (groundwater) impact on the surrounding areas. Monitoring and testing of the groundwater impact occurs twice a year and landfill gas is monitored fortnightly where hot spots have been identified, monthly around the landfill and twice yearly round the perimeter of the site.

The MRC lease provides for a buffer of 500m from the operating face of the MRC landfill, which is consistent with Department of Environment Regulations requirements.

Since the commencement of the Catalina Development the MRC buffer zone has been modified as the Landfill operating face has moved in a southern direction. This action is

consistent with the Minister for Environment Statement (000629) and the approved Environmental Management Plan for the Catalina Project.

The result of this monitoring is recorded in a Conceptual Site Model that uses the data to predict, with some certainty, the movement in gas and groundwater both within and outwith the leased area enabling intervention if considered necessary. Evidence to date indicates that there has been gas and groundwater found outside the landfill footprint within the Preferred Lease Boundary proposed by the TPRC. Currently the migration of the landfill gas and the groundwater has been managed appropriately, aided by the current buffer distance between the landfill and the subdivided residential properties.

The proposal by the TPRC, being the realignment of the fence and earthworks for the approved school, is considered supportable. However any further subdivisional works into the buffer zone, at this point in time, gives the MRC cause for concern. It is noted that the TPRC is not proposing residential development at this time only bulk earthworks.

To address these concerns the MRC engaged Mr Ian Watkins of IW Projects and GHD Consultants. The resulting report dated 28 October 2016 provided significant details on the issues associated with gas and groundwater migration as follows:

1.1. Landfill Gas Migration

Past aerial imagery indicates that there is a strip of up to 130 m wide to the north of the landfill where landfill gas has negatively impacted on vegetation, which was confirmed by a landfill gas investigation in 2010. This impacted strip extends to approximately halfway between the landfill and the site northern boundary. Ongoing landfill gas monitoring around and beyond the landfill has also confirmed that there is landfill gas beyond the landfill footprint.

Aerial 2009 – Landfill gas impact in blue



The adjacent Catalina property development has progressed to the south and is approximately 400m from the edge of the landfill and approximately 500m from the edge of the uncapped landfill surface. There is currently limited landfill gas monitoring data available to accurately determine how far the landfill gas has migrated and how close it is to the Catalina land development. To improve the understanding of the belowground impact of the landfill on the local environment, the MRC has recently developed a Conceptual Site Model to monitor landfill gas (and groundwater) migration around the site and also has in place a program of continually increasing the number of monitoring bores to the north of the landfill. All of this will in future position the MRC to more accurately determine the extent of landfill gas migration from the landfill.

The main concern with the belowground migration of landfill gas is that it has the potential to move laterally through more permeable subsurface zones and accumulate in and around structures, where, at certain concentrations, methane may pose a safety risk (explosion or asphyxiation).

At a conceptual level, the surrounding soil type consists of relatively highly permeable sand and limestone, which facilitates the lateral migration of fugitive landfill gas emissions; however, this relatively high permeability also results in high dispersion rates throughout the soil and hence low concentration of gasses at any particular location. There is however, the possibility of higher concentrations of gas through preferential flow paths such as karsts (voids) or coarse sand layers, these being difficult to identify in the generally highly permeable soils.

The MRC commissioned GHD to undertake a high-level assessment of the landfill gas emissions situation to the north of the landfill. This assessment concluded:

“A conceptual site model (CSM) has been prepared to assist in understanding risks posed by the site with respect to landfill gases and groundwater contamination (the CSM Report). This included review and modelling of the current circumstance at the site; in particular landfill gas generation, migration and leachate impact from operations on the surrounding environment. With respect to landfill gas, available information indicates that:

- The site generates a significant quantity of landfill gas and will continue to do so for many decades. There is however uncertainty concerning key aspects of gas generation characteristics.*
 - Not all landfill gas that is generated is collected and significant uncontrolled gas emissions occur.*
 - Uncontrolled emission of landfill gas from the surface of the landfill is suggested to be dominant at this time (2016) although a significant component of landfill gas will also be emitted via the sub- surface pathway (i.e. lateral migration into the surrounding soil and rock strata).*
 - There are significant cavities within limestone strata north of the waste cells (encountered in the most recent drilling) which may act as preferential pathways for landfill gas to migrate laterally towards the northern boundary of the site and potentially beyond.*
 - There have been containment issues at the site with elevated concentrations of*
-

landfill gas detected beyond the landfill waste cells (in particular to the north and west). Remedial measures including the installation of 'active' landfill gas extraction measures beyond the waste cells have been necessary to try to remediate the identified 'on-site' landfill gas migration issues. GHD understands these measures are being further developed to manage this issue and further change to site conditions is therefore anticipated in the short-term.

- Landfill gas migration is also sensitive to the operational practices of the landfill gas extraction system (e.g. as noted at MW12 in October to November 2013 where methane concentrations increased in response to shutting off remediation wells and a coincidental maintenance shutdown of an engine).
- Significant uncertainty remains concerning the extent to which landfill gas is to migrate laterally into the surrounding soil and limestone rock strata. Model predictions in the CSM Report indicate potential for migration for a distance of 90m to the north of the waste cells at the site. However, due to current uncertainty, migration potential may be greater than this (i.e. of the order of several hundred metres).

The available information is not sufficient to refine the current Conceptual Site Model developed for the site or otherwise undertake landfill gas risk assessment with a suitable degree of certainty at this time. With respect to the risks posed by landfill gases, it is not therefore possible to determine a site specific buffer zone to the Catalina development ground works north of the site at this time. Given such uncertainty, GHD is of the view that as a precautionary measure the Catalina development should not be allowed to encroach any closer to the site until the uncertainties and associated risks are better defined, and appropriate protective measures implemented (if required)."

1.2. Contaminated Groundwater

Recent groundwater monitoring has indicated that there is a north, north-easterly migration of the groundwater from below the landfill. This occurs primarily in the summer months when the Water Corporation uses its groundwater extraction bore located approximately 650m the north, north east of the edge of the landfill, adjacent to Connelly Drive. In winter, when the Water Corporation does not extract groundwater, the groundwater tends to move in a westerly direction towards the sea.

With the northerly movement of the groundwater there is the potential that contaminated groundwater from below the landfill could extend to the north and negatively impact the usability of the groundwater in the adjacent Catalina development. The extent of the impact will be highly dependent on the type and concentration of contamination.

Groundwater continues to be monitored by the CSIRO on behalf of the MRC. The most recent groundwater monitoring report (March 2016) concluded:

"Extensive sampling and analysis of groundwater has been conducted across the TPLF [Tamala Park Landfill]. No metal or organic compound analyses were conducted in 2015, this will recommence in 2016. Ammonium as an indicator of leachate impact continues to show elevated concentrations in groundwater across significant areas of the site. There is a continued expression of the leachate plume on the northern

boundary of the site with some increases in ammonium concentration at key monitoring locations. Most notably this occurred at BB26 [approximately 180 m north of Stage 1 landfill]. The leachate plume continues to be measured over the entire depth of the aquifer at BB26.

