

# Agenda

## Waste Credit Governance Committee

**Monday, 23 February 2015, 10.00 am**  
**County Hall, Worcester**

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اردو۔ اگر آپ اس دستاویز کی مشمولات کو سمجھنے سے قاصر ہیں اور کسی ایسے شخص تک آپ کی رسائی نہیں ہے جو آپ کے لئے اس کا ترجمہ کر سکے تو، براہ کرم مدد کے لئے 01905 765765 پر رابطہ کریں۔ (Urdu)

کردی سۆزانی. ننگر ناتوانی تێبگدی له نامۆزۆکی ندم بێلگهیه و دستت به ههچ کس ناگات که و بیهێگریتوه بۆت، تکایه تهلپۆن بکه بۆ ژماره 01905 765765 و داوا ی رهنۆینی بکه. (Kurdish)

ਪੰਜਾਬੀ। ਜੇ ਤੁਸੀਂ ਇਸ ਦਸਤਾਵੇਜ਼ ਦਾ ਮਸ਼ਹੂਰ ਸਮਝ ਨਹੀਂ ਸਕਦੇ ਅਤੇ ਕਿਸੇ ਅਜਿਹੇ ਵਿਅਕਤੀ ਤੱਕ ਪਹੁੰਚ ਨਹੀਂ ਹੈ, ਜੋ ਇਸਦਾ ਤੁਹਾਡੇ ਲਈ ਅਨੁਵਾਦ ਕਰ ਸਕੇ, ਤਾਂ ਕਿਰਪਾ ਕਰਕੇ ਮਦਦ ਲਈ 01905 765765 'ਤੇ ਫ਼ੋਨ ਕਰੋ। (Punjabi)

## DISCLOSING INTERESTS

There are now 2 types of interests:  
**'Disclosable pecuniary interests'** and **'other disclosable interests'**

### WHAT IS A 'DISCLOSABLE PECUNIARY INTEREST' (DPI)?

- Any **employment**, office, trade or vocation carried on for profit or gain
- **Sponsorship** by a 3<sup>rd</sup> party of your member or election expenses
- Any **contract** for goods, services or works between the Council and you, a firm where you are a partner/director, or company in which you hold shares
- Interests in **land** in Worcestershire (including licence to occupy for a month or longer)
- **Shares** etc (with either a total nominal value above £25,000 or 1% of the total issued share capital) in companies with a place of business or land in Worcestershire.

**NB Your DPIs include the interests of your spouse/partner as well as you**

### WHAT MUST I DO WITH A DPI?

- **Register** it within 28 days and
- **Declare** it where you have a DPI in a matter at a particular meeting
  - you must **not participate** and you **must withdraw**.

**NB It is a criminal offence to participate in matters in which you have a DPI**

### WHAT ABOUT 'OTHER DISCLOSABLE INTERESTS'?

- No need to register them but
- You must **declare** them at a particular meeting where:  
You/your family/person or body with whom you are associated have a **pecuniary interest** in or **close connection** with the matter under discussion.

### WHAT ABOUT MEMBERSHIP OF ANOTHER AUTHORITY OR PUBLIC BODY?

You will not normally even need to declare this as an interest. The only exception is where the conflict of interest is so significant it is seen as likely to prejudice your judgement of the public interest.

### DO I HAVE TO WITHDRAW IF I HAVE A DISCLOSABLE INTEREST WHICH ISN'T A DPI?

Not normally. You must withdraw only if it:

- affects your **pecuniary interests OR** relates to a **planning or regulatory** matter
- **AND** it is seen as likely to **prejudice your judgement** of the public interest.

### DON'T FORGET

- If you have a disclosable interest at a meeting you must **disclose both its existence and nature** – 'as noted/recorded' is insufficient
- **Declarations must relate to specific business** on the agenda
  - General scattergun declarations are not needed and achieve little
- Breaches of most of the **DPI provisions** are now **criminal offences** which may be referred to the police which can on conviction by a court lead to fines up to £5,000 and disqualification up to 5 years
- Formal **dispensation** in respect of interests can be sought in appropriate cases.

