



# AGENDA

ORDINARY COUNCIL MEETING

TIME: 6.30 PM

12 AUGUST 2021

TOWN OF CAMBRIDGE

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*Constituent Members: Cities of Perth, Joondalup, Stirling, Vincent and Wanneroo  
Towns of Cambridge and Victoria Park*



CITY OF VINCENT

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**MINDARIE REGIONAL COUNCIL  
NOTICE OF MEETING**

**30 July 2021**

**Councillors of the Mindarie Regional Council are advised that an Ordinary Meeting of the Council will be held at the Town of Cambridge at 6.30 pm on 12 August 2021.**

**The agenda pertaining to the meeting follows.**

**Your attendance is respectfully requested.**



**GUNTHER HOPPE  
CHIEF EXECUTIVE OFFICER**

**MINDARIE REGIONAL COUNCIL - MEMBERSHIP**

<b>Cr K Vernon (Karen) - Chair</b>	<b>Town of Victoria Park</b>
<b>Cr F Cvitan, JP (Frank) Deputy Chair</b>	<b>City of Wanneroo</b>
<b>Cr A Jacob, JP (Albert)</b>	<b>City of Joondalup</b>
<b>Cr R Fishwick, JP (Russ)</b>	<b>City of Joondalup</b>
<b>Cr R Gordon (Rebecca)</b>	<b>City of Perth</b>
<b>Cr J Ferrante (Joe)</b>	<b>City of Stirling</b>
<b>Cr K Sargent (Keith)</b>	<b>City of Stirling</b>
<b>Cr S Proud, JP (Stephanie)</b>	<b>City of Stirling</b>
<b>Vacant</b>	<b>City of Stirling</b>
<b>Cr A Castle (Alex)</b>	<b>City of Vincent</b>
<b>Cr D Newton, JP (Dot)</b>	<b>City of Wanneroo</b>
<b>Cr K Shannon (Keri)</b>	<b>Town of Cambridge</b>

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

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**1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

**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**

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<b>8 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS</b>
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**8.1 ORDINARY COUNCIL MEETING – 24 June 2021**

The Minutes of the Ordinary Council Meeting held on 24 June 2021 have been printed and circulated to members of the Council.

**RESPONSIBLE OFFICER RECOMMENDATION**

**That the Minutes of the Ordinary Meeting of Council held on 24 June 2021 be confirmed as a true record of the proceedings.**

**8.2 SPECIAL COUNCIL MEETING – 08 July 2021**

The Minutes of the Special Council Meeting held on 08 July 2021 have been printed and circulated to members of the Council.

**RESPONSIBLE OFFICER RECOMMENDATION**

**That the Minutes of the Special Meeting of Council held on 08 July 2021 be confirmed as a true record of the proceedings.**

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## 9.1 CHIEF EXECUTIVE OFFICER REPORTS

9.1	FINANCIAL STATEMENTS FOR THE MONTHS ENDED 31 MAY 2021 AND 30 JUNE 2021
<b>File No:</b>	<b>FIN/5-09</b>
<b>Appendix(s):</b>	<b>Appendix No. 1 Appendix No. 2</b>
<b>Date:</b>	<b>15 JULY 2021</b>
<b>Responsible Officer:</b>	<b>DIRECTOR CORPORATE SERVICES</b>

### SUMMARY

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

### BACKGROUND

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

The financial statements presented for each month consist of:

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

### DETAIL

The Financial Statements for the months ended 31 May 2021 and 30 June 2021 are attached at **Appendix No. 1 and 2** to this Item. The Tonnage Report for the 12 months to 30 June 2021 is attached at **Appendix No. 3**.

The financial statements are pending external auditor approval and are subject to change.

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.