Increased concentrations of ammonium have been observed immediately westward of the landfilled area of the site at BB21A and BB22B.

No consistently elevated ammonium concentrations or increasing trends have been observed at boreholes TPL3, BB19 and BB20, located further to the west along Marmion Avenue.

These and other data indicate limited continued westward migration of ammonium impacted groundwater, and persistently high concentrations over a distance of 350m, on the northern boundary of the TPLF.”

In addition to the CSIRO groundwater monitoring activities, GHD has developed a Conceptual Site Model for the landfill site and as such was requested to review the latest groundwater monitoring data to develop an understanding of the groundwater impacts emanating from the landfill. This review concluded:

“The new groundwater wells and monitoring information indicates the following:

- The groundwater flow directions appear to be westwards during winter and northerly during summer – likely as a consequence of groundwater abstraction over the summer months from the Water Corporations production bore Q40.*
- Groundwater quality testing of the newly installed groundwater monitoring wells indicates that landfill groundwater impacts emanating from the landfill (ammonia), are primarily migrating in a northerly direction (towards the Water Corporations production bore Q40).*
- The distribution of ammonia, based on the current data and estimated contours, suggests that concentrations of ammonia should be less than 0.5 mg/L in the area of the Water Corporation abstraction bore (consistent with the original ConSim modelling).*
- The current distribution of ammonia is relatively consistent with the previously modelled data, although the current groundwater flow and landfill impacts appear to be dominated by a more northerly component of groundwater flow.*
- Given the absence of groundwater monitoring wells to the south of the landfill, the southerly distribution of the impacted groundwater is not well defined.”*

*“With the current *encroachment of the original 500m buffer zone around the landfill to within 400m of the edge of the waste and the proposed continued *encroachment, it is possible that there could ultimately be structures within 180m of the edge of the waste. This is substantially closer than the recommended 500m generic minimum buffer distance [DER landfill development guidelines] and even more so for a 1 km buffer zone [EPA and DER draft recommended separation distance to Class II landfills]. From a conservative risk mitigation point of view, it is recommended that a site-specific risk assessment be undertaken to determine the potential for negative environmental impact associated with the current buffer zone *encroachment.*

*Should the TPRC wish to continue with buffer zone *encroachment, then it is essential that a detailed site-specific risk assessment be undertaken to determine more accurately what the possible long-term environmental impacts on the land *encroachment development are likely to be. This will then inform the TPRC and the MRC of the likely engineering solutions required to facilitate the further buffer zone *encroachment.*

The potential environmental impacts should predominantly concentrate on fugitive landfill gas emissions and contaminated groundwater. Landfill gas being the major concern, with groundwater being seen as a lesser concern, as this impact is potentially only minor in comparison to the landfill gas consideration.

Due to the highly technical and somewhat variable nature of the existing and potentially future site investigations, it is recommended that the MRC work closely with the various consultants involved to ensure that the output data and reports are relevant to the particular environmental receptor(s) being considered and that there is consistency of process across all reporting.

In the absence of any detailed site-specific risk assessment investigation, it is recommended that:

- The TPRC not encroach any closer to the edge of the landfill than the current *encroachment, which is approximately 400m from the edge of the waste; and,*
- The MRC continue to monitor the fugitive landfill gas emissions and contaminated groundwater plume around the landfill to assess any change over time and potentially flag the essential need for future site-specific risk assessments."*

**On a number of occasions Mr Watkins makes reference to 'encroachment' into a 500m buffer zone, which is a generic buffer distance used when there are no site specific risk assessments available on the environmental issues associated with a particular landfill site. The TPRC are developing their site in full compliance with the Minister for Environment Statement (000629) and the approved Environmental Management. The TPRC are working collaboratively with the MRC, with both agencies agreeing that the buffer zone distance should be determined by the site conditions and actual evidence using tested investigatory processes not a generic distance. The site specific risk assessment will provide this evidence allowing an informed decision to be made as the development progresses.*

A site specific risk assessment investigation will take up to 18 months to complete as it will require additional bores to be drilled and approximately 12 months of data collection once the bores are operational. Mr Watkins has no issue with allowing the realignment of the fence and the earthworks prior to the completion of the risk assessment.

CONSULTATION

Nil

LEGAL COMPLIANCE

The property known as Tamala Park (No 1700 Marmion Avenue, Tamala Park, WA 6030 Lot 9005 on Deposited Plan 76936) is leased to the MRC by the owners being the Cities of Wanneroo, Joondalup, Stirling, Perth and Vincent and the Towns of Cambridge and Victoria Park.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The cost of the Site Specific Risk Assessment is estimated to be in the vicinity of \$100,000. The MRC has set aside \$40,000 for this type of study in this year's budget. It is proposed to fund the shortfall of approximately \$60,000 in the half yearly budget review.

COMMENT

The TPRC's request to realign the fence and undertake the earthworks for the proposed school in accordance with the approved Local Structure Plan is supportable with conditions. The minor change to the approved boundary to accommodate the drainage basin on the East of the property (refer Attachment 1) is also supportable. However the risk of migrating gas and contaminated groundwater needs to be determined to ensure the safety of the public as development comes closer to the landfill.

The MRC has increased the amount of monitoring bores and introduced a Conceptual Site Model to develop a better understanding of the movements of gas and groundwater both within and outwith the landfill. However the model requires more data before it can produce results that would give the Consultants confidence in determining the risks associated with development coming closer to the landfill.

The next step is to undertake a Specific Risk Assessment Investigation that will require the drilling of additional bores and an increased monitoring of the bores on site over a period of approximately 12 months. The site investigation results will improve the existing information contained in the CSM and allow the Consultants, with some certainty, to advise the MRC of an appropriate buffer zone distance.