**Waste Credit Governance Committee**  
**Monday, 23 February 2015, 10.00 am, County Hall, Worcester**

**Membership:** Mr W P Gretton (Chairman), Mr L C R Mallett (Vice Chairman),  
Mr R C Adams, Mrs S Askin, Mr M L Bayliss, Mr M H Broomfield,  
Mr P Denham, Mr J W Parish and Mr P A Tuthill

**Agenda**

Item No	Subject	Page No
1	<b>Named Substitutes</b>	
2	<b>Apologies/Declarations of Interest</b>	
3	<b>Public Participation</b> Members of the public wishing to take part should notify the Head of Legal and Democratic Services in writing or by email indicating the nature and content of their proposed participation no later than 9.00am on the working day before the meeting (in this case 20 February 2015). Further details are available on the Council's website. Enquiries can be made through the telephone number/e-mail below.	
4	<b>Confirmation of Minutes</b> To confirm the Minutes of the meeting held on 15 December 2014. (previously circulated)	
5	<b>Progress update from financial advisors</b> Report to follow.	
6	<b>Progress update from technical advisors</b>	1 - 6
7	<b>Risk Register</b>	7 - 12
8	<b>Waivers granted</b> A verbal update will be provided at the meeting.	

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To obtain further information or a copy of this agenda contact Simon Lewis, Committee Officer on 01905 766621, slewis@worcestershire.gov.uk

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Date of Issue: Friday, 13 February 2015

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**Waste Credit Governance Committee**  
**23 February 2015****6. PROGRESS SUMMARY FROM TECHNICAL ADVISORS****Recommendation**

1. **The Chief Financial Officer recommends that the summary report from Fichtner Consulting Engineers – Technical Advisors be noted.**

**Introduction**

2. As set out in its Terms of Reference, the Committee will be advised by external financial, technical and legal advisers on behalf of the Council's s151 officer.
3. Fichtner Consulting Engineers have been appointed as technical advisor to the lender during the construction phase of the Energy from Waste plant. The company has produced a summary report up to the end of January 2015 for consideration by the Committee and this is attached as an Appendix.

**Supporting information**

- Appendix – Summary reports from Fichtner Consulting Engineers – up to the end of January 2015

**Contact Points****County Council Contact Points**

Worcester (01905) 763763, Kidderminster (01562) 822511 or  
Minicom: Worcester (01905) 766399

**Specific Contact Points for this Report**

Sean Pearce – Chief Financial Officer  
01905 766268. [spearce@worcestershire.gov.uk](mailto:spearce@worcestershire.gov.uk)

**Background Papers**

In the opinion of the proper officer (in this case the Chief Financial Officer) there are no background papers relating to this report.

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# MEMORANDUM

<b>To:</b>	Mark Forrester	<b>Organisation:</b>	Worcestershire County Council
<b>cc:</b>	Simon Lewis	<b>Organisation:</b>	Worcestershire County Council
<b>From:</b>	Lekan Omoniwa	<b>Our Ref:</b>	S1291-2300-0001LO
<b>Date:</b>	11-02-2015	<b>No. of Pages:</b>	3
<b>Subject:</b>	Mercia LTA Construction Progress Summary – January 2015		

Dear Mark,

## 1 INTRODUCTION

Mercia Waste Management Limited ("Mercia") is constructing the 200,000 tonnes/year, 18 MWe Mercia EnviRecover EfW Plant in Kidderminster, Worcestershire. Fichtner Consulting Engineers Ltd (Fichtner) has been appointed as lender's technical advisor (LTA) for the construction phase of the plant. This summary memo covers relevant activities and progress based on review of latest available reports from the Owner's Engineer (OE) and Mercia (covering 1<sup>st</sup> – 30<sup>th</sup> November 2014), and from the EPC Contractor (HZI) (covering 1<sup>st</sup> December 2014 to end of January 2015).

## 2 PROJECT PROGRESS

The new site welfare/office compound has been completed and is now occupied by the workforce. The waste bunker piling work has been completed. Installation of piles for the perimeter secant wall and load bearing piles for the boiler hall has been completed. Phase 3 bulk excavation works have been completed, while phase 4 is ongoing. See the attached site photos taken on 5<sup>th</sup> January 2015.

HZI has been submitting civil and process design documents to the OE for review, comment and/or approval. HZI has been placing orders for major subcontractor packages within this period.

A new revision of the construction Programme which complies with the contract specification was submitted by HZI and was accepted as the Approved Programme on 28<sup>th</sup> November 2014.

At present the plant is due for Take Over on 28<sup>th</sup> February 2017. However, HZI is targeting early completion by 22<sup>nd</sup> December 2016.

