



AGENDA

ORDINARY COUNCIL MEETING

TIME: 5.30PM

5 SEPTEMBER 2013

CITY OF VINCENT

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**

16 August 2013

Councillors of the Mindarie Regional Local Government are advised that an Ordinary Meeting of the Council will be held in the Council Chambers of the City of Vincent, 244 Vincent Street, Leederville at 5.30pm on Thursday 5 September 2013.

The agenda pertaining to the meeting is attached.

Your attendance is respectfully requested.

BRIAN CALLANDER
Chief Executive Officer

MINDARIE REGIONAL COUNCIL - MEMBERSHIP

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

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

CONTENTS

1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS.....	4
2	ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE	4
3	DECLARATION OF INTERESTS.....	4
4	PUBLIC QUESTION TIME	4
5	ANNOUNCEMENTS BY THE PRESIDING PERSON	4
6	APPLICATIONS FOR LEAVE OF ABSENCE	4
7	PETITIONS / DEPUTATIONS / PRESENTATIONS	4
8	CONFIRMATION OF MINUTES OF PREVIOUS MEETING	4
	8.1 Ordinary Council Meeting – 4 July 2013	4
9	CHIEF EXECUTIVE OFFICER REPORTS	5
	9.1 Financial Statements for the periods ended 31 May 2013 and 30 June 2013	5
	9.2 List of Payments made for the months ended 31 May 2013 and 30 June 2013 ..	7
	9.3 Review of Council Policies and Delegations to the Chief Executive Officer.....	8
	9.4 Establish a new contract for future landfill gas management at Tamala Park.....	14
10	MEMBERS INFORMATION BULLETIN – ISSUE NO. 12	22
11	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	22
12	URGENT BUSINESS.....	22
13	QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN.....	22
14	MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC.....	23
	14.1 Chief Executive Officer – Performance Review.....	23
15	NEXT MEETING	24
16	CLOSURE	24

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2 ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

3 DECLARATION OF INTERESTS

Declaration of Financial/Conflict of Interest to be recorded prior to dealing with each item.

Disclosure of Financial and Proximity Interests

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

Disclosure of Interest Affecting Impartiality

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

4 PUBLIC QUESTION TIME

5 ANNOUNCEMENTS BY THE PRESIDING PERSON

6 APPLICATIONS FOR LEAVE OF ABSENCE

7 PETITIONS / DEPUTATIONS / PRESENTATIONS

8 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

8.1 ORDINARY COUNCIL MEETING – 4 JULY 2013

The Minutes of the Ordinary Council Meeting held on 4 July 2013 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 4 July 2013 be confirmed as a true record of the proceedings.

9 CHIEF EXECUTIVE OFFICER REPORTS
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9.1	FINANCIAL STATEMENTS FOR THE PERIODS ENDED 31 MAY 2013 AND 30 JUNE 2013
File No:	FIN/5-03
Appendix(s):	Appendix No. 1 Appendix No. 2 Appendix No. 3
Date:	13 August 2013
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 31 May 2013 and 30 June 2013 and are attached at **Appendix No. 1 and 2** to this Item. The Tonnage Report for the 12 months to 30 June 2013 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.

The results for the year ended 30 June 2013 are still subject to external audit which may result in changes to the numbers included in this report, including certain balance sheet reclassifications and reserve transfers. It is not expected however, that there will be material changes to the underlying profit numbers reported.

Summary of results for the year to 30 June 2013

	Actual	Budget (a)	Variance
	t	t	t
Tonnes – Members	243,878	242,819	1,059
Tonnes – Others	38,375	42,825	(4,450)
TOTAL TONNES	282,253	285,644	(3,391)
	\$	\$	\$
Revenue – Members	32,291,442	32,214,844	76,598
Revenue – Other	8,827,463	9,321,200	(493,737)
TOTAL REVENUE	41,118,905	41,536,044	(417,139)
Expenses	42,004,480	42,870,740	866,260
Loss/(profit) on sale of assets	5,909	6,845	936
NET DEFICIT	(891,484)	(1,341,541)	450,057

(a) this is based on the revised budget adopted in March 2013.