VOTING REQUIREMENT

Simple Majority / Absolute Majority

RESPONSIBLE OFFICER RECOMMENDATION

A. That the Council

1. Inform the Tamala Park Regional Council (TPRC) that its request to:
 - a) realign the fence to the Preferred Lease Boundary; and
 - b) undertake the earthworks necessary for the school site as detailed in Attachment 1 to this report is supported subject to the following conditions:
 - i. the TPRC undertaking a feature and contour survey of the land between the existing fence and the new fence (Amended Lease Area) providing details of:
 - all existing infrastructure including monitoring wells and limestone stock pile;
 - the new fire breaks to be created in line with the City of Wanneroo specifications and to be designed to be trafficable;
 - impacted Aboriginal Heritage Sites;
 - the location and coordinates for the Waugal; and
 - the location and coordinates for the Bush Forever land.
 - ii. the development of a Deed or some other legal agreement with the MRC that makes the TPRC responsible for any liability associated

-
- with the Amended Lease Area excepting the environmental issues associated with the operations of the MRC in developing a landfill;
 - iii. the Deed or legal agreement to include the ability for the MRC to access the bore wells within the Amended Lease Area;
 - iv. commencing the necessary arrangements to amend the lease to accommodate the new boundary with the MRC and the Owners of (Lot 9005 on Deposited Plan 76936) being the cities of Wanneroo, Joondalup, Stirling, Perth and Vincent and the towns of Cambridge and Victoria Park;
 - v. the MRC having the ability to install and maintain landfill gas and groundwater monitoring infrastructure and monitor said infrastructure within the area between the existing Lease Boundary and the new aligned fence line or new Lease Boundary.
 - vi. the TPRC meeting the costs of the survey and the Deed or legal agreement detailed in b) i. and b) ii. above.
2. Undertake a Site Specific Risk Assessment Investigation to assess the risk of migrating gas and groundwater on development within the approved buffer zone.
3. the cost of the Assessment detailed in 2. above be funded by the MRC in the half yearly budget review.

(Absolute Majority Required)

Cr Jenkinson arrived at 5.35pm

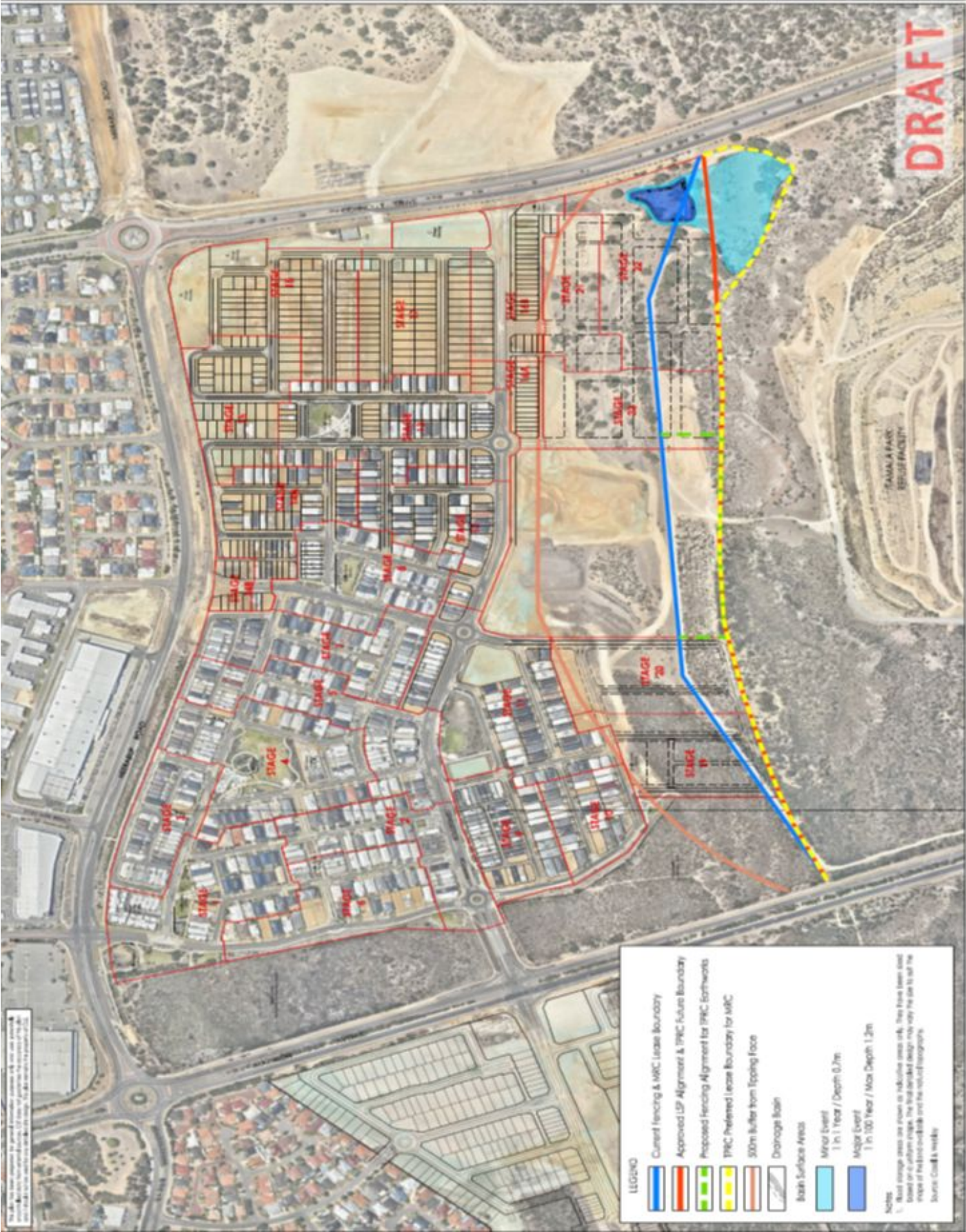
RESOLVED

**Cr Norman moved, Cr Adamos seconded
That the recommendation be adopted.**

CARRIED BY ABSOLUTE MAJORITY (11/0)