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Summary of results for the year to date period ended 30 June 2021

	Actual	Budget	Variance
	t	t	t
Tonnes – Members	241,153	245,878	(4,725)
Tonnes – Others	27,628	14,550	13,078
<b>TOTAL TONNES</b>	<b>268,781</b>	<b>260,428</b>	<b>8,353</b>
	\$	\$	\$
Revenue – Members	49,448,151	50,405,206	(957,055)
Revenue – Other	6,202,727	5,075,917	1,126,810
<b>TOTAL REVENUE</b>	<b>55,650,878</b>	<b>55,481,123</b>	<b>169,755</b>
Expenses	58,640,833	60,403,478	1,762,645
Profit on sale of assets	56,441	35,266	21,175
Loss on sale of assets	-	7,963	7,963
Impairment of assets	-	-	-
<b>NET DEFICIT</b>	<b>(2,933,514)</b>	<b>(4,895,052)</b>	<b>1,961,538</b>

Members

Members tonnages for the financial period ended 30 June 2021 were 4,725 tonnes less than budgeted, member councils delivering less waste than what was estimated.

RRF

The Resource Recovery Facility residue tonnes have delivered 57,781 tonnes in total to Tamala Park year to date, 1,081 tonnes above budgeted.

Trade & Casuals

The Casual and Trade tonnages are 13,078 tonnes higher than forecast for the financial year to date, 12,304 tonnes attributable to the discounted rate waste tender.

Overall tonnages for the financial period ended 30 June 2021 were 8,353 tonnes more than budgeted.

The net result variance against budget of \$1,961,538 is mainly attributable to RRF expenditures, abated by unbudgeted tonnages received in the commercial waste tenders, landfill costs and legal fees.

**VOTING REQUIREMENT**

Simple Majority

## **RESPONSIBLE OFFICER RECOMMENDATION**

**That Council:**

**Receive the Financial Statements set out in Appendix No. 1 and Appendix No. 2 for the months ended 31 May 2021 and 30 June 2021.**

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<b>9.2</b>	<b>LIST OF PAYMENTS MADE FOR THE MONTHS ENDED MAY AND JUNE 2021</b>
<b>File No:</b>	<b>FIN/5-09</b>
<b>Appendix(s):</b>	<b>Appendix No. 4 and 5</b>
<b>Date:</b>	<b>13 July 2021</b>
<b>Responsible Officer:</b>	<b>Director Corporate Services</b>

### SUMMARY

The purpose of this report is to provide details of payments made during the periods identified. This is in line with the requirement under 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 2021 and 30 June 2021 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 24 September 2020, 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.

<b>Months Ended</b>	<b>Account</b>	<b>Vouchers</b>	<b>Amount</b>
31 May 2021	General Municipal	Cheques	\$440.00
		EFT	\$3,407,327.65
		DP	\$189,286.28
		Inter account transfers	\$5,100,000.00
		<b>Total</b>	<b>\$8,697,053.93</b>
30 June 2021	General Municipal	Cheques	\$13,653.19
		EFT	\$5,330,457.01
		DP	\$61,354.38
		Inter account transfers	\$6,300,000.00
		<b>Total</b>	<b>\$11,705,464.58</b>

### VOTING REQUIREMENT

Simple Majority

## **RESPONSIBLE OFFICER RECOMMENDATION**

**That Council:**

**Note the list of payments made under delegated authority to the Chief Executive Officer, for the months ended 31 May 2021 and 30 June 2021.**

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<b>9.3</b>	<b>MINDARIE REGIONAL COUNCIL MEETING PROCEDURES LOCAL LAW 2020</b>
<b>File No:</b>	<b>GF-20-0000550</b>
<b>Appendix:</b>	<b>Appendix 6 Mindarie Regional Council Meeting Procedures Local Law 2020</b>
<b>Date:</b>	<b>21 July 2021</b>
<b>Responsible Officer:</b>	<b>Chief Executive Officer</b>

### **SUMMARY**

The purpose of this report is to seek Council's approval to implement the Joint Standing Committee (JSC) on Delegated Legislation's undertakings for the Mindarie Regional Council (MRC) Meeting Procedures Local Law 2020.

### **BACKGROUND**

The MRC Meeting Procedures Local Law 2020 ("the Local Law") was adopted by Council on 17 December 2020. Section 3.16 of the Local Government Act 1995 ("the Act") requires a periodic review of the Local Law.

On 25 February 2021, the MRC administration submitted the Local Law with the required Explanatory Memorandum and supporting materials to the JSC which provided proof of process to part C of the Explanatory Memorandum for Local Governments for making a local law.