VOTING REQUIREMENT

Simple Majority

RESPONSIBLE OFFICER RECOMMENDATION

That the Financial Statements set out in Appendix No. 1 and 2 for the months ended 31 May 2013 and 30 June 2013, respectively, be received.

9.2	LIST OF PAYMENTS MADE FOR THE MONTHS ENDED 31 MAY 2013 AND 30 JUNE 2013
File No:	FIN/5-03
Appendix(s):	Appendix No. 4 Appendix No. 5
Date:	13 August 2013
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 31 May 2013 and 30 June 2013 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 5 July 2012, 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
31 May 2013	General Municipal	Cheques EFT DP Total	\$121,674.10 \$2,466,175.05 \$474,870.50 \$3,062,719.65
30 June 2013	General Municipal	Cheques EFT DP Total	\$95,732.26 \$2,885,977.26 \$423,919.42 \$3,405,628.94

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 31 May 2013 and 30 June 2013 be noted.

9.3	REVIEW OF COUNCIL POLICIES AND DELEGATIONS TO THE CHIEF EXECUTIVE OFFICER
File No:	GOV/27
Appendix(s):	Appendix No. 6 Appendix No. 7
Date:	15 July 2013
Responsible Officer:	Chief Executive Officer

SUMMARY

Seeking the Council of Mindarie Regional Council (MRC):

1. Endorsement of the review undertaken by the Chief Executive Officer (CEO) on the current Council Policies and Delegations; and
2. Approval for an increase in councillors’ fees, allowances and expenses as a result of a recent determination by the Salaries and Allowances Tribunal.

BACKGROUND

The current Council Policies and Register of Delegations (refer appendices 1 and 2) endorsed by Council are operating effectively, providing for efficient and timely administrative services and guidance in relation to discretionary decisions the Council has the ability to make by virtue of the *Local Government Act 1995* and other statutes.

DETAIL

On review of the Council Policies and Register of Delegations, the CEO considers that they are operating well and that there is only need to consider changing one policy, being *Council Policy CP01 – Annual Fees, Allowances and Expenses for Councillors* due to a recent determination by the Salaries and Allowances Tribunal (the Tribunal).

The opening statement of the Tribunal’s determination explains that this is the first independent determination of fees, allowances and expenses. The Tribunal recognises the important role local government plays in the community and how important it is to attract capable and committed people to the role of councillor. Based on this recognition the Tribunal did not consider that the current fees, allowances and expenses were commensurate with the responsibility that goes with being a councillor and increased the fees and allowances across the board and the expense relating to babysitting. It also set a new ITC allowance to accommodate IT and communication costs. The increases became effective from 1 July 2013.

The determination distinguishes between being a councillor of a local government and a regional council, providing four separate bands for local government councillors, recognising the difference in size and complexity of local governments in Western Australia. Regional councils are provided with a single band for fees and allowances with a range of values set out in four separate tables as follows:

Council meeting fees per meeting

	Council Member other than the Chairman		Council Member who holds the Office of Chairman	
	Minimum	Maximum	Minimum	Maximum
All Regional Councils	\$88	\$225	\$88	\$463

Committee meeting and prescribed meeting fees per meeting

Council Member including Chairman		
	Minimum	Maximum
All Regional Councils	\$44	\$113

Annual attendance fees in lieu of council meeting and committee meeting attendance fees

Council Member other than the Chairman		Council Member who holds the Office of Chairman		
	Minimum	Maximum	Minimum	Maximum
All Regional Councils	\$1,750	\$10,000	\$1,750	\$15,000

Annual allowance for the Chairman of a Regional Council

Annual Allowance for Chairman		
	Minimum	Maximum
All Regional Councils	\$500	\$19,000

There are no changes suggested to the Deputy Chairman allowance of 25% of the fee paid to the Chairperson and the maximum payment for the babysitting allowance has been increased from \$20 to \$25 per hour.

The following table provides a comparison between the range of fees and allowances pre and post 1 July 2013, the new ITC Allowance and the fees and allowances currently provided to MRC Councillors.