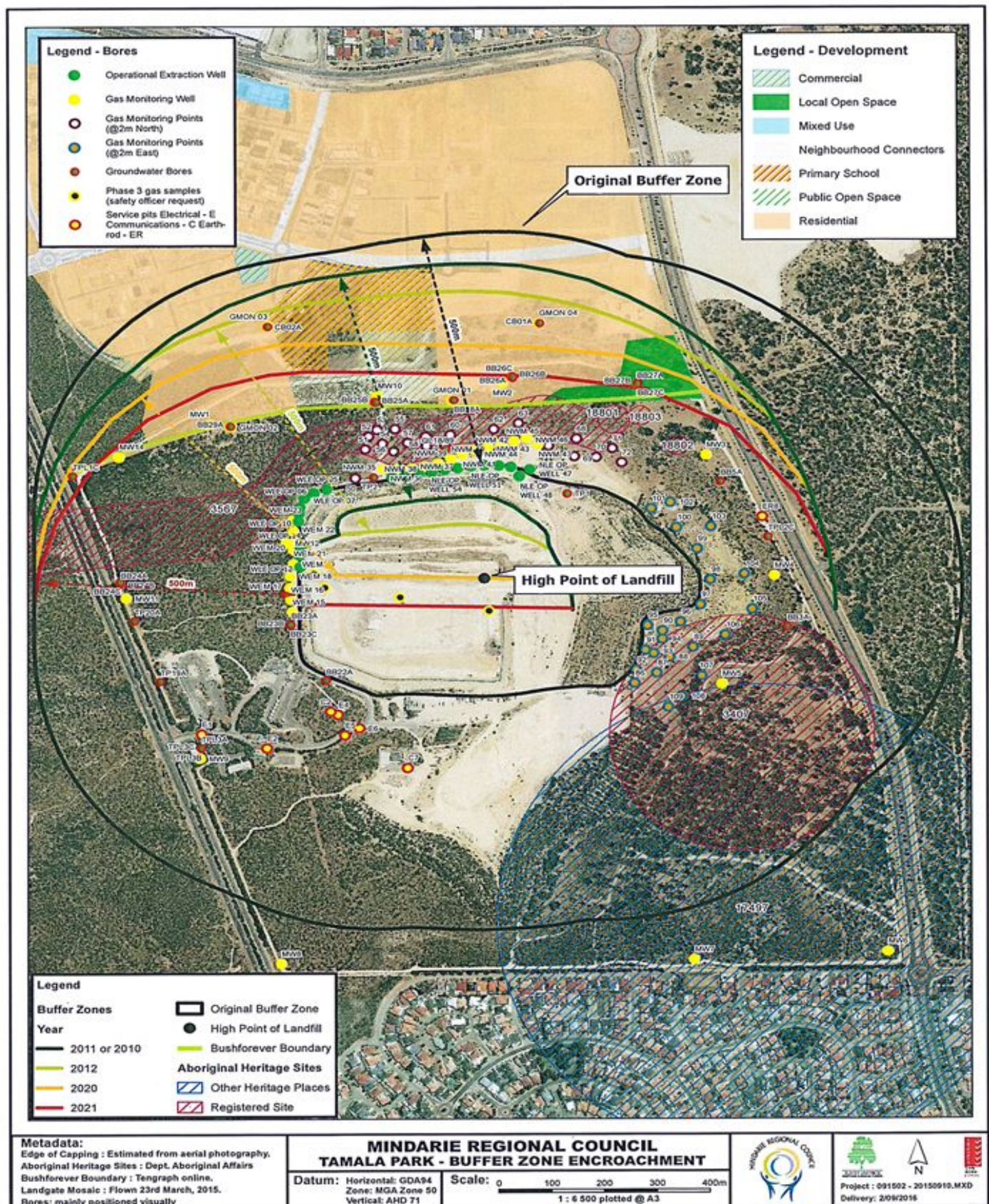
ATTACHMENT 1
TO ITEM 9.4
ORDINARY COUNCIL MEETING
1 DECEMBER 2016
FENCING ALIGNMENT & LEASE BOUNDARY

Attachment 1



ATTACHMENT 2
TO ITEM 9.4
ORDINARY COUNCIL MEETING
1 DECEMBER 2016
TAMALA PARK - BUFFER ZONE

Attachment 2



9.5	ADOPTION OF THE 2016 ANNUAL REPORT
File No:	COR/9-05
Appendix(s):	Appendix No. 6
Date:	16 November 2016
Responsible Officer:	Gunther Hoppe

BACKGROUND

The Mindarie Regional Council (MRC) is required to prepare an annual report in accordance with Section 5.53 of the Local Government Act 1995.

The annual audit of the Financial Statements for the financial year ended 30 June 2016 has been completed and the Financial Report has been considered by the Audit Committee.

The Annual Report, which includes the Financial Statements, is presented for consideration by Council.

The Annual Report for a Financial Year is to be accepted by the Local Government no later than 31 December after that Financial Year.

DETAIL

The Annual Report includes the audited Financial Report for the financial year. The Auditor, in accordance with the Local Government (Audit) Regulations 1996 Sections 10.2 and 10.3 is required to issue an audit report after the completion of the annual audit that expresses an opinion on the financial position and results of the operations of the local government for each financial year. If it considers it necessary the auditor may prepare a management report and present the report to the Chairperson, the CEO and the Minister.

The Auditor has completed the audit of the MRC and has issued an unqualified audit opinion in respect of the year ended 30 June 2016.

In addition the Auditor has prepared an interim management letter and an audit completion letter which outline their observations in relation to the MRC's internal controls. These observations were tabled with the Audit Committee for discussion.

The Audit Committee met on 16 November 2016 to consider the Financial Statements for the year ended 30 June 2016 and have recommended that these be adopted by the Council. The unconfirmed minutes of this meeting are included in the Members' Information Bulletin.

A copy of the Annual Report, including the Financial Statements, is included at **Appendix 6**.

The Annual Report of the MRC, which includes the Financial Statements considered by the Audit Committee as mentioned above, has been prepared and will be distributed under separate cover.

The MRC, in accordance with the Local Government (Financial Management) Regulations 1996 Section 51.1, is required to include in the annual Financial Statements a signed Statement of Declaration by the Chief Executive Officer after this report has been audited in accordance with the Local Government Act 1995. This declaration is included in the Annual Report.

STATUTORY ENVIRONMENT

Relevant Extracts from the Local Government Act 1995

“5.53. Annual reports

- (1) The local government is to prepare an annual report for each financial year.*
- (2) The annual report is to contain —*
 - (a) a report from the mayor or president; and*
 - (b) a report from the CEO; and*
 - [(c), (d) deleted]*
 - (e) an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year; and*
 - (f) the financial report for the financial year; and*
 - (g) such information as may be prescribed in relation to the payments made to employees; and*
 - (h) the auditor’s report for the financial year; and*
 - (ha) a matter on which a report must be made under section 29(2) of the Disability Services Act 1993; and*
 - (hb) details of entries made under section 5.121 during the financial year in the register of complaints, including —*
 - (i) the number of complaints recorded in the register of complaints; and*
 - (ii) how the recorded complaints were dealt with; and*
 - (iii) any other details that the regulations may require; and*
 - (i) such other information as may be prescribed.*

[Section 5.53 amended by No. 44 of 1999 s. 28(3); No. 49 of 2004 s. 42(4) and (5); No. 1 of 2007 s. 6.]