On 15 June 2021, a letter was received from the JSC in response to the Local Law submission and in part stated:

*"The Local Law was considered by the JSC at its meeting on 14 June 2021. The JSC resolved to write to the MRC with the following matters:*

- *Deletion of clause 16.2 from the adopted local law*
- *Typographical errors*
- *Primary and substantive motions*
- *Interaction between clauses 7.15 (3) and 7.16 (1) (b)"*

The JSC requires the MRC to respond to the above matters and is seeking the following undertakings from the MRC:

1. When the Local Law is next reviewed, the MRC will:
    - i. Correct the typographical errors outlined above
    - ii. Include a definition of 'substantive motion' in the Local Law
    - iii. Ensure all consequential amendments arising from the undertaking will be made.
  2. The MRC will not enforce the Local law contrary to undertaking 1.
  3. Where the Local Law is made publicly available by the MRC, whether in hard copy or electronic form, the MRC will ensure that it is accompanied by a copy of the undertaking.
  4. The MRC is to provide clarification about the removal of clause 16.2
  5. The MRC is to provide clarification about the interaction between clauses 7.15 (3) and 7.16 (1) (b).
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## **DETAIL**

The JSC has requested clarification and or corrections to the following matters:

### **1. CLARIFICATION FOR THE DELETION OF CLAUSE 16.2 FROM THE ADOPTED LAW**

The JSC requires clarification as to why Clause 16.2 was deleted from the adopted local law, noting that it is included in the WALGA template.

#### Proposed response to the JSC:

*On advice from the Department of Local Government, the MRC Administration deleted Clause 16.2 as clause 17.4 was adjudged to deal with the same matter.*

### **2. CORRECTION TO TYPOGRAPHICAL ERRORS:**

- a) Reference to Presiding Person, not Presiding Member. Each reference to Presiding Person should be changed to Presiding Member to ensure consistency.
- b) Clause 6.7(11): insert 'of' between 'copy' and 'the' in the 3<sup>rd</sup> line.
- c) Clause 7.16(11) (b) the phrases 'uses an expression which' and 'uses an expression that' both appear. The latter should be deleted from subsection (b).

#### Proposed response to the JSC:

*The MRC Administration agrees with these changes.*

### **3. CLARIFICATION TO PRIMARY AND SUBSTANTIVE MOTIONS:**

Both 'primary motion' and 'substantive motion' appears in the local law, but only 'primary motion' is defined under 1.4 Interpretations. Noting that the WALGA template uses 'substantive motion', but not that of 'primary motion', but the definition is the same as that of primary motion in the local law.

#### Proposed response to the JSC:

*The MRC Administration agrees with the observation and proposes to delete the words 'primary motion' and replace them with 'substantive motion' and will add a definition of 'substantive motion'.*

### **4. Clarification to Interaction between clauses 7.15 (3) and 7.16 (1) (b)**

Explain how 7.15(3) and 7.16(1) (b) interact. While clause 7.15 (3) refers to 'offensive expressions', clause 7.16 (1) (b) refers to 'an expression that is offensive or objectionable'.

#### Proposed response to the JSC:

*The MRC Administration proposes the insertion of the word 'or objectionable' at 7.15(3) and deletion of the phrase 'uses an expression that' at clause 7.16(1) (b), as shown below.*

*7.15 (3) A member is not to use offensive **or objectionable** expressions in reference to any member, officer or other person.*

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7.16(1) (b) ~~uses an expression that~~ is offensive or objectionable must, when directed by the Presiding Member, withdraw the expression and make a satisfactory apology.

It is recommended that the MRC Chair respond to the JSC with the proposed clarifications as described above and confirming compliance with all the undertakings.

## CONSULTATION

Nil

## STATUTORY ENVIRONMENT

The process for advertising the Local law is covered in s1.7 and s1.8 of the *Local Government Act 1995*, which reads as follows:

### “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.

### 1.8. Statewide public notice

Where under this Act Statewide public notice of a matter is required to be given, section 1.7 applies except that the newspaper referred to in section 1.7(1)(a) is required to circulate generally throughout the State.”

