

Mindarie Regional Council Waste Facility Site Local Law 2020

Undertakings to the Joint Standing Committee on Delegated Legislation

- i. Mindarie Regional Council, within six months, undertakes to remove clauses 27 and 27A of the Mindarie Regional Council Waste Facility Site Local Law 2013 (as amended) and either item 18 or item 20 in Schedule 1 to the Mindarie Regional Council Waste Facility Site Local Law 2013 (as amended) or combine them into the same item;*
- ii. Mindarie Regional Council undertakes not to enforce the Mindarie Regional Council Waste Facility Site Local Law 2013 (as amended) contrary to undertaking i;*
- iii. Mindarie Regional Council undertakes to ensure that all consequential amendments arising from undertaking i will be made; and*
- iv. Mindarie Regional Council undertakes that, where the Mindarie Regional Council Waste Facility Site Local Law 2013 (as amended) is made publicly available, whether in hard copy or electronic form, it will ensure that it is accompanied by a copy of the undertakings.*

LOCAL GOVERNMENT ACT 1995
MINDARIE REGIONAL COUNCIL
WASTE FACILITY SITE AMENDMENT LOCAL LAW 2020

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Mindarie Regional Council resolved on 17 December 2020 to make the following local law.

1. Title Citation

This local law may be cited as the *Mindarie Regional Council Waste Facility Site Amendment Local Law 2020*.

2. Commencement

This local law will come into operation 14 days after the day on which it is published in the *Government Gazette*.

3. Principal Local Law Amended

This local law amends the Mindarie Regional Council Waste Facility Site Local Law 2013 as published in the *Government Gazette* on 12 May 2012 and as amended in the *Government Gazette* on 15 March 2013.

4. Clause 4

In clause 4 amend the following definition in alphabetical order:

- (a) Insert “**contamination** in relation to land, water or a site, means having a substance present in or on that land, water or site at above background concentrations that presents, or has the potential to present, a risk of harm to human health, the environment or any environmental value”;
- (b) Insert “**disability parking permit** has the meaning given to it by the *Local Government (Parking for People with Disabilities) Regulations 2014*”;
- (c) Delete “**ACROD sticker** has the same meaning as given in the *Local Government (Parking for Disabled Persons) Regulations 1988*”.

5. Clause 5

Clause 5 is amended as follows:

- (a) Delete “Lot 9504 on Plan 52070” and replace with “Parcel 39285 = Part Lot 9026 on Deposited Plan 415564 as known on certificate of title 2971/931”; and
- (b) Delete “Mindarie” and replace with “Tamala Park”.

6. Clause 7

In clause 7(1) delete “thinks” and replace with “considers”.

7. Clause 11

In Clause 11 delete “an ACROD sticker” and replace with “a disability parking permit”.

8. Clause 13

In Clause 13 amended as follows:

- (a) Removed item 3 “1” and “2” inserted “a” and “b”,
- (b) Removed “around or near”.

9. Clause 15

In Clause 15 amended as follows:

- (a) Inserted to the clause title “culture heritage”

- (b) Insert “(d) intentionally disturb and/or remove cultural significant artefacts from the site”.

10. Clause 16

In Clause 16 amended as follows:

- (a) Inserted to clause title “Environmental spill”
- (b) Insert (c) “discharge liquids/ rubbish to the environment that cause, or are known to cause contamination to the soil, water and/or air
- (c) Delete (2) “Any person found littering under this local law is liable, upon conviction, to a penalty not exceeding \$1000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100, for each day or part of a day during which the offence has continued”.

11. Clause 21

In Clause 21 delete “Any person found lighting fires under this local law is liable, upon conviction, to a penalty not exceeding \$1000”.