5.54. Acceptance of annual reports

- (1) Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.*

** Absolute majority required.*

5.55. Notice of annual reports

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

7.9. Audit to be conducted

- (1) An auditor is required to examine the accounts and annual financial report submitted for audit and, by the 31 December next following the financial year to which the accounts and report relate or such later date as may be prescribed, to prepare a report thereon and forward a copy of that report to —*
 - (a) the mayor or president; and*

-
- (b) *the CEO of the local government; and*
 - (c) *the Minister.”*

Relevant Extracts form the Local Government (Audit) Regulations 1996

“10. Report by auditor

- (1) *An auditor’s report is to be forwarded to the persons specified in section 7.9(1) within 30 days of completing the audit.*
- (2) *The report is to give the auditor’s opinion on —*
 - (a) *the financial position of the local government; and*
 - (b) *the results of the operations of the local government.*
- (3) *The report is to include —*
 - (a) *any material matters that in the opinion of the auditor indicate significant adverse trends in the financial position or the financial management practices of the local government; and*
 - (b) *any matters indicating non-compliance with Part 6 of the Act, the Local Government (Financial Management) Regulations 1996 or applicable financial controls in any other written law; and*
 - (c) *details of whether information and explanations were obtained by the auditor; and*
 - (d) *a report on the conduct of the audit; and*
 - (e) *the opinion of the auditor as to whether or not the following financial ratios included in the annual financial report are supported by verifiable information and reasonable assumptions —*
 - (i) *the asset consumption ratio; and*
 - (ii) *the asset renewal funding ratio.*
- (4A) *In subregulation (3)(e) —*
 - asset consumption ratio** *has the meaning given in the Local Government (Financial Management) Regulations 1996 regulation 50(2);*
 - asset renewal funding ratio** *has the meaning given in the Local Government (Financial Management) Regulations 1996 regulation 50(2).*
- (4) *Where it is considered by the auditor to be appropriate to do so, the auditor is to prepare a management report to accompany the auditor’s report and to forward a copy of the management report to the persons specified in section 7.9(1) with the auditor’s report.”*

POLICY IMPLICATIONS

Not applicable.

COMMENT

The Annual Report for the MRC has been prepared in accordance with the requirements of Local Government Act 1995 and applicable Australian Accounting Standards.

AMENDMENTS

There have been no amendments made to the Financial Statements presented to the Audit Committee.

VOTING REQUIREMENT

Absolute Majority

RESPONSIBLE OFFICER RECOMMENDATION

That the Council:

- 1. notes the recommendation of the Audit Committee meeting held on 16 November 2016 to adopt the Financial Report for the year ended 30 June 2016; and**
- 2. adopts the Annual Report for the year ended 30 June 2016, which includes the Financial Report detailed in 1. Above.**

(Absolute Majority Required)

Cr Proud arrived at 5.57pm

RESOLVED

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

CARRIED BY ABSOLUTE MAJORITY (12/0)

9.6	COMMITMENT OF ADDITIONAL TONNES AND ENGAGEMENT OF CONSULTANTS ASSOCIATED WITH THE RESOURCE RECOVERY FACILITY (ENERGY FROM WASTE) TENDER
File No:	WST/209
Appendix(s):	Nil
Date:	25 November 2016
Responsible Officer:	Chief Executive Officer

SUMMARY

The report seeks endorsement of:

- An increase in the commitment of tonnes by the Mindarie Regional Council (MRC) to the Resource Recovery Facility (Energy from Waste) Tender (the Tender);
- The engagement of the consultants contracted by the Eastern Metropolitan Regional Council (EMRC) to provide technical and professional support for the assessment of the Tender without going through the MRC's standard procurement processes as detailed in Policy CP 06 – Purchase of Goods and Services; and
- The review the council's previous decision on the amount allocated to fund the MRC's share of the legal and consultants costs in developing the Tender.

BACKGROUND

Tonnage commitment

At its council meeting held on 20 October 2016 the MRC resolved to join the Tender for a Resource Recovery Facility developed by the EMRC. The resolution, in part, reads:

"A. That the Council

- 1. Agrees to join the Resource Recovery Facility Tender developed by the Eastern Metropolitan Regional Council (EMRC) as an "Other Regional Local Government" as defined in the Tender and commit the residues from the processing of MSW at the Resource Recovery Facility (up to 50,000 tonnes) to the Tender subject to:*
 - a. ALL of the Councils of the Constituent Municipalities resolving to:*
 - i. Support the MRC in joining the Tender detailed in (1) above;*
 - ii. Commit, or not commit, their Processible Waste (Green or red lidded bin waste) to the tender;*
 - iii. Approve the Deed of Variation – Constitution Agreement of the Mindarie Regional Council (the Deed) as detailed in Attachment 2 of this report*
 - b. the commitment of combined Processible Waste from the Constituent Municipalities being in the region of 50,000 tonnes.*

C. That the Council

- 1. Agrees to pay the EMRC a portion of the costs associated with the consultancy and legal costs it incurred in developing the Tender detailed in A.1. above up to a maximum of \$100,000 should the MRC join the Tender and accept any of the tenders submitted as part of the Tender process; and*
- 2. fund the costs detailed in C.1. above in the half yearly review of its budget.*

(Absolute Majority required)"

The MRC has now received confirmation from all seven member councils, by resolution, allowing the MRC to join the Tender and committing the required tonnes. The following table provides the details of the MRC's and the member councils' commitments.

Member Council	Join Tender	Tonnes Committed
Town of Victoria Park	Yes	7,000
City of Perth	Yes	Nil
City of Vincent	Yes	Nil
Town of Cambridge	Yes	6,500 Estimated
City of Stirling	Yes	Yes – Agrees to work with member councils to ensure the MRC's commitment of 50,000 is achieved
City of Joondalup	Yes	Yes - Any amount of waste that the MRC controls can be directed to an EfW facility
City of Wanneroo	Yes	Nil
Mindarie Regional Council	Yes	Approx. 50,000 – Residues from the Resource Recovery Facility (RRF). Committed for the term of the RRF Contract only

The MRC has met with the EMRC to discuss its involvement in assessing the Tender and the technical and professional support required for this type of project.

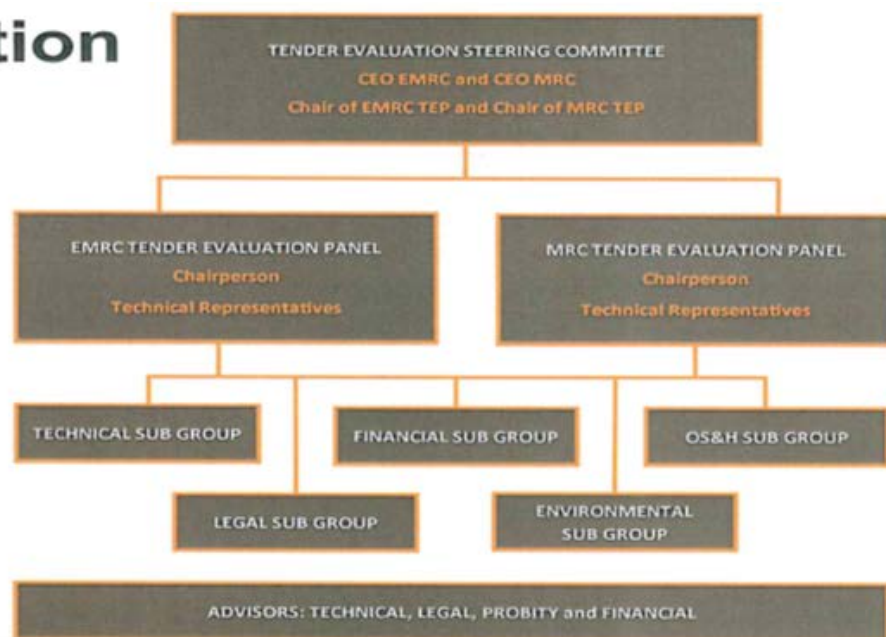
One of the issues raised at the meeting was the limited timeframe for which the MRC is committing tonnes from the RRF. By the time an Energy from Waste (EfW) facility is operational (approximately 3 to 4 years) the contract for the RRF may have as little as 10 years to run. It is possible that the natural term of an EfW contract of this type may be up to a total of 30 years, including extension options.