## 3 KEY PROJECT RISKS AND OBSERVATIONS

HZI has indicated that it anticipates that there will be a delay of more than 4 weeks to the civil hand over date, due to delays caused by its civil subcontractor, Interserve. HZI is working to mitigate the impact of this delay and has in turn revised its target early completion date from 16<sup>th</sup> November 2016 to 22<sup>nd</sup> December 2016. We consider that while it is possible that the target early completion date may slip, the contractual Take Over date still remains achievable.

A number of changes have been made to the permitted planning drawings, which will require the approval of the Local Planning Authority (LPA). Mercia indicated that it expects these changes to be approved as non-material amendments (section 96A) to the Planning Consent. The OE has advised that the majority of the proposed amendments have been informally discussed with the LPA, and feedback from these discussions indicates that the proposed amendments are likely to be accepted as non-material. This means that they can be signed-off by the LPA using its delegated powers. HZI has indicated that it issued the proposed amendment drawings to Mercia on 17<sup>th</sup> January 2015, and that Mercia is targeting submission of the amendment application to the LPA by end of February 2015.

We note that it is not guaranteed that the proposed amendments will be accepted as non-material amendments, and it remains a significant risk to the project that the revised drawings have not yet been submitted or approved by the LPA.

#### 4 FINANCIAL AND COMMERCIAL

Mercia advised that it has made payments for one process milestone (equivalent to 5.5% of the total process element cost) and two civil milestones (equivalent to 6% of the total civil element cost) to date. Due to various delays, six milestones payments are currently outstanding because HZI did not achieve those milestones in line with their original due dates. The due dates have now been revised in accordance with current progress and expectations. Since the start of the project, we have not certified any drawdown requests on the senior loan.

Mercia has advised that it has not received any claim for additional payment from HZI.

Mercia has indicated that 13 Variation orders have been issued against Technical Queries which led to changes to the Specification as at 30<sup>th</sup> November 2014, and only two of these resulted in an adjustment and reduction to the contract price.

Mercia noted that that it has instructed HZI to provide proposals for installation of a redundant pneumatic transport system and application of inconel cladding material in specific plant areas. Mercia noted that these proposed changes will be treated as cost Variations which will be subject to the approval of Mercia's shareholders.

#### 5 HEALTH AND SAFETY

There has been no Reporting of Injuries, Diseases and Dangerous Occurrences (RIDDOR) incidents since the start of construction.

During this period, HZI reported that a steel fixing operative sustained a "back injury when bending and twisting to pick up a piece of paper". This resulted in 2 days of absence. HZI noted that no manual handling was involved and the incident report has been closed.

The first hazard and operability (HAZOP) session was held on 27<sup>th</sup> and 28<sup>th</sup> January 2015.

#### 6 PLANNED ACTIVITIES NEXT PERIOD

At present the following activities are planned from February 2015 onwards:

- complete construction of perimeter retaining wall;
- commence reinforced concrete works for some of the plant areas;
- commence construction of access ramp works;
- complete installation of remaining diversion pipework
- re-direct flows from ground water discharge and construct silt trap; and
- procurement of formwork, reinforcement and concrete for bunker superstructure, curtail walling, lifts, building services, earthing and lightning protection, fire sprinkler systems, and pre-cast concrete.

Yours sincerely  
FICHTNER Consulting Engineers Limited

**Lekan Omoniwa**  
Consultant

**Kerry Booth**  
Consultant



Site photos



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**Waste Credit Governance Committee**  
**23 February 2015****7. RISK REGISTER****Recommendation**

1. **The Chief Financial Officer recommends that the unmitigated and mitigated risks set out in the Risk Register be considered.**

**Introduction**

2. As set out in its Terms of Reference, the Committee will need to review the risks being borne as a result of the funding provided by the Council to Mercia and consider whether the risks being borne by the Council, as lender, are reasonable and appropriate having regard to the risks typically assumed by long term senior funders to waste projects in the United Kingdom and best banking practice.

3. A Risk Register has been established which sets out the unmitigated and mitigated risks associated with the loan arrangements.

4. Members will recall that at the meeting of the Committee on 15 December 2014, it was agreed that a report on the Risk Register would be brought to each meeting of the Committee. An updated version of the Risk Register has therefore been produced and is attached as Appendix 1. Members are asked to consider the risks set out in the Register.

5. The Risk Register was previously considered by the Committee at a project level and has now been updated to the corporate scoring terms.