The process for amending the text of a Local Law is covered in s3.12 of the *Local Government Act 1995*, which reads as follows:

### “3.12 Procedure for making local laws

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.
  - (2A) Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.
  - (2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.
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- (3) *The local government is to —*
- (a) *give local public notice stating that —*
- (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
- (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
- (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
- and*
- (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
- (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.*
- \* Absolute majority required.*
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
- (a) *stating the title of the local law; and*
- (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
- (c) *advising that the local law is published on the local government's official website and that copies of the local law may be inspected at or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) *In this section —*
- making in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

3.13. *Procedure where significant change in proposal*

*If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.*

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3.14. *Commencement of local laws*

- (1) *Unless it is made under section 3.17, a local law comes into operation on the 14<sup>th</sup> day after the day on which it is published in the Gazette or on such later day as may be specified in the local law.*
- (2) *A local law made under section 3.17 comes into operation on the day on which it is published in the Gazette or on such later day as may be specified in the local law.*  
*[Section 3.14 amended: No. 1 of 1998 s. 9.]*

3.15. *Local laws to be publicised*

*A local government is to take reasonable steps to ensure that the inhabitants of the district are informed of the purpose and effect of all of its local laws.*

3.16. *Periodic review of local laws*

- (1) *Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.*
- (2) *The local government is to give local public notice stating that —*
  - (a) *the local government proposes to review the local law; and*
  - (b) *a copy of the local law may be inspected or obtained at any place specified in the notice; and*
  - (c) *submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
- (3) *After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.*
- (4) *When its council has considered the report, the local government may determine\* whether or not it considers that the local law should be repealed or amended.*

*\* Absolute majority required."*

**STRATEGIC/COMMUNITY AND CORPORATE/BUSINESS PLAN IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**COMMENT**

Nil

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## **VOTING REQUIREMENT**

Simply majority

## **RESPONSIBLE OFFICER RECOMMENDATION**

**That Council:**

- 1. Resolves to provide the following undertakings to the Joint Standing Committee on Delegated Legislation that:**
    - 1. When the Local Law is next reviewed, the MRC will:**
      - a) Correct the typographical errors as outlined under point 2 in the Detail section of this report**
      - b) Include a definition of ‘substantive motion’ in the Local Law and the amendments as outlined under point 3 in the Detail section of this report**
      - c) Ensure all consequential amendments arising from the undertaking will be made.**
    - 2. The MRC will not enforce the Local Law contrary to undertaking 1.1.**
    - 3. Where the Local Law is made publicly available by the MRC, whether in hard copy or electronic form, the MRC will ensure that it is accompanied by a copy of the undertaking.**
    - 4. The MRC will provide clarification about the removal of clause 16.2, as outlined under point 1 in the Detail section of this report**
    - 5. The MRC will provide clarification about the interaction between clauses 7.15 (3) and 7.16 (1) (b), as outlined under point 4 in the Detail section of this report.**
  - 2. Approves the Chair to write to the Joint Standing Committee on Delegated Legislation, providing the required clarification and corrections for the Mindarie Regional Council Meeting Procedures Local Law 2020.**
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<b>9.4</b>	<b>MINDARIE REGIONAL COUNCIL WASTE FACILITY SITE LOCAL LAW 2020</b>
<b>File No:</b>	<b>GF-21-0000550</b>
<b>Appendix:</b>	<b>Appendix 7 Mindarie Regional Council Waste Facility Site Local Law 2020</b>
<b>Date:</b>	<b>21 July 2021</b>
<b>Responsible Officer:</b>	<b>Chief Executive Officer</b>

### **SUMMARY**

The purpose of this report is to seek Council's approval to implement the Joint Standing Committee (JSC) on Delegated Legislation's undertakings for the Mindarie Regional Council (MRC) Waste Facility Site Amendment Local Law 2020.

### **BACKGROUND**

The MRC Waste Facility Site Amendment Local Law 2020 ("the Local Law") was adopted by Council on 17 December 2020. Section 3.16 of the Local Government Act 1995 ("the Act") requires a periodic review of the Local Law.

On 25 February 2021, the MRC administration submitted the Local Law with the required Explanatory Memorandum and supporting materials to the JSC which provided proof of process to part C of the Explanatory Memorandum for Local Governments for making a local law.