The MRC will require an alternative waste solution in the future for the 100,000 tonnes of waste it currently delivers to the RRF. The option being proposed is that the MRC commit 50,000 tonnes from the RRF for up to a 30 year contract term. Initially this would be the 50,000 tonnes of residues from the RRF for the term of the RRF contract and thereafter being 50,000 tonnes of MSW the MRC receives from its constituent municipalities that would have previously been directed to the RRF. This provides the opportunity for the MRC to review alternative waste solutions that may become available in the future for the remaining 50,000 tonnes that will be freed up at the end of the RRF contract.

Tender consultants

The EMRC has developed an evaluation manual outlining the Tender process. The manual indicates that a number of groups will be set up to manage the tender process as follows:

Evaluation Team



Tender Evaluation Steering Committee (TESC)

The TESC consists of the CEOs of both the EMRC and the MRC and the Chairpersons of the TEPs. Its primary Roles and Responsibilities are:

- Oversee the evaluation process and ensure it meets the requirements of the Tender Evaluation Manual;
- Coordinate clarifications from the Tenderers;
- Review the evaluation reports prepared by the two Tender Evaluation Panels (TEPs);
- Determine if it will be recommended that the EMRC and the MRC should enter into separate contracts with the same Tenderer; and
- Oversee the activities of the Tender Evaluation Support Team.

Tender Evaluation Panels (TEPs)

The TEP consists of representatives from each of the regional councils and participating member councils (Technical Representatives). Each Panel will appoint a Chairperson who will be responsible for:

- The coordination of the TEP meetings;
- The coordination of clarifications required from Tenderers;
- Score tenderers against assessment criteria; and
- Review and approve the evaluation report.

The Technical Representatives will be responsible for:

- Scoring tenders against assessment criteria;
- Participating in clarifications and presentations from tenderers (if required);
- Undertaking the Value for Money assessment; and
- Signing off on the draft report.

Tender Evaluation Sub Groups (Sub Groups):

The Sub Groups will help ensure consistency in the quantitative assessments of the tenders, to enable both of the TEPs to make their respective value for money assessments using a common base of information.

The following table details the roles and responsibilities of the Sub Groups which focus upon undertaking quantitative evaluations of the Tenders for an individual Regional Council. These Sub Groups provide support to the TEPs however, they do not vote on the awarding of the Tender.

Name of Sub Group	Roles and Responsibilities
<u>Technical</u> One representative from each Regional Council	• Focus on best technical outcome • Score tenders against assessment criteria • Conduct research on behalf of TEPs • Provide recommendations to TEPs
<u>Legal</u> One representative from each Regional Council	• Focus on best legal outcome • Score tenders against assessment criteria • Conduct research on behalf of TEPs • Provide recommendations to TEPs
<u>Financial</u> One representative from each Regional Council	• Focus on total costs and financial risks of tenders • Score tenderers against assessment criteria • Conduct research on behalf of TEPs • Provide recommendations to TEPs
<u>Environment</u> One representative from each Regional Council	• Focus on best environmental outcome • Score tenderers against assessment criteria • Conduct research on behalf of TEPs • Provide recommendations to TEPs
<u>OS&H</u> One representative from each Regional Council	• Focus on best safety outcome • Score tenderers against assessment criteria • Conduct research on behalf of TEPs • Provide recommendations to TEPs

Tender Evaluation Support Team (TEST)

The TEST group will provide technical and administrative support to the TESC and the TEPs if during the process of assessing the Tenders or resulting from an enquiry from a Tenderer. Details of the TEST consultants and legal support and their roles and responsibilities are provided in the following table.

Name of Evaluation Support Team	Roles and Responsibilities
John King, Talis Consultants (Project Director)	• Provide support resources for TESC and TEPs meetings; • Undertake quantitative assessments of financial and technical aspects of Tenders; • Conduct reference checks on behalf of the TESC and TEPs; and • Preparation of the draft evaluation reports on behalf of the TEP
Laurie James, Kott Gunning	• Legal Advice
Kevin Donnelly, Stantons International	• Probity Advice • Oversee Procurement Process
Jonathon Swan, Atkins Global	• Technical Advice
Bruce Howie, HDR	• Technical Advice
John Cook, John Cook & Associates	• Technical Advice
Alex Uptis, Talis Consultants	• Project Manager • Record & distribute minutes of meetings & presentations • Assess financial and technical aspects of Tenders • Conduct research on behalf of TESC and TEPs • Draft Evaluation Reports on behalf of the TEPs
Western Australian Treasury Corporation	• Financial Advice

The MRC has previously engaged Talis Consultants and Kott Gunning Solicitors and consider they are capable to provide professional advice for this type of project. As the MRC is not aware of the capabilities of the other consultants in the TEST Group it sought conformation of their experience from the EMRC. Extracts from the Capability Statements provided follow:

Atkins Global

*“Atkins is one of the world’s leading multidisciplinary consultancies offering a unique portfolio of planning, design, engineering and management services. We **plan**,*

design and enable our clients' capital programmes in and around the built environment. Our business is that of a technical consultancy, and we provide advice and engineering design for public, regulated and private sector clients.

The multidisciplinary nature of our skills allows us to draw on expertise from across the business to deliver complex projects worldwide. Whilst our size and reputation offers the benefits of a highly diverse resource base, our commitment to tailoring our services to the specific needs of each client allows us to undertake both large multidiscipline and smaller specialised projects from any one of our operational hubs.

Atkins aims to continue delivering appropriate, cost effective solutions to meet clients' needs, whatever their business and wherever they are located.

