



Ordinary Meeting of the 39th Council

24 March 2020

# LATE REPORTS

## **Our Vision, Mission and Values**

### **Vision**

The City of Stirling will be a place where people choose to live, work, visit and invest. We will have safe and thriving neighbourhoods with a range of housing, employment and recreational opportunities. We will engage with our diverse community to help shape our future into the City of Stirling – City of Choice.

### **Mission**

To serve the City's diverse community through delivering efficient, responsive and sustainable services

### **Values**

The City of Stirling's core values are:-

- Integrity
- Community Participation
- Accountability
- Respect
- Environment
- Diversity

### **Disclaimer**

Members of the public should note that in any discussion regarding any planning or other application that any statement or intimation of approval made by any member or officer of the City during the course of any meeting is not intended to be and is not to be taken as notice of approval from the City. No action should be taken on any item discussed at a Council meeting prior to written advice on the resolution of the Council being received.

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## 17. NEW BUSINESS OF AN URGENT NATURE

### 17.1 CORONAVIRUS (COVID-19) - GRANTING EMERGENCY POWERS TO CHIEF EXECUTIVE OFFICER

#### Report Information

Location:	Not Applicable
Applicant:	Not Applicable
Reporting Officer:	Manager Governance
Business Unit:	Governance
Ward:	City Wide
Suburb:	City Wide

#### Authority/Discretion

##### Definition

- Advocacy *when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive *the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative *includes adopting local laws, town planning schemes and policies. It is also when Council reviews decisions made by Officers.*
- Quasi-Judicial *when Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*
- Information Purposes *includes items provided to Council for information purposes only, that do not require a decision of Council (i.e. - for 'noting').*

## Recommendation

1. That Council **NOTES** that as a result of the COVID-19 situation, it is necessary to ensure that the City can deliver effective operations and support to the community, organisations in the community, businesses and stakeholders.
2. That Council **NOTES** that the Mayor has power to declare an emergency to authorise expenditure outside of budget subject to compliance with the *Local Government Act 1995*.
3. That Council **DELEGATES** to the Chief Executive Officer all of the powers of the local government under the *Local Government Act 1995* capable of delegation which are not currently delegated to the Chief Executive Officer subject to the following conditions and limitations on the exercise of this power (“this LG Delegation”):-
  - a. The Chief Executive Officer is to have due regard to Council’s Policies before exercising this LG Delegation;
  - b. The Chief Executive Officer is to obtain the consent of the Mayor before exercising any power provided by this LG Delegation;
  - c. A report is to be presented to Council once a month detailing the circumstances in which the Chief Executive Officer has exercised any power provided by this LG Delegation;
  - d. This LG Delegation remains in place until Council resolves otherwise; and
  - e. This LG Delegation does not permit the Chief Executive Officer to buy or sell freehold property.
4. That Council **AUTHORISES** the Chief Executive Officer to enter into any contract and execute any document on behalf of the City in accordance with Part 9 of the *Local Government Act 1995*.
5. That Council **SETS** the limit on tenders. For the purpose of Section 5.43(b) of the *Local Government Act 1995* under this Delegation, the limit is:-
  - a. \$5 million for tenders funded by the City, State or Commonwealth Governments or other external bodies; and
  - b. to be used in exceptional circumstances only where Council approval is unable to be obtained in order to achieve the purpose of the tender.
6. That Council **DELEGATES** to the Chief Executive Officer all of the powers of the local government under the *Planning and Development Act 2005* and *Building Act 2011* capable of delegation which are not currently delegated to the Chief Executive Officer subject to the following conditions and limitations on the exercise of this power (“this Development Delegation”):-
  - a. This Development Delegation is limited to exercising powers in relation to projects to provide economic stimulus, community support, crisis response and recovery;

- b. **The Chief Executive Officer is to have due regard to Council's Policies and Planning Policies before exercising this Development Delegation;**
- c. **The Chief Executive Officer is to obtain the consent of the Mayor before exercising any power provided by this Development Delegation;**
- d. **A report is to be presented to Council once a month detailing the circumstances in which the Chief Executive Officer has exercised any power provided by this Development Delegation; and**
- e. **This Development Delegation remains in place until Council resolves otherwise.**

**NOTE: A reference to an Act in the above delegation includes all regulations and local laws made under that Act.**

**NB: ABSOLUTE MAJORITY REQUIRED VOTE REQUIRED**

### **Report Purpose**

To provide the Chief Executive Officer (CEO) with delegated authority to take appropriate action to ensure that the City can deliver effective operations and support to the community, organisations in the community, businesses and stakeholders during this COVID-19 situation.