12. Part 7 - Waste Disposal Services

Insert “Part 7 - Waste Disposal Services”

Insert Clause 27 as follow:

- (a) Inserted “Hours of operation
The local government may from time to time determine the hours of operation of a waste facility”.
- (b) Inserted 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”.
- (c) Insert 27B “Fees and charges
 - (1) A person must, on or before entering a waste facility or on demand by the local government or an authorised person, pay the fee or charge as assessed by an authorised person.
 - (2) An authorised person may assess the fee or charge in respect of a particular load of waste at a rate that applies to any part of that load, even if that rate is higher than the rate that would apply to any other part of the load.
 - (3) Subclause (1) does not apply—
 - (a) to a person who disposes of waste in accordance with the terms of—
 - (i) a credit arrangement with the local government; or
 - (ii) any other arrangement with the local government to pay the fee or charge at a different time or in a different manner; and
 - (b) to the deposit of waste owned by the local government, or in the possession of an employee on behalf of the local government.
 - (4) All fees and charges applicable under this local law shall be as determined by the local government from time to time in accordance with 6.16 to 6.19 of the Act”.

13. Schedule 1

In Schedule 1, delete the existing table and replace with the following

Item Number.	Clause No.	Nature of offence	Modified Penalties \$
1	7(4)(a) and (b)	Enter the site or any part of the site that is closed; or drive a vehicle on a road, track or path that is closed.	100
2	8	Enter the site other than through an entrance without permission.	100
3	11(1) (a)	Park a vehicle, or cause or permit it to be parked, on the site without permission in a place, other than a parking area, that is off a carriageway.	100
4	11(1)(b)	Park a vehicle, or cause or permit it to be parked, on the site without permission on part of a carriageway, if the parking of vehicles on that part of the carriageway is prohibited by a traffic sign.	100
5	11(1)(c)	Park a vehicle, or cause or permit it to be parked, on the site without permission during a period when the person is not on the site, whether or not the vehicle is parked in a parking area.	100
6	11(1)(d)	Park a vehicle, or cause or permit it to be parked, on the site without permission in a place that is marked with parking bays, unless it is entirely within the confines of a parking bay.	100
7	11(1) (e)	Park a vehicle or vehicles in an area designated for a person or persons with a disability, unless the person or persons with a disability is the driver of, or a passenger in, the vehicle and an disability parking permit is displayed in a prominent position on the vehicle.	100
8	13(2)	Damage, destroy or take away flora without permission.	100
9	14(2)	Injure, take, or interfere with any fauna without permission.	100
10	15(d)	Damage, destroy or take cultural sensitive items	100
11	16(1)	Deposit litter other than in a litter receptacle.	100
12	16(d)	Environmental Contamination, discharge liquids/ rubbish to the environment that cause, or are known to cause contamination to the soil, water and/or air.	100
13	20(a)	Place any notice, advertisement or document on any structure, object or natural surface on the site without permission	100
14	20(b)	Paint, mark or deface any structure, object or natural surface on the site without permission.	100
15	21	Light a fire (minor impact, managed on site) or use a gas barbecue or other cooker without permission.	100
16	21	Light a fire – (significant impact e.g. call of DFES)	100
17	24(1)	Disturb or remove property from the site without permission.	100
18	27A(1) (2)	Fail to comply with a sign or direction	100
19	27B(1) (2)	Disposing waste without payment of fee or charge	100
20	27A(1) (2)	Depositing waste contrary to sign or direction	100

Dated: *17 December 2020*

The Common Seal of the Mindarie Regional Council was affixed by authority of a resolution of the Council in the presence of:

Cr David Boothman, Chairperson

Mr Gunther Hoppe, Chief Executive Officer

Local Government Act 1995
Mindarie Regional Council
Waste Facility Local Law 2020

ARRANGEMENT

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6. Permissions

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Schedule 1 - Prescribed Offences

Local Government Act 1995
Mindarie Regional Council
Waste Facility Site Local Law 2020

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Mindarie Regional Council resolved on 17 December 2020 to make the following local law.

Part 1 — Preliminary

1. Title Citation

This local law is the *Mindarie Regional Council Waste Facility Site Local Law 2020*.

2. Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

3. Principal Local Law Amended

This local law amends the Mindarie Regional Council Waste Facility Site Local Law 2013 as published in the *Government Gazette* on 12 May 2012 and as amended in the *Government Gazette* on 15 March 2013.