	Existing Fee Range	Current Fee Paid by MRC	New Fee Range	Existing Allowance Range	Current Allowance Paid by MRC	New Allowance Range	Existing Expense (Technology) Paid by MRC	New ITC Allowance
Chairperson	\$6,000 to \$14,000	\$14,000	\$1,750 to \$15,000	\$6,000 to \$12,000	\$8,000	\$500 to \$19,000	\$1,000	\$500 to \$3,500
Deputy Chairperson	\$2,400 to \$7,000	\$7,000	\$1,750 to \$10,000	25% of allowance paid to Chairperson	\$2,000	25% of allowance paid to Chairperson	\$1,000	\$500 to \$3,500
Council Member	\$2,400 to \$7,000	\$7,000	\$1,750 to \$10,000				\$1,000	\$500 to \$3,500
Deputy Council Member		\$140 per meeting						
Expenses Other	Child Care (child care maximum hourly rate increased from \$20 to \$25) and Travel Costs will be reimbursed in accordance with Reg. 31 and 32 of the Local Government (Administration) Regulations 1996							

Now that the Salaries and Allowances Tribunal has established a new framework for the payment of fees, allowances and expenses for councillors there is a level of certainty as to the value of the work that councillors undertake on behalf of the community and how that value should be remunerated. The Tribunal's determination to have a single band for regional councils is appropriate as it does not have the broad range of demographic and service differentials that local government has in Western Australia.

It is noted that the current remuneration being provide to the MRC councillors is within the ranges set by the Tribunal and therefore the Council does not have to provide an increase in any of the categories. However the current remuneration provided to the council members is lower across the new band range and the MRC is one of the largest regional councils in Western Australia and it is appropriate that this is recognised in the remuneration that it provides its councillors.

Given the above, it is recommended that the councillors be provided the top of the range of the band in each of the categories apart from the new ITC Allowance (previously IT Allowance) which should be retained at \$1,000 as per the following table:

	New Fee	New Allowance	ITC Allowance
Chairperson	\$15,000	\$19,000	\$1,000
Deputy Chairperson	\$10,000	25% of \$19,000	\$1,000
Council Member	\$10,000		\$1,000

The proposed increase in the allowance for the Chairperson from \$8,000 to \$19,000 is substantial. This increase recognises the significance of the role that a Chairperson of a regional council plays, being called upon on a regular basis to undertake the following tasks in addition to her/his role as a councillor:

- meet with delegations from around Australia and across the world who come to review the MRC’s landfill and the Resource Recovery Facility;
- represent the MRC at committees/groups that the MRC is affiliated with;
- meet with politicians and other dignitaries;
- be the spokesperson for the MRC in the media and the community;
- maintain a sound working relationship with the CEO; and
- chair the council meetings.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

The Local Government Act 1995 provides the ability for the Council to delegate some powers to the CEO. These are defined as follows:

“5.42. Delegation of some powers and duties to CEO

- (1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —
 - (a) this Act other than those referred to in section 5.43; or
 - (b) the *Planning and Development Act 2005* section 214(2), (3) or (5).

Absolute majority required.

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

5.46. Register of, and records relevant to, delegations to CEO and employees

- (1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.
- (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.

- (3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.”

The Fees, Allowances and Expenses referred to in this report, and provided for in Council Policy CP01, are contained in sections 5.98., 5.98A., 5.99., 5.99A of the *Local Government Act 1995* and Regulations 30-34AB of the *Local Government (Administration) Regulations 1996*.

POLICY IMPLICATIONS

The Council has endorsed the policies detailed in the table below and appended to this agenda:

NUMBER	TITLE
CP01	Annual Fees, Allowances and Expenses for Councillors
CP02	Affixing of the Common Seal
CP03	Councillor Arrangements when attending an Overseas/Interstate/Intrastate Conference
CP04	Employee Arrangements when attending an Overseas/Interstate/Intrastate Conference
CP05	Environmental Management of Tamala Park
CP06	Purchase of Goods and Services
CP07	Gratuity Payments
CP08	Provision and Use of Council Vehicles
CP09	Investments
CP10	Donations – Financial Assistance/Support

The Tribunal’s determination requires the Council to review its Fees, Allowances and Expenses. The current council policy reads as follows:

“Council Policy CP01 – Annual Fees, Allowances and Expenses for Councillors

Policy Procedure:

1. Level of Fees, Allowances and Expenses to be paid to Councillors annually are as follows:

	Fee (\$)	Allowance (\$)	Expense (\$) (Technology)
Chairperson	14,000	8,000	1,000
Deputy Chairperson	7,000	2,000	1,000
Councillor	7,000		1,000
Deputy Councillor	\$140 per meeting		
Expenses Other	Child Care and Travel Costs will be reimbursed in accordance with Reg. 31 and 32 of the Local Government (Administration) Regulations 1996		

2. Meeting fees and allowances to which the elected members are entitled, are to be paid in two (2) equal instalments in July and December of each financial year.
3. A claim for childcare, travel and/or other relevant expenses will be paid on receipt of sufficient information verifying the expense incurred. Payment will be limited to the amount specified in legislation.”

FINANCIAL IMPLICATIONS

The recommended increases, if approved by Council, would add an additional \$47,750 expense to the total Allowances, Fees and Expenses provided to Councillors. This increase was anticipated and accommodated in the 2013/14 Budget.

STRATEGIC/COMMUNITY AND CORPORATE/BUSINESS PLAN IMPLICATIONS

Strategic Community Plan 2013/14 - 2033/34	
OBJECTIVE 1	Long Term Viability
Sub Objective	Good Corporate Governance
This report is required by legislation annually to ensure that the Council has the opportunity to review its current policies and the delegations it has provided to the Chief Executive Officer thus maintaining the relevance of the documents.	

Corporate Business Plan 2013/14 – 2016/17		
Strategies	Actions	Responsible Officer
1.1.2	Ensure Council Policies are relevant and reviewed by Council	CEO
1.1.3	Review the relevance of the delegations from the Council and report findings to Council	CEO
These actions ensure that an officer within the organisation, in this case the CEO, has a direct responsibility to review the current Council Policies and Instrument of Delegation and report the review findings to Council.		

COMMENT

The current delegations are working well, therefore it is not recommended to make any changes to them at this point. It is the same for the Council Policies apart from the recent determination made by the Salaries and Allowances Tribunal on Elected Members’ Fees and Allowances and Expense, which requires the Council to review *Council Policy CP01 – Annual Fees, Allowances and Expenses of Councillors*.

The Tribunal’s determination clearly indicates that Councillors’ remuneration in Western Australia has not kept up with the rest of Australia and that it considers the establishment of this new framework will address this anomaly. The new framework includes regional councils, but unlike local government, which has four bands, regional councils have a single band with a broad financial range. The current allowances and fees being paid to the MRC’s Councillors are within the broad range presented in the new determination. However, given that the MRC is one of the largest regional councils managing waste in Western Australia, and for the reasons presented in this report, it is recommended that the current remuneration be increased to the highest in the ranges set for Fees and Allowances and that the ITC Allowance be set at \$1,000 being the same as the amount set in the current Policy as a Technology Allowance.

VOTING REQUIREMENT

Simple Majority / Absolute Majority

RESPONSIBLE OFFICER RECOMMENDATION

- A. That Council acknowledges that the current Register of Delegations from the Council to the Chief Executive Officer (as appended) is appropriate and does not require any modification.

(Absolute Majority Required)

B. That Council:

1. **Acknowledges that the current Council Policies (as appended) are appropriate and do not require modification other than CP01 – Annual Fees, Allowances and Expenses for Councillors where the Fees and Allowances allocated to the Chairperson, Deputy Chairperson and Councillors be increased as follows:**
 - a. **Chairperson’s Fee be increased from \$14,000 to \$15,000.**
 - b. **Chairperson’s Allowance be increased from \$8,000 to 19,000.**
 - c. **Councillors’ Fees be increased from \$7,000 to \$10,000.**
 - d. **Deputy Chairperson’s Allowance be increased from \$2,000 to \$4,750 (25% of Chairperson’s Allowance).**
 2. **Effects the payments detailed in (B.1.) above from 1 July 2013.
(Absolute Majority Required)**
 3. **Amends Council Policy CP01 – Annual Fees, Allowances and Expenses of Councillors to reflect the changes detailed in B1 above.**
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9.4	ESTABLISH A NEW CONTRACT FOR FUTURE LANDFILL GAS MANAGEMENT AT TAMALA PARK
File No:	EST/2-03
Appendix(s):	Nil
Date:	15 July 2013
Responsible Officer:	Chief Executive Officer

SUMMARY

The purpose of this report is to provide Council with information relating to the current situation with regards to the Tamala Park landfill gas contractual arrangements and seek endorsement of a process to establish a new contract for this project.