Capability

The Owner's Engineer serves as a supporter for our Client's business objectives and supplements the skills and capability of the Client team by bridging gaps and reinforcing the technical and project delivery knowledge and understanding. The services Atkins can offer as Owner's Engineer encompass the whole project life cycle from concept development, through to financial close, project implementation and warranty period project support.

Our objectives in delivering our services are to ensure that:

- Maximum value is extracted from the supply chain through an intelligent and robust commercial and technical specification;
- The power asset meets contractual expectations of performance, reliability, operability, safety and quality;
- The asset is delivered to budget and schedule;

The Client is at all times fully aware of the project status and any significant developments.

HDR

"HDR's team has strong specialist skills in energy from waste and organics management as well as project management and infrastructure development. This combined skillset allows HDR to present a unique offering to EMRC with a diverse network of skilled professionals working to determine the best solution.

HDR understands that the scope of work will initially involve reviewing and assisting to develop tender documentation relating to the design, build, owning and operation of an anaerobic digestion and/or gasification facility at EMRC's Red Hill Waste Management site. It is also understood that this will extend to supporting the evaluation of responses later in the year.

To ensure all possible aspects of this scope are covered, HDR has presented a full organisation chart for Energy from Waste and Organics services. This team will be led by Bruce Howie as HDR's global Energy from Waste Practice Lead and Tim Raibley as HDR's global Organics Management Practice Lead.

Bruce Howie has over 15 years of experience in the energy from waste industry in North America and has worked on recent technology evaluations and procurements for the Regions of Durham and York (Ontario, Canada), Peel Region (Ontario, Canada), Ontario Power Authority, Northeast Maryland Waste Disposal Authority (USA), New York City (USA), and the United States Air Force."

John Cook & Associates

“John Cooke and Associates (John Cooke is an associate director of HDR and former head of Waste Service NSW with a lot of experience in AWT in NSW, waste management/contracts and a chemical engineer by profession, Sydney based).”

MRC contribution toward tender costs

The previous report presented to council at its meeting on 20 October 2016 endorsing the MRC to join the Tender included a resolution to contribute \$100,000 towards the cost of consultancy and legal fees incurred by the EMRC in developing the Tender.

The report indicated that the EMRC had requested \$200,000 and after discussions with the SWG, the MRC officer's recommendation, now council resolution, was to contribute \$100,000. The following extract from the report provides the reasons for this decision.

“The EMRC have incurred significant consultancy and legal costs in developing this Tender and have requested the MRC to fund 50% of these costs (\$200,000). This is considered reasonable if the MRC decide to join the Tender and the joining of the Tender results in the MRC entering into a Contract.

Further discussions on these costs were held with the SWG at its meeting on 19 October 2016 where it was agreed that payment by the MRC for the consultancy legal costs should be limited to \$100,000. The primary reason for this is that a significant portion of the time in developing the tender would have been taken up with options that the MRC are not interested in being part of as they relate to gasification facility at EMRC's landfill site at Red Hill and a Design, Build, Operate and Maintain contract model.”

The MRC met with the EMRC to determine the roles of the parties in the Tender assessment process. At this meeting the EMRC sought clarification on the reasons behind the MRC's decision to only fund half of the original amount requested. The MRC provided the reasons as outlined in the report (refer above) and requested access to the intellectual property of the Tender documents enabling the MRC to use the documents if it did not accept any tenders. The EMRC further clarified its request at the meeting and in correspondence dated 1 November 2016 formally requested reconsideration of the decision on the payment as it was based on incorrect assumptions. In part, the correspondence reads as follows:

Costs to date (to the issue of the RFT and associated briefing sessions and tender clarifications) are estimated as follows:

Cost	Amount (ex. GST where applicable)	MRC Portion (50%)
Talis Fees (From 01/07/2015 to 29/07/2016)	\$246,302.99	
HDR Pty Ltd Fees	\$ 25,000.00	
Kott Gunning Fees (to date)	\$ 26,074.00	
Stanton's Fees (to date)	\$ 22,172.00	
EMRC Staff time (estimate)	\$100,000.00	
Total	\$419,548.99	\$209,774.50

The abovementioned costs exclude amounts related to the DBOM contract as MRC have stated that they are not interested in this option.

As you would appreciate, the EMRC has been working on this project for many years and none of our historic research and/or consultancy investment costs have been included in the value of the \$209,774.50.

If it assists in your dealing with Council, we would have no objection, in the event no tender is awarded that is acceptable to the MRC, in you having access to the tender document for your own purposes e.g. conducting your own separate tender in the future. The proviso to this being that the document is not to be passed onto others to use, for a fee or no fee.

To reach a decision point in 2017, project costs will include more of the above consulting fees, legal and probity fees, staff time plus reference facility visits (each regional council to bear its own costs). This cost will be influenced by the number of tender submissions received and the amount of evaluation work involved.

The correspondence makes it clear that consultancy and legal costs associated with parts of the Tender that did not relate to Waste Supply Agreement (this being the only part of the Tender the MRC is joining) were already removed. Further, the correspondence provides the MRC access to the documentation if it does not accept any Tender.

The correspondence from the EMRC was discussed at the SWG meeting held on 23 November 2016 where it was accepted that the consultancy and legal costs were reasonable, however it was considerable unreasonable for the MRC to fund a share of the EMRC staff time costs of \$100,000. Given the above, it is proposed to seek the council to increase its payment by \$60,000 to a total of \$160,000.

CONSULTATION

The MRC has consulted with the Constituent Municipalities and the Strategic Working Group on this project.

STATUTORY ENVIRONMENT

The Tender process will be conducted in accordance with the *Local Government (Functions and General) Regulations 1996*.

POLICY IMPLICATIONS

The EMRC has engaged consultants to assist them in developing the Tender. These contractors are well equipped to provide the professional services required to assist in the development and assessment of the Tender. However three of the consultants being HDR Inc., Atkins Global; and John Cook and Associates have not previously been engaged by the MRC, which means that the MRC is not working within its policy no CP06 – Purchase of Goods and Services. The officer's recommendation seeks the council to acknowledge this discrepancy in process.

FINANCIAL IMPLICATIONS

The table below reflects the EMRC's estimates of the consulting fees likely to be incurred to complete the tender process, dependant on the number of tender responses received.

The MRC would need to fund 50% of the shared costs and 100% of the MRC only costs.

These costs would be funded through the existing budget allocations (approximately \$140,000) and through the half year budget review process (estimated \$260,000).