4. Interpretations used in this Local Law

In this local law, unless the contrary intention appears —

Act means the *Local Government Act 1995*;

authorised officer means a person authorised by the local government under section 9.10 of the Act, to perform any of the functions under this Local Law;

carriageway has the same meaning as it has in the *Road Traffic Code 2000*;

contamination in relation to land, water or a site, means having a substance present in or on that land, water or site at above background concentrations that presents, or has the potential to present, a risk of harm to human health, the environment or any environmental value.

disability parking permit has the meaning given to it by the *Local Government (Parking for People with Disabilities) Regulations 2014*;

drive has the same meaning as in the *Road Traffic Act 1974*;

emergency vehicle has the same meaning as in the *Road Traffic Code 2000*;

local government means the Mindarie Regional Council;

litter has the same meaning as given in the *Litter Act 1979*;

parking area means an area designated for the parking of vehicles;

permission has the meaning given in clause 6;

protection in relation to the environment, includes conservation, preservation, enhancement and management thereof: *has the same meaning as given in the Environmental Protection Act 1984*;

road has the same meaning as given in the *Road Traffic Act 1974*;

sign includes a traffic sign, inscription, road marking, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles;

site has the meaning given in clause 5;

traffic sign has the meaning given to it by the *Road Traffic Code 2000*;

unattended in relation to a vehicle, means that the driver has left the vehicle so that the driver is more than 3 metres from the closest point of the vehicle:

- (a) restricting or regulating the use of roads, tracks or paths on the site; or
- (b) prohibiting, restricting or regulating the use, standing or parking of vehicles on the site;

vehicle has the same meaning as given in the *Road Traffic Act 1974*.

5. Site

The site is all of the land being Parcel 39285 = Part Lot 9026 on Deposited Plan 415564 as shown on certificate of title 2971/931 known as 1700 Marmion Avenue, Tamala Park, Western Australia.

6. Permissions

- (1) Where a provision of this local law states that an act or activity must not be done or carried on without permission, the reference to permission is to the permission of the local government.
- (2) For the purposes of any such provision, the local government may refuse permission or in the exercise of its power, it may grant permission —
 - (a) generally or for any specific instance; or
 - (b) on and subject to such terms and conditions as it considers appropriate including terms and conditions as to —
 - (i) the part of the site to which the permission applies;
 - (ii) the class or description of persons to whom the permission extends; or
 - (iii) the payment of any fee or charge whether before the act is done or the activity is commenced or otherwise.
- (3) The local government may amend or revoke a permission that has been granted.
- (4) A permission must be in writing and must be obtained before the act is done or the activity is commenced.
- (5) Where a permission has been given to a person subject to any condition, the permission is to be taken to have lapsed during any period when the condition was not observed or performed according to its tenor by that person.

Part 2 — Access to the site

7. Local government may restrict access

- (1) The local government may —
 - (a) close the site or part of the site; or

- (b) close a road, track or path on the site, or
- (c) otherwise restrict access

to pedestrians or vehicles or both for such period as the local government considers fit.

- (2) Where the local government closes any part of the site including a road, track or path on the site, it shall erect signs to give effect to the closure.
- (3) The inscription on a sign erected or established under this clause operates according to its tenor.
- (4) A person must not, without written permission —
 - (a) enter the site or any part of the site that is for the time being closed under this clause; or
 - (b) drive a vehicle on a road, track, bushland or path that is for the time being closed under this clause.

8. Unauthorised entry

A person must not, without written permission, enter or attempt to enter the site except through an entrance provided by the local government for that purpose.

9. Defence

It is a defence for the defendant to prove that the act complained of was necessary to prevent or mitigate injury to a person or damage to property.

Part 3 — Regulation of vehicles

10. Traffic signs and directions

- (1) The local government may erect or establish traffic signs on the site.
- (2) The inscription on a traffic sign operates according to its tenor.
- (3) A person must comply with —
 - (a) the inscription on a traffic sign erected or established under subclause (1); or
 - (b) a signal or direction by an authorised officer as to the use, parking or movement of a vehicle that is addressed to the person and that is reasonably required for the regulation of traffic on the site.