BACKGROUND

As stipulated within the Tamala Park operating Licence issued by the Department of Environment Regulation, it is an environmental requirement that the Mindarie Regional Council (MRC) appropriately manage landfill gas emissions from the Tamala Park landfill. This is to be achieved by either flaring or using the gas.

Being a specialist activity, the MRC (and the vast majority of other landfill operators) contract out the landfill gas management to a specialist company.

The Tamala Park landfill gas management is currently contracted out to Landfill Gas and Power (LGP). The original contract expired on 30 June 2011 and was subsequently extended by three years through to 30 June 2014.

With this contract end date in sight, it is now appropriate that the MRC consider landfill gas management options beyond the current contract period.

DETAIL

Current Contractual Arrangements

The current landfill gas management contractual arrangements with LGP include:

- An exclusive licence to extract gas from the landfill.
- A lease over a portion of land on which to construct permanent infrastructure.
- A requirement to maintain an efficient gas extraction system.
- A requirement to either flare or "consume/burn" the extracted gas.
- A requirement to pay to the MRC revenue based on a percentage of electricity sales and Renewable Energy Certificates (RECs) sold.
- On termination of the contract LGP is to leave a fully operational flare and gas extraction system as well as remove the remainder of its equipment from site.
- The contract terminates on 30 June 2014, without any further opportunity for an extension.

Available Future Options

There are a number of options available to the MRC with regards to the future management of landfill gas at Tamala Park. These include:

1. The MRC undertaking the activities in-house. Being a specialist activity, the MRC would have to employ landfill gas specialists in order to undertake the required activities. Due to the scale of operation (a single site) it is unlikely that the in-house activities would be carried out efficiently. There will also be the
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requirement for the MRC to spend significant capital in developing the permanent infrastructure required to produce green energy. The benefit of an in-house operation is that it allows total flexibility to adapt to future "carbon trading" environments.

2. Negotiate contractual arrangements with the current contractor (LPG). The Local Government (Functions and General) Regulations 1996 provides for local government to utilise the services of a contractor who has a "preferred supplier" status with the Western Australia Local Government Association (WALGA). LPG are on this preferred supplier list.
3. Tender out services. The tender period would need to be a minimum of 10 years to enable the successful tenderer to amortise the anticipated capital costs over a reasonable period in order to reduce the annual landfill gas management costs. The subsequent contractual arrangements would need to be flexible in order to accommodate possible changes or replacement of the current carbon trading schemes.

Consideration of Future Options

Option 1 - In-house activities. The MRC is not set up to manage landfill gas at Tamala Park and the cost and complexity of establishing this capability would likely be prohibitive. There are companies in the marketplace that provide this service exclusively, offering competitive solutions in this area. Therefore it is not deemed appropriate that the MRC take on landfill gas management.

Option 2 - Negotiated contractual arrangements. The MRC has an ability to negotiate directly with LPG without going to tender as they have been chosen by the WALGA as a "preferred supplier". The MRC would be in a strong position to get improved contractual arrangements through negotiations as LPG is already established on site and hence there would be significant savings for both the MRC and LPG in utilising the existing equipment as opposed to LPG having to remove all of the equipment and a new contractor establishing themselves on site.

Option 3 - Tender out services. This process would require the development of tender specifications and a business plan, and would be more appropriate if the Council did not have the opportunity to negotiate with the current contractor LPG and/or the marketplace was more competitive. A review of suppliers in the marketplace has been undertaken by IWProjects (Ian Watkins) with the findings of the review being detailed below:

Due to the specialised nature of landfill gas management and the high initial capital cost of establishing an operating system, there is not a large pool of potential service providers available. Currently there are the following providers active in the Perth Metropolitan Area:

- Landfill Gas and Power (LGP) – (current contractor) based in Perth, numerous operating landfill facilities including the two largest (Tamala Park and Redhill).
- LMS Energy (LMS) – based in Adelaide, two Perth-based landfill operations (Shale Road Landfill – WAL/SITA and Atlas Landfill).
- AGL Energy Services (AGL) – based in Sydney, one Perth-based landfill operation (City of Rockingham).
- Waste Gas Resources – Based in Perth, one Perth-based landfill operation (City of Cockburn), small operator.