On 15 June 2021, a letter was received from the JSC in response to the Local Law submission and in part stated:

*"The Local Law was considered by the JSC at its meeting on 14 June 2021. The JSC resolved to write to the MRC with the following issues:*

*Compliance with Waste Avoidance and Resource Recovery Act (WARR Act), ss61, ss64 and ss3.12 (3) (b) and (5) of the Local Government Act.*

- *The statutory procedures checklist does not indicate whether:*
  - *A copy of the Local Law had been given to the Minister of Environment, who administers the WARR Act 2007 either before or after the Local Law was made, as required by sections 3.12 (3) (b) and (5) of the Local Government Act.*
  - *Consent to make the Amendment Local Law was obtained in accordance with section 61 (1) of the WARR Act."*

The JSC considers the new clauses in Local Law brings the Local Law within the scope of the WARR Act. Noted 'waste services' are defined in section 3 of the WARR Act to include:

*(c) the provision and management of waste facilities, machinery for the disposal of waste and processes for dealing with waste'.*

The Local Law new clauses to which they are referring are:

27. *Hours of operation*

*The local government may from time to time determine the hours of operation of a waste facility.*

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27A. *Depositing Waste*

- (1) *A person must not deposit waste at a waste facility other than—*
  - (a) *at a location determined by a sign and in accordance with the sign; and*
  - (b) *in accordance with the direction of an authorised person.*
- (2) *The local government may determine the classification of any waste that may be deposited at a waste facility.*

As a separate matter, additionally, the JSC considers that items 18 and 20 in Schedule 1 of penalties exposes the public to liability under what appears to be very similar clauses and that reference to either clause should be deleted or combined under the same item.

The JSC:

- 1) requires the MRC to respond on compliance with section 3.12 (3) (b) and the WARR Act, which may affect the validity of the Amendment Local Law, and
- 2) are seeking the following undertakings from the MRC:
  6. Within six months, remove either item 18 or 20 in schedule 1 of the Local Law or combine them to the same item.
  7. The MRC will not enforce the local law contrary to undertaking 1.
  8. Ensure all consequential amendments arising from the undertaking will be made.
  9. Where the Local Law is made publicly available by the MRC, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertakings.

**DETAIL**

Historically the MRC Local Law has not been considered to be within the scope of the WARR Act and therefore consent to make the Local Law was not obtained from the Minister of the Environment, nor was a copy provided to the Minister of the Environment.

The MRC local law was not made for any of the purposes set out in the WARR Act. It was made to provide the MRC the ability to control and manage members of the public who attend the site by setting conditions and issuing penalties that fall within the portfolio of the Minister for Local Government.

On reflection of the considerations of the JSC, the MRC have reviewed clause 27 and 27A and determined that they are not necessary to regulate the MRC's operations for the following reasons:

- Opening hours are available on the MRC website;
- The site is well sign posted to direct site users to the appropriate goods drop off locations; and
- The MRC customers access site information from the website, contacting the administration and site signage, not the Local Law.

Therefore, it is recommended for the MRC Chair to respond to the JSC offering to delete clauses 27 and 27A, and requesting a further undertaking in respect of the deletion of these two clauses.

In addition, confirming compliance with the four undertakings requested by the JSC and respectfully requesting the JSC to give further consideration to allow the MRC Amendment Local Law 2020.

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## CONSULTATION

Advice has been sought from WALGA on this matter and they support this course of action.

## STATUTORY ENVIRONMENT

The process for advertising the Local law is covered in s1.7 and s1.8 of the *Local Government Act 1995*, which reads as follows:

### *“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 —*
- (d) published in a newspaper circulating generally throughout the district; and*
  - (e) exhibited to the public on a notice board at the local government’s offices; and*
  - (f) 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 —*
- (c) published under subsection (1)(a) on at least one occasion; and*
  - (d) 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.*

### *1.8. Statewide public notice*

*Where under this Act Statewide public notice of a matter is required to be given, section 1.7 applies except that the newspaper referred to in section 1.7(1)(a) is required to circulate generally throughout the State.”*

The process for amending the text of a Local Law is covered in s3.12 of the *Local Government Act 1995*, which reads as follows:

### *“3.12 Procedure for making local laws*

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2A) *Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to —*
- (d) give local public notice stating that —*
    - (i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
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(iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*

*and*

- (e) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
- (f) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.*

*\* Absolute majority required.*

- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
- (d) *stating the title of the local law; and*
- (e) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
- (f) *advising that the local law is published on the local government's official website and that copies of the local law may be inspected at or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) *In this section —*
- making in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

3.13. *Procedure where significant change in proposal*

*If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.*

3.14. *Commencement of local laws*

- (1) *Unless it is made under section 3.17, a local law comes into operation on the 14<sup>th</sup> day after the day on which it is published in the Gazette or on such later day as may be specified in the local law.*
- (2) *A local law made under section 3.17 comes into operation on the day on which it is published in the Gazette or on such later day as may be specified in the local law.*

*[Section 3.14 amended: No. 1 of 1998 s. 9.]*

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3.15. *Local laws to be publicised*

*A local government is to take reasonable steps to ensure that the inhabitants of the district are informed of the purpose and effect of all of its local laws.*

3.16. *Periodic review of local laws*

- (1) *Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.*
- (2) *The local government is to give local public notice stating that —*
  - (d) *the local government proposes to review the local law; and*
  - (e) *a copy of the local law may be inspected or obtained at any place specified in the notice; and*
  - (f) *submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
- (3) *After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.*
- (4) *When its council has considered the report, the local government may determine\* whether or not it considers that the local law should be repealed or amended.*

*\* Absolute majority required.”*

**STRATEGIC/COMMUNITY AND CORPORATE/BUSINESS PLAN IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**COMMENT**

Nil

**VOTING REQUIREMENT**

Simply majority

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## **RESPONSIBLE OFFICER RECOMMENDATION**

### **That Council:**

- 1. Resolves to provide an undertaking to the Joint Standing Committee on Delegated Legislation that:**
    - i. Within six months, the MRC will remove either item 18 or 20 in Schedule 1 of the Local Law or combine them to the same item.**
    - ii. The MRC will not enforce the local law contrary to the undertaking in i. above.**
    - iii. The MRC will ensure all consequential amendments arising from the undertaking will be made.**
    - iv. Where the Local Law is made publicly available by the MRC, whether in hard copy or electronic form, the MRC will ensure that it is accompanied by a copy of these undertakings.**
  
  - 2. Approves the Chair to write to the Joint Standing Committee on Delegated Legislation requesting the Committee to give further consideration to allow the Mindarie Regional Council Amendment Local Law 2020, on the basis that clauses 27 and 27A are deleted.**
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<b>9.5</b>	<b>APPOINTMENT OF COUNCILLORS ON TO THE MUNICIPAL WASTE ADVISORY COUNCIL (MWAC)</b>
<b>File No:</b>	<b>GF-20-0001618</b>
<b>Attachment(s):</b>	<b>1. Municipal Waste Advisory Council Details</b>
<b>Date:</b>	<b>29 July 2021</b>
<b>Responsible Officer:</b>	<b>Chief Executive Officer</b>

### **SUMMARY**

The purpose of this report is to seek the appointment of a Councillor of the Mindarie Regional Council (MRC) to the Municipal Waste Advisory Council (MWAC).

### **BACKGROUND**

The MRC is currently a member of an advisory group of Western Australia Local Government Association (WALGA) known as MWAC. A MRC Councillor is required to be a member of this group.

MWAC was established as part of the MRC's commitment to the WALGA membership.

Attachment 1 provides details of the tenure, membership, duties and responsibilities associated with being a member of MWAC.

### **DETAILS**

At the MRC Ordinary Council meeting held on 21 November 2019 Councillor David Boothman was appointed as a Member and Cr Russ Fishwick as a Deputy Member on to MWAC.

On 6 August 2021 Councillor Boothman retired from the City of Stirling and the MRC. The resignation has resulted in the requirement for the MRC to nominate a new member of MWAC.

The purpose of this appointment is to fill the vacancy on a temporary basis up to the 2021 Local Government elections. There are 2 meetings remaining for that period, on 25 August 2021 and 13 October 2021. The Deputy Member, Cr Russ Fishwick, is unable to attend those meetings and therefore this appointment is required.