11. Parking

- (1) A person must not, without permission, park a vehicle, or cause or permit it to be parked, on the site —
 - (a) in a place, other than a parking area, that is off a carriageway;
 - (b) on part of a carriageway, if the parking of vehicles on that part of the carriageway is prohibited by a traffic sign;
 - (c) during a period when the person is not on the site, whether or not the vehicle is parked in a parking area;
 - (d) in a place that is marked with parking bays, unless it is entirely within the confines of a parking bay; or
 - (e) in an area designated for the parking of vehicles of people with a disability,

unless —

- (i) a person with a disability is the driver of, or a passenger in the vehicle;
and
 - (ii) a disability parking permit is displayed in a prominent position on the vehicle.
- (2) Any person, who commits a parking offence under this local law is liable, upon conviction, to a penalty not exceeding \$1000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100, for each day or part of a day during which the offence has continued.

12. Emergency vehicles

In an emergency situation a driver of an emergency vehicle may park or stop that emergency vehicle at any place on the site at any time when it is expedient and safe to do so.

Part 4 — Protection of the environment

13. Protection of flora and fungi

- (1) In this clause —
- flora** means any form of plant life including any part, seeds or spores;
 - fungi** means yeast, mould, smuts, mushrooms and toadstools; and
 - take** includes gather, pluck, cut, pull up and dig up.
- (2) A person must not, without written authorisation under another written law, intentionally damage, destroy or take any flora, or fungi living or dead on the site.
- (3) A person must not, without written authorisation, intentionally remove any stake-supporting label on or near;
- (a) protective fencing; or
 - (b) any flora or fungi living or dead on the site.

14. Protection of fauna

- (1) In this clause —
- fauna** means any living thing that is not a human being or a plant and the eggs and immature stages of any such living thing; and
 - take** includes remove, catch, trap and snare.
- (2) A person must not, without written authorisation under any other written law, injure, take, or interfere with any fauna on the site.
- (3) A person must not, without written authorisation under any other written law, intentionally carry or have in the person's possession on the site, a trap, cage, net, or other device for taking or transporting fauna.
- (4) A person must not, without written authorisation under any other written law, intentionally lay or place any trap, net or other device for the taking of fauna on the site.
- (5) A person must not, or without written authorisation under another written law,

intentionally interfere with or destroy any nest or habitat of fauna on the site.

15. Protection of rocks, soil, culture heritage etc.

A person must not, without written authorisation under any other written law —

- (a) intentionally remove, damage, interfere with or mark any rock or other geological material on the site;
- (b) intentionally remove or displace soil on the site;
- (c) intentionally otherwise damage or interfere with the natural surface of the site; or
- (d) intentionally disturb and/or remove cultural significant artefacts from the site.

16. Litter/Environmental spill

(1) A person must not,—

- (a) deposit litter, or cause litter to be deposited, on the site unless the litter is deposited in a litter receptacle;
- (b) deposit litter, or cause litter to be deposited, in a litter receptacle on the site if the litter was not generated on the site; or
- (c) discharge liquids/ rubbish to the environment that cause, or are known to cause contamination to the soil, water and/or air

Part 5 — Control of certain activities

17. Unauthorised structures

(1) In this clause —

structure means a building, tent, shelter, fence or other thing that is fixed permanently or temporarily, to land or to anything that is fixed to land.

(2) A person must not, without permission, erect or place a structure on the site.

18. Unauthorised trading, etc.

A person must not, without written authorisation —

- (a) sell or hire, any goods or services;
- (b) provide any service or conduct any business or activity for fee or reward;
- (c) sell, distribute, or offer or expose for sale or distribute any printed or written material on the site.

19. Commercial photography

A person must not, without permission, take still or motion pictures on the site by photographic or electronic means for —

- (a) the purpose of public display, broadcast or transmission; or
- (b) use in the promotion or sale of goods or services.

20. Unauthorised advertising

A person must not, without written permission —

- (a) place any notice, advertisement or document on any structure, object or

natural surface on the site;

- (b) paint, mark or deface any structure, object or natural surface on the site.
- (c) cause any of the acts prohibited by paragraph (a) or (b) to be done by another person.

21. Lighting fires etc.

- (1) A person must not, without written permission —
 - (a) light a fire; or
 - (b) use a gas barbecue or other cooker, on the site.