6. A copy of the Mercia Waste Loan Facility Drawdown Analysis is attached as Appendix 2.

**Supporting information**

- Appendix 1 – Risk Register
- Appendix 2 - Mercia Waste Loan Facility Drawdown Analysis

**Contact Points****County Council Contact Points**

Sean Pearce – Chief Financial Officer  
01905 766268. [spearce@worcestershire.gov.uk](mailto:spearce@worcestershire.gov.uk)

**Background Papers**

In the opinion of the proper officer (in this case the Chief Financial Officer) the following are no background papers relating to this report:

Agenda papers and Minutes of the meeting of the Waste Credit Governance Committee held on 15 December 2014.

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# Waste Credit Committee Risk Register

## February 2015 - Adjusted to Corporate Scoring Terms

Risk Reference	Description of risk	Gross Impact	Gross Likelihood	Gross Risk Score	Risk control approach	Mitigating Actions	Residual Impact	Residual Likelihood	Residual Risk Score	Assigned to (Risk Owners)
a	Default of loan repayments by borrower to lenders due to SPV (Mercia) or HZI falling into administration.	Critical	Medium	15	Risk transferred	Due to the security package negotiated by the Councils a fall away analysis indicated that Mercia, its Shareholders and HZI would need to enter administration at the same time to put at repayment at risk during the construction phase. The maximum exposure to the Councils has been calculated and included within the sufficiency assessment of the Council's reserves. All press articles are scanned regularly for indications of financial strength issues and followed up to ensure counterparty risk is not increased.	Substantial	Very Low	6	The risk owners are the Section 151 Officers of each Council supported by Ashurst as advisors in case of contract default and Deloitte to monitor Mercia's actual quarterly cash flow tests and cover ratios that have to be maintained by Mercia.
b	Construction completion date of EFW is delayed and delays repayment of loan to lenders.	Substantial	Medium	11	Risk transferred	Under the contract terms agreed with Mercia, Mercia take all material risk on EFW construction delay and repayment of loan will commence around February 2017, as set out in the SLFLA and agreed final financial model. Repayments are not tied to the actual construction completion date, rather the planned date. The Council as lender has the right to call the loan into default if construction is not completed by a long stop date. The Lender's Technical Advisor has confirmed that the Planned Takeover Date is still achievable	Substantial	Very Low	6	The risk owners are the Section 151 Officers of each Council supported by Ashurst as advisors in case of contract default.
c	PWLB borrowing rates increase more than estimated in the Councils' prudential borrowing model. Higher rates would reduce the surplus generated on the loan arrangements with Mercia.	Substantial	Low	10	Risk treated	The cost of purchasing a financial product to remove this risk (a swaption) from an investment bank was quoted at £20m. The Councils decided to manage the risk through forecasting the forward price for its debt draw downs over the construction period and hold in reserve monies to mitigate this risk where required. Currently the rates accessible by the Councils are lower than this estimate as the continued low gilt rate environment pervades.	Substantial	Very Low	6	The risk owners are the Section 151 Officers supported by Treasury and Financing Teams.
d	Loan drawdowns are slower than set out in the STFLA. Delayed drawdowns would result in reduced interest payments to the Councils and potentially reduced surplus if PWLB loan rates increase between the expected draw date and actual.	Negligible	Medium	4	Risk treated	The Councils plan to borrow from PWLB at dates inline with drawdown requests from Mercia. Therefore although the Councils would receive reduced interest receipts, less interest would also be paid to PWLB. The Councils are monitoring market gilt rates actively and have the option to borrow from PWLB up to a year in advance of expected drawdown requests. Regular progress reports are being reviewed to ensure the construction programme and the loan drawdowns are requested in line with the plan	Negligible	Very Low	2	The risk owners are the Section 151 Officers supported by Treasury and Financing Teams.
e	Drawdown requests from Mercia are not actioned by the Councils or not actioned within the required contracted time period.	Substantial	Low	10	Risk treated	The Council's treasury teams have been fully briefed on the actions required to fulfil drawdown requests, checks required and the contracted timeline by the Section 151 Officer and their teams. Drawdowns to date have been actioned inline with requirements. Since the last Committee, one further drawdown has been provided and there is a separate analysis available for the Committee outlining planned vs actual drawdowns made to date.	Substantial	Very Low	6	The risk owners are the Section 151 Officers supported by Treasury and Financing Teams.
f	Mercia loan principal and / or interest repayments are below the required values as per the rates agreed in the STFLA.	Substantial	Very Low	6	Risk treated	The Council's treasury team maintain a spreadsheet detailing drawdowns to date and expected future principal and interest payments. This is reconciled to Mercia's repayment spreadsheet and will be matched to principal and interest repayments received from Mercia during the post construction period.	Substantial	Almost Impossible	5	The risk owners are the Section 151 Officers supported by Treasury and Financing Teams.