COST	AMOUNT (ex GST)
<u>Common costs</u>	
Talis fees	\$150,000
Kott Gunning Fees	\$30,000
Stanton's Fees (Probity)	\$25,000
Atkins/HDR/John Cooke	\$25,000
Total	\$230,000
<u>MRC Costs</u>	
MRC's share of shared costs (50% of the above costs)	\$115,000
MRC's contribution to initial contract costs	\$210,000
Reference facility visits (MRC reps)	\$75,000
Total	\$400,000

COMMENT

The meetings with the EMRC since council resolved to join the Tender have been very productive and the process that has been developed is sound. The request for additional funds for the consultancy and legal work is reasonable now that the MRC has received clarification on what has been charged and has the rights to use the document should it decide not to enter into a contract resulting from this Tender process. If the MRC was to develop its own Tender to this stage it would have to spend more than double the amount being asked for from the EMRC.

The issue of committing tonnes post the RRF contract period provides more certainty for the Tenderers for the full term of the contract. It is likely that the MRC will be in a position

to provide more than the residue tonnes at the end of the RRF contract, however only continuing to commit the 50,000 tonnes to the EfW facility post the RRF allows the MRC to consider any alternative waste facilities that come on to the market with the other 50,000 tonnes of waste that went to the RRF (approximately over a 10 year period).

The third issue addressed by the recommendation is the council's acknowledgement that the MRC will engage with consultants that it has not used in the past and that it is inconsistent with its "Purchasing Policy".

VOTING REQUIREMENT

Simple Majority / Absolute Majority

ADDITIONAL DETAIL

Since finalising and distributing this report for the Council a number of issues have been raised that require endorsement by the Council as follows:

The MRC's Contribution to Costs incurred by the EMRC in the Development of the Tender
The MRC at its meeting on 20 October 2016 resolved to contribute \$100,000 to the EMRC towards the costs for development of the Tender to date based on an assumption that a large portion of the Tender costs related to a Design Build Operate and Maintain (DBOM) contract that the MRC had no interest in. The EMRC were formally advised of Council's decision and in correspondence from the Chief Executive Officer of the EMRC, Mr Peter Schneider, dated 14 November 2016 responded by providing a breakdown of the costs (refer table below) and advising that the costs relating to the DBOM components of the Tender were already removed and requesting the MRC to reconsider its position as it was based on the wrong assumption.

Costs to date (to the issue of the RFT and associated briefing sessions and tender clarifications) are estimated as follows:

Cost	Amount (ex. GST where applicable)	MRC Portion (50%)
Talis Fees (From 01/07/2015 to 29/07/2016)	\$246,302.99	
HDR Pty Ltd Fees	\$ 25,000.00	
Kott Gunning Fees (to date)	\$ 26,074.00	
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EMRC Staff time (estimate)	\$100,000.00	
Total	\$419,548.99	\$209,774.50

The correspondence was presented to the SWG meeting on 14 November 2016 where concerns were raised that the EMRC were seeking for the MRC to contribute towards internal staff costs (EMRC Staff time (estimate) \$100,000) as per the above table. The SWG did not support funding a share of the staff time costs as they were of the view that these would be covered operationally in the normal salaries of the EMRC.

The MRC informed the EMRC of the concerns raised at SWG on funding Staff time. The EMRC responded by advising that the Staff time costs requested directly related to the employment of an in-house Project Manager, Mr Stephen Fitzpatrick who is a highly qualified and experienced Chemical Engineer whose primary role was to review different technologies available for Alternative Waste Treatment Plants. It is Mr Fitzpatrick's work that has resulted in the development of the Tender.

Given the additional information provided by the EMRC that clearly indicates that the costs salary costs directly related to the development of the AWT tender that would not

otherwise have been incurred, it is considered appropriate to fund a 50% share of the costs detailed in the table above equal to \$209,774.50.

Note: As the Tender progresses there will be additional legal/consultancy costs incurred that will be shared equally unless the parties decide to accept different Tendered technologies then each party would fund their own costs.

RESPONSIBLE OFFICER RECOMMENDATION

That the Council:

- A. Commits an additional 50,000 tonnes of Processible Waste to the Resource Recovery Facility Tender (the Tender) for the period after the expiration of the term of the contract the MRC has with BioVision 2020 through to the end of the term of any contract resulting from the Tender; and
- B. Acknowledge that the EMRC, as part of developing the Tender for a Resource Recovery Facility, has engaged the following consultants:
 - HDR Inc.;
 - Atkins Global; and
 - John Cook and Associates.and that the MRC, without going through the standard tendering and/or quoting competitive processes required by MRC's Policy CP06 – Purchase of Goods and Services, will where required utilise the services of the consultants detailed above.
- C. Acknowledge that additional project funding totalling approximately \$260,000 will be requested in the half year budget review.
- D. Approves an additional \$110,000 to fund a total payment of \$210,000 to the EMRC to fund a portion of the costs associated with the consultancy and legal costs it incurred in developing the Tender to date.

(Absolute Majority Required)

The Chairperson agreed to a request by Cr Jenkinson that the recommendations be split to allow the vote to be done separate.

Cr Driver moved, Cr Norman seconded

That the Council:

- A. Commits an additional 50,000 tonnes of Processible Waste to the Resource Recovery Facility Tender (the Tender) for the period after the expiration of the term of the contract the MRC has with BioVision 2020 through to the end of the term of any contract resulting from the Tender; and**

CARRIED (10/2)

B. Acknowledge that the EMRC, as part of developing the Tender for a Resource Recovery Facility, has engaged the following consultants:

- HDR Inc.;
- Atkins Global; and
- John Cook and Associates.

and that the MRC, without going through the standard tendering and/or quoting competitive processes required by MRC's Policy CP06 – Purchase of Goods and Services, will where required utilise the services of the consultants detailed above.

CARRIED UNANIMOUSLY (12/0)

C. Acknowledge that additional project funding totalling approximately \$260,000 will be requested in the half year budget review.

CARRIED UNANIMOUSLY (12/0)

D. Approves an additional \$110,000 to fund a total payment of \$210,000 to the EMRC to fund a portion of the costs associated with the consultancy and legal costs it incurred in developing the Tender to date.

CARRIED BY ABSOLUTELY MAJORITY (11/1)

10 MEMBERS INFORMATION BULLETIN – ISSUE NO. 32

RESPONSIBLE OFFICER RECOMMENDATION

That the Members Information Bulletin Issue No. 32 be received.

RESOLVED

Cr Boothman moved, Cr Newton seconded

That the recommendation be adopted.

CARRIED UNANIMOUSLY (12/0)

11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12 URGENT BUSINESS

Nil

13 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

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

Nil

15 NEXT MEETING

Next meeting to be held on Thursday 9 February 2017 in the Council Chambers at City of Joondalup commencing at 5.30pm.

16 CLOSURE

The Chairman closed the meeting at 6.25pm and thanked Town of Victoria Park for their hospitality and use of their meeting facilities.

These Minutes were confirmed by the Council as a true and accurate record of the Ordinary Meeting of the Council held on 1 December 2016.

Signed Chairman

Dated this day of 2017