22. Explosive devices

A person must not, without written permission, possess, throw, set off or ignite a firework, sparkler or other explosive device on the site.

23. Camping

- (1) In this clause —
camp means to stay or lodge, whether in a tent, temporary shelter, vehicle or otherwise.
- (2) A person must not camp on the site without written authorisation.

24. Unauthorised removal of property

- (1) A person must not remove or disturb any property on the site without written authorisation.
- (2) Subclause (1) does not apply to the owner of the property or to any person legally entitled to possession of the property.

Part 6—Enforcement

25. Offences

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$1000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100, for each day or part of a day during which the offence has continued.

26. Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

Part 7—Waste Disposal Services

27. Hours of operation

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

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.

27B. Fees and charges

- (1) A person must, on or before entering a waste facility or on demand by the local government or an authorised person, pay the fee or charge as assessed by an authorised person.
 - (2) An authorised person may assess the fee or charge in respect of a particular load of waste at a rate that applies to any part of that load, even if that rate is higher than the rate that would apply to any other part of the load.
 - (3) Subclause (1) does not apply—
 - (a) to a person who disposes of waste in accordance with the terms of—
 - (i) a credit arrangement with the local government; or
 - (ii) any other arrangement with the local government to pay the fee or charge at a different time or in a different manner; and
 - (b) to the deposit of waste owned by the local government, or in the possession of an employee on behalf of the local government.
 - (4) All fees and charges applicable under this local law shall be as determined by the local government from time to time in accordance with 6.16 to 6.19 of the Act.
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Schedule 1**Prescribed Offences**

[clause 26]

Modified Penalties

Item Number.	Clause No.	Nature of offence	Modified Penalties \$
1	7(4)(a) and (b)	Enter the site or any part of the site that is closed; or drive a vehicle on a road, track or path that is closed.	100
2	8	Enter the site other than through an entrance without permission.	100
3	11(1) (a)	Park a vehicle, or cause or permit it to be parked, on the site without permission in a place, other than a parking area, that is off a carriageway.	100
4	11(1)(b)	Park a vehicle, or cause or permit it to be parked, on the site without permission on part of a carriageway, if the parking of vehicles on that part of the carriageway is prohibited by a traffic sign.	100
5	11(1)(c)	Park a vehicle, or cause or permit it to be parked, on the site without permission during a period when the person is not on the site, whether or not the vehicle is parked in a parking area.	100
6	11(1)(d)	Park a vehicle, or cause or permit it to be parked, on the site without permission in a place that is marked with parking bays, unless it is entirely within the confines of a parking bay.	100
7	11(1) (e)	Park a vehicle or vehicles in an area designated for a person or persons with a disability, unless the person or persons with a disability is the driver of, or a passenger in, the vehicle and a disability parking permit is displayed in a prominent position on the vehicle.	100
8	13(2)	Damage, destroy or take away flora without permission.	100
9	14(2)	Injure, take, or interfere with any fauna without permission.	100
10	15(d)	Damage, destroy or take cultural sensitive items	100
11	16(1)	Deposit litter other than in a litter receptacle.	100
12	16(d)	Environmental Contamination, discharge liquids/ rubbish to the environment that cause, or are known to cause contamination to the soil, water and/or air.	100
13	20(a)	Place any notice, advertisement or document on any structure, object or natural surface on the site without permission	100
14	20(b)	Paint, mark or deface any structure, object or natural surface on the site without permission.	100
15	21	Light a fire (minor impact, managed on site) or use a gas barbecue or other cooker without permission.	100
16	21	Light a fire – (significant impact e.g. call of DFES)	100
17	24(1)	Disturb or remove property from the site without permission.	100

18	27A(1) (2)	Fail to comply with a sign or direction	100
19	27B(1) (2)	Disposing waste without payment of fee or charge	100
20	27A(1) (2)	Depositing waste contrary to sign or direction	100

Dated 17 December 2020

THE COMMON SEAL of MINDARIE)
REGIONAL COUNCIL was)
affixed pursuant to a resolution of the)
Council in the presence of—

David Boothman
Chairperson

Günther Hoppe
Chief Executive Officer