### Key

High 19 – 24	Unacceptable Risk: Immediate control/improvement required
Medium 8 – 18	Acceptable Risk: Close monitoring and cost effective control improvements sought.
Low 1 – 7	Acceptable Risk: Need periodic review, low cost control improvements sought if possible.

### Scoring Matrix

Likelihood	Impact			
Very High	9	19	21	24
High	8	12	20	23
Medium	4	11	15	22
Low	3	10	14	18
Very Low	2	6	13	17
Almost Impossible	1	5	7	16
	Negligible	Substantial	Critical	Extreme

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LOAN DRAWDOWNS

**Mercia Waste Loan Facility Drawdown Analysis**

**February 2015**

<u>Key</u>	
	Planned drawdown paid to Mercia
	Planned drawdown overdue

Planned Drawdown Date	Planned Facility A Loan Drawdown (£)	Planned Drawdown Date	Planned Facility B Loan Drawdown (£)	Planned Total	Actual Drawdowns	Actual WCC share	Actual Drawdown Dates
	£		£	£	£	£	
22-May-14	3,437,681	22-Apr-14	12,418,893	15,856,574	15,858,574	12,020,799	Drawdown 21/05/2015
31-May-14	1,138,388	31-May-14	4,112,516	5,250,904	5,250,904	3,980,185	Drawdown 05/06/2015
30-Jun-14	-	30-Jun-14	-				
31-Jul-14	-	31-Jul-14	-				
31-Aug-14	471,567	31-Aug-14	1,703,572	2,175,139			
30-Sep-14	284,368	30-Sep-14	1,027,302	1,311,670			
31-Oct-14	-	31-Oct-14	-				
30-Nov-14	956,758	30-Nov-14	3,456,362	4,413,120	7,899,929	5,988,146	Drawdown 11/02/2015
31-Dec-14	1,462,041	31-Dec-14	5,281,740	6,743,781			
31-Jan-15	425,251	31-Jan-15	1,536,253	1,961,504			
28-Feb-15	488,132	28-Feb-15	1,763,415	2,251,547			
31-Mar-15	922,698	31-Mar-15	3,333,319	4,256,017			
30-Apr-15	2,366,620	30-Apr-15	8,549,600	10,916,220			
31-May-15	2,400,673	31-May-15	8,672,622	11,073,295			
30-Jun-15	1,029,449	30-Jun-15	3,718,966	4,748,415			
31-Jul-15	1,315,749	31-Jul-15	4,753,246	6,068,995			
31-Aug-15	908,118	31-Aug-15	3,280,647	4,188,765			
30-Sep-15	1,209,552	30-Sep-15	4,369,603	5,579,155			
31-Oct-15	1,511,878	31-Oct-15	5,461,779	6,973,657			
30-Nov-15	1,550,833	30-Nov-15	5,602,507	7,153,340			
31-Dec-15	1,466,965	31-Dec-15	5,299,526	6,766,491			
31-Jan-16	567,125	31-Jan-16	2,048,785	2,615,910			
29-Feb-16	1,094,791	29-Feb-16	3,955,019	5,049,810			
31-Mar-16	1,021,353	31-Mar-16	3,689,717	4,711,070			
30-Apr-16	1,475,647	30-Apr-16	5,330,890	6,806,537			
31-May-16	1,197,470	31-May-16	4,325,954	5,523,424			
30-Jun-16	147,926	30-Jun-16	534,393	682,319			
31-Jul-16	139,033	31-Jul-16	502,267	641,300			
31-Aug-16	536,246	31-Aug-16	1,937,231	2,473,477			
30-Sep-16	586,749	30-Sep-16	2,119,676	2,706,425			
31-Oct-16	347,437	31-Oct-16	1,255,142	1,602,579			
30-Nov-16	166,670	30-Nov-16	602,109	768,779			
31-Dec-16	456,064	31-Dec-16	1,647,566	2,103,630			
31-Jan-17	1,002,431	31-Jan-17	3,621,359	4,623,790			
28-Feb-17	3,359,702	28-Feb-17	12,137,189	15,496,891			
<b>Total</b>	<b>35,445,365</b>	<b>Total</b>	<b>128,049,165</b>	<b>163,494,530</b>	<b>29,009,407</b>	<b>21,989,131</b>	

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