It should also be noted that Councillor Boothman was also the Chair of the CEO Recruitment and Performance Review Committee and a member of the Audit Committee. As there are no scheduled meetings prior to October 2021 for these committees, appointments will be made following the Local Government elections in October 2021.

The following provides a brief explanation of the purpose of MWAC:

#### Municipal Waste Advisory Council

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

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The objective of MWAC is to encourage and promote economically sound, environmentally safe waste management practices and to ensure that the shared interests of all Western Australian Local Governments, as they relate to waste management, are effectively managed. As MWAC is a standing committee of WALGA it requires councillor representation. An Officer Advisory Group (OAG) has been established as an advisory committee to the MWAC.

**LEGAL COMPLIANCE**

Refer attachment 1 to determine the compliance requirements of MWAC.

**FINANCIAL IMPLICATIONS**

There is no remuneration attached to this position.

**COMMENT**

There are 6 meetings per calendar year with 2 remaining meetings up to the date of the Local Government Elections.

**VOTING REQUIREMENT**

Simple Majority

**RESPONSIBLE OFFICER RECOMMENDATION**

That the Council:

1. **Appoint Cr \_\_\_\_\_ on to the Municipal Waste Advisory Council for the period up to the Local Government Elections in October 2021.**
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## ATTACHMENT 1

### MUNICIPAL WASTE ADVISORY COUNCIL

#### MEMBERSHIP

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

#### MEETING FREQUENCY

Bi-Monthly

#### DUTIES AND RESPONSIBILITIES

##### *General Functions of the MWAC*

- (a) The principal role of the MWAC in exercising its delegated authority is to govern the Municipal Waste Program and to represent the interests of the Parties and Local Government generally, in all matters relating to local government waste management.
- (b) Without limiting the MWAC's principal role, the broad functions and responsibilities of the MWAC include:
  - (i) defining policy and providing the overall strategic direction of the Municipal Waste Program to achieve the interests of the Parties to this Partnership Agreement;
  - (ii) maintaining the MWAC as a credible, active and effective peak body in the area of waste management;
  - (iii) facilitating and encouraging cooperative linkages between Local, State and Federal Government, Regional Councils, FORC, WMAA, Waste Authority, industry and the community;
  - (iv) representing the interests of the Association in all matters relating to local government waste management in accordance with the Association's policy statements and formal positions on an issue, and without prior reference to the Association where a formal Association position on an issue is not current or has not yet been developed PROVIDED THAT any such position is subsequently put to the Association as soon as practicable for confirmation;
  - (v) acting as an interface between the Parties to this Partnership Agreement and other local governments;
  - (vi) promoting economically sound, environmentally safe and socially acceptable waste management and minimisation strategies;
  - (vii) coordinating and initiating research on waste management issues;
  - (viii) through the WALGA Chief Executive Officer and the MWAC Chair, monitoring and evaluating the performance of the Executive Officer against established key performance indicators;
  - (ix) approving major operating plans, including the strategic plan;
  - (x) approving the Annual Budget in accordance with the terms of this Partnership Agreement; and

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

**APPOINTMENT/TENURE**

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

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**10 MEMBERS INFORMATION BULLETIN – ISSUE NO. 62**

**RESPONSIBLE OFFICER RECOMMENDATION**

**That the Members Information Bulletin Issue No. 62 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**

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

**This report is Confidential and dealt with in a confidential session, under Section 5.23 (2) (a) of the *Local Government Act 1995* as the report deals with a matter affecting an employee.**

**14.1 INTERIM CEO**

**File No: GF-20-0000340**

**Attachment(s): MRC POLICY CP 14**

**Date: 19 JULY 2021**

**Responsible Officer: Chief Executive Officer**

THIS REPORT IS CONFIDENTIAL AND NOT FOR PUBLIC VIEWING  
TO BE SENT UNDER SEPARATE COVER TO MRC COUNCILLORS

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**15 NEXT MEETING**

The next Ordinary Council meeting to be held on Thursday 16 September 2021 at the City of Vincent commencing at 6.30 pm.

**16 CLOSURE**

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