The City of Armadale recently went out to tender for landfill gas management services (small landfill) and only received two quotes, one from LPG and the other from a

Queensland company (Landfill Gas Industries) that is not currently established in WA, but is looking to enter the market. The City of Armadale has not awarded a contract and is still assessing its options.

Of the above service providers, only three are seen as potential service providers at Tamala Park, these being:

- LGP;
- LMS; and,
- AGL.

Of these three companies, only one responded to the recent City of Armadale landfill gas tender. This may have been due to the small size of the project and hence it did not interest the larger eastern states operators.

Preferred Option

The preferred option would be to negotiate with the incumbent (LGP) to try and establish a new, long-term contract, similar to the current arrangements and ideally with improved operational and financial benefit to the MRC. If a reasonable negotiated solution were not achieved within three months, then the MRC would proceed to public tender for the required service.

Tender Considerations

If the MRC were to proceed to tender, then there would need to be consideration of the following aspects:

- A new contractor would need at least 6 months, ideally 12 months, to establish on site before it could commence operations. The tender would have to be based on a “level playing field” (according to previous legal advice) and hence all tenderers, including the incumbent, would need to quote on establishing their landfill gas processing infrastructure on a new site, likely immediately adjacent to the existing landfill gas infrastructure;
- The MRC’s lease of Tamala Park expires on 30 June 2032. However the lease holds the MRC responsible for satisfying all Environmental Liabilities after the expiry date of the lease. The landfill will continue to produce landfill gas for many years after the expiry date and this gas needs to be managed appropriately. It is estimated that the landfill gas production would continue to be economical for approximately 15 to 20 years beyond the closure of the landfill, which is currently estimated to be 2025; hence, the economic viability of the gas extraction would taper off gradually to cease in about 2045. Beyond this date, the gas would be extracted and flared (at a cost) for possibly an additional 15 years. It would be responsible to have flexibility in any new contract past the lease expiry date (June 2032) to enable the contractor to continue drawing the gas and/or getting the site ready for when extraction of gas is no longer commercially viable. However this would require the approval of the owners of the land as the lease as it is currently drafted only allows the MRC (not third party contractors) to have access to the site after the lease expiry date.

Future Contractual Arrangements

The scope of work and conditions for the negotiated contract would ideally be based around the terms of the existing LGP contractual arrangements, with some adjustment to the existing contract, these being:

- Increased share of the landfill gas related revenue;
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- The contractor to be required to increase gas extraction to reduce fugitive gas emissions from the landfill as necessary;
 - The contractor to be required to manage fugitive gas detected within external perimeter wells around the landfill;
 - The development of a flexible mechanism for dealing with the implementation of a carbon trading scheme, as well as future changes to the scheme or the implementation of completely new systems at some time in the future;
 - Clarification regarding operational control of the gas for the purposes of the carbon trading scheme;
 - A clear definition of when the contractor can terminate the contract due to lack of economically viable gas production or whether the contractor is compelled to continue to manage the gas up to the contract termination date (if the contractor is forced to manage an uneconomic gas field up to the end of a set contract period, it is likely that the contractor would walk away from the contract at the end of the 2032 period and not opt to extend the contract as this would be when the gas production was tapering off);
 - The term of the contract will be from 1 July 2014 through to 30 June 2032 (end of current landfill site Lease) and with the MRC having the ability to either extend the contract, if the MRC obtains a further extension to its lease or to assign the extended contract to another party such that landfill gas emissions beyond 30 June 2032 are satisfactorily managed.

With regards to the contract extension beyond 2032, it is preferable for the MRC to not force the contract beyond this period, but to have a flexible contractual arrangement that if both parties agree, then the contract would be extended. If the MRC was to force the contract extension, then it is likely the contractor would insist on a greater share of the revenue in the earlier years with the intention of using the addition revenue to fund the decreasing revenue in the latter years. It is preferable for the MRC to retail the revenue and assess the gas field viability in 2032 to determine the best way forward. It is likely that at some stage the MRC will have to take over the management of the gas field when there is simply a flaring operation (easier operation in comparison to power generation and power marketing).

Project Timetable

The major consideration is the time required for a new contractor to establish on-site. As a minimum this will take 6 months, with the ideal duration being nearer 12 months. If a contract can be successfully negotiated with the incumbent, then this timeline is irrelevant. However, if negotiations breakdown and the MRC is required to go out to tender, then there would be significant time constraints to finalise alternative contractual arrangements.

The following project timetable is a worst case scenario where a negotiated solution is not possible:

- September to November 2013 – Negotiate with preferred party; however, no solution is agreed.
 - December 2013 – Compile tender document (this could be carried out during the last month of the negotiation period if it appears that the parties are struggling to come to an agreement).
 - January 2014 - Go out to tender (there is no benefit in rushing this and getting a tender out in mid-December).
 - February 2014 - Council award the tender.
 - March to August 2014 - Contractor prepares and establishes on-site.
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- September 2014 - the commencement of the new contractual arrangements on site.

As can be seen, if there is a breakdown in the negotiations, it is highly unlikely that the new contractor would be able to mobilise on site in time to commence operations on 1 July 2014. This is not however seen as a major impediment as there would be options available to the MRC, these being:

- Negotiate a month-on-month extension to the current arrangements; or
- Flare the gas for the duration of the transition period (the current contract requires the contractor to leave the site with an operational flare at the end of the contract).

CONSULTATION

Prior to the extension of the current contract, extensive consultation was undertaken with the following parties:

- Landfill Gas and Power
- Landfill Management Services
- Woodhouse Legal
- Eastern Metropolitan Regional Council
- City of Rockingham
- City of Cockburn

STATUTORY ENVIRONMENT

Section 3.57 of the Local Government Act 1995 (the Act) requires that local government has to tender out certain goods and services as follows:

“3.57. Tenders for providing goods or services

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.”

Part 4 of the Local Government (Functions and General) Regulations 1996 have made provisions about tenders in accordance with s.3.57 (2) of the Act (refer above) and in part read as follows:

“Part 4 — Provision of goods and services

Division 2 — Tenders for providing goods or services (s. 3.57)

11. When tenders have to be publicly invited

- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$100 000 unless sub regulation (2) states otherwise.
 - (2) Tenders do not have to be publicly invited according to the requirements of this Division if —
 - (a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or
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(b) **the supply of the goods or services is to be obtained through the Council Purchasing Service of WALGA;”**

The purchasing services of WALGA include services relating to Sustainable Energy Infrastructure, for which LGP is included as the only company in the area of gas extraction from Landfill. The following reference is from the WALGA website and explains the purpose of the preferred supplier panel and identifies LGP as a preferred supplier until December 2014.

“ENERGY: SUSTAINABLE ENERGY INFRASTRUCTURE

Contract No. C007A_11
Expiry 31 December 2014

Local Government infrastructure is supported by sustainable energy generation, energy efficiency and consumption reduction products and services. This Preferred Supplier Panel assists Local Governments to directly source suppliers for the development of products and services that ultimately reduce energy consumption. Preferred Suppliers on this Panel can partner with Local Governments to develop energy strategies, develop and scope sustainable energy solutions, and project manage implementation and delivery.

Landfill Gas & Power

Landfill Gas and Power (LGP) is a market leader in the development and management of efficient landfill gas to energy technologies. LGP is appointed to this Panel as a specialist in engineered landfill gas extraction systems and where eligible, converting landfill gas into a safe, clean and reliable renewable energy source. The initiative to install and operate an engineered landfill gas extraction system and flare can assist to place emission levels below tax thresholds for the emerging carbon tax regime.”

Sections 25 and 26 of the Western Australia Department of Environment Regulation – Licence L6963/1997/14 in respect of the Tamala Park landfill site cover matters relating to landfill gas as outlined below:

LANDFILL GAS CONTROL

25. The Licensee shall install an approved capping system on each putrescible waste cell after the final contours of the cell(s) have been reached, where the capping system conforms to the following requirements:
- (i) each cell is capped with a permeable layer contoured to allow gas migration to extraction ports;
 - (ii) the capping material allows a hydraulic conductivity (K) of at least 1×10^{-7} m/s;
- and
- (iii) a protective capping cover is maintained.
26. The Licensee shall maintain a collection system for landfill gas for the cells identified in condition 25 and shall ensure the landfill gas collected from the cells is flared or used.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Landfill gas management at Tamala Park is a net revenue generating activity. It is anticipated that this situation will continue well into the future. Currently the revenue budgeted for 2013/14 from LGP is \$505,000.

The objective of a future landfill gas contract would be to maximise the return to the MRC whilst appropriately allocating risk to that party best able to manage it.

STRATEGIC COMMUNITY and CORPORATE BUSINESS PLAN IMPLICATIONS

Strategic Community Plan 2013/14 - 2033/34	
OBJECTIVE 1	LONG TERM VIABILITY
Sub Objective	Maintaining a sound financial footing with a commercial focus
Strategy 1.3	Manage and acquire suitable assets to achieve an optimal mix of waste management solutions
Strategy 1.5	Ensure the Council is commercially relevant to the regional market
OBJECTIVE 2	EFFECTIVE MANAGEMENT
Sub Objective	Industry Leading Waste management and Practices
Strategy 2.1	Operate waste management activities effectively
Entering into a new contract for gas management and extraction at Tamala Park ensures that the MRC continues to mitigate the release of gases into the atmosphere and utilise these gases to produce electricity. It also provides additional revenue for the MRC to allow it to improve its services and assist it in meeting its overall objectives in line with industry best practise.	

Corporate Business Plan 2013/14 – 2016/17		
Strategies	Actions	Responsible Officer
1.3	1.3.3 Manage Landfill infrastructure to support the MRC's operations	Operations Supervisor
1.5	1.5.4 Manage the costs of the landfill operations in line with other benchmark landfill sites	Director Corporate Services
2.1	2.1.1 Manage the environmental issues associated with operating a landfill site	Operations Supervisor
2.1	2.1.2 Comply with DER Licence	Operations Supervisor
The DER Licence requires the MRC to ensure that landfill gas emissions from the Tamala Park landfill are appropriately managed, specifically stating that this is to be achieved by either flaring or using the gas. This contract ensures compliance with this requirement.		

COMMENT

LGP have operated on the site since 2003 and have demonstrated their expertise and been high performers, as well as providing a competitive financial return to the MRC over this period. As such, it is considered appropriate to enter into initial negotiations with LGP and only consider tendering the contract if the negotiations are unsuccessful.

It is likely that gas will have to be extracted from the landfill beyond the current 2032 lease term and a flare will have to eventually be built to flare the remaining gas. It would be advantageous to have the same company complete all this work, and as a result, it is recommended that the MRC write to the owners of the property advising them of the work required past the lease expiry date and seeking their support to be party to the new agreement to allow the completion of the required work by the contractor.

VOTING REQUIREMENT

Simple Majority

RESPONSIBLE OFFICER RECOMMENDATION

That Council:

- 1. Authorises the CEO to commence negotiations for a new landfill gas contract with Landfill Gas and Power on the basis that the company is a preferred supplier on the WALGA Preferred Supplier Panel;**
 - 2. Receive a report from the CEO detailing the outcome of the negotiations at its meeting to be held on 10 October 2013;**
 - 3. Write to the owners of Tamala Park requesting their consideration of being party to any new agreement, or any other formal arrangement, that will allow the contractor to continue to extract gas or complete the necessary work to flare the gas past the expiry date of the current lease.**
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10 MEMBERS INFORMATION BULLETIN – ISSUE NO. 12

RESPONSIBLE OFFICER RECOMMENDATION

That the Members Information Bulletin Issue No. 12 be received.

11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12 URGENT BUSINESS

13 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

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

14.1 CHIEF EXECUTIVE OFFICER – PERFORMANCE REVIEW

THIS ITEM IS CONFIDENTIAL, NOT FOR PUBLIC VIEWING.

SEPARATE COVER TO ELECTED MEMBERS

15 NEXT MEETING

Next meeting to be held on Thursday 10 October 2013 in the Council Chambers at City of Perth commencing at 5.30pm.

16 CLOSURE