### **Relevant Documents**

#### Attachments

Nil.

#### Available for viewing at the meeting

Nil.

### **Background**

On 11 March 2020, the World Health Organisation declared Coronavirus (COVID-19) as a pandemic. The COVID-19 Coronavirus is gradually having a global impact and is beginning to have a significant impact in Australia.

On Friday 20 March 2020, the National Cabinet met and discussed further measures in response to the COVID-19 pandemic.

The Government of Western Australia has declared a State of Emergency and a Public Health Emergency in response to COVID-19.

The Minister for Local Government has indicated that local government has a key role to play to reduce the spread of COVID-19, support community wellbeing, deliver emergency responses, implement stimulus projects and drive community recovery.

## Comment

As the Australian Government continues to closely monitor the emerging situation of COVID-19, the City will adhere to the governments' advice to protect the welfare of its residents, employees and families. To ensure the community is informed about how the City is responding to the rapidly evolving Coronavirus outbreak, the City has a dedicated Coronavirus Update web page: [www.stirling.wa.gov.au/update](http://www.stirling.wa.gov.au/update).

The risks and spread of the virus are escalating daily. The COVID-19 virus is beginning to have a significant impact on Australia, and in the future will begin to impact on the City and its operations and services.

Responding to the impacts of the virus will require timely actions and responses, with little or no time to hold formal Council Meetings.

Examples of actions that may need to be taken include:-

- Implementing stimulus projects on behalf of State and Commonwealth Governments.
- Starting and stopping City services.
- Entering into new contracts.
- Providing relief to local businesses.
- Providing recovery services in the community.
- Supporting the urgent implementation of stimulus projects.

There are significant powers recommended for this delegation including:-

- The ability to approve large tenders to enable the quick implementation of stimulus projects where Council approval is not able to be obtained.
- The ability to approve developments necessary for the implementation of stimulus projects.
- The ability to exercise all of the powers of the local government for the continued operations of the City.

There are prudent conditions and limitations on the exercise of these powers including obtaining the Mayor's consent in advance and providing monthly reports to Council on the exercise of the powers.

## Consultation/Communication Implications

Nil.

## Policy and Legislative Implications

*Local Government Act 1995 and Planning and Development Act 2005*

Section 5.42 refers to delegation of some powers and duties to CEO, where a local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties including under *Planning and Development Act 2005*.

Section 5.43 provides limits on the delegation of powers which include the following:-

- (a) any power or duty that requires a decision of an absolute majority of the council;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor, and matters relating to the receipt of audits;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;
- (h) any power or duty that requires the approval of the Minister or the Governor;
- (i) selecting, appointing and performance managing a CEO.

Section 6.8(b) and (c) provide for expenditure not contained within the City's budget to be incurred in an emergency by authorisation of Council or the Mayor.

#### *Building Act 2011*

Section 127 of the *Building Act 2011* allows Council to delegate to the CEO powers of the local government under the *Building Act 2011*.

### **Financial Implications**

The COVID-19 situation will have significant ongoing financial implications for the City. Providing the CEO with the ability to respond promptly to emerging issues may limit the City's exposure to financial implications.

### **Strategic Implications**

**Governance:** Making it happen

**Outcome G1:** Good governance

### **Sustainability Implications**

The following tables outline the applicable sustainability issues for this proposal:-

<b>ENVIRONMENTAL</b>	
<b>Issue</b>	<b>Comment</b>
Nil.	

<b>SOCIAL</b>	
<b>Issue</b>	<b>Comment</b>
Health, wellbeing and safety	Giving the CEO Delegate Authority to take action will ensure that the City is making a timely response to the threat of COVID-19.

<b>ECONOMIC</b>	
<b>Issue</b>	<b>Comment</b>
Job creation	Giving the CEO Delegate Authority to take action will ensure that the City is making a timely response to the economic risks of COVID-19.

### **Conclusion**

The Coronavirus (COVID-19) has been declared a pandemic. The threat of the virus is escalating and beginning to have a significant impact in Australia. Giving the CEO Delegated Authority will ensure the City is taking appropriate timely action to deliver effective operations and support to the community, organisations in the community, businesses and stakeholders.

## 17.2 BUSINESS SUPPORT INITIATIVE - REDUCTION / REFUND OF VERGE AND STREET TREE BONDS

### Report Information

Location:	City Wide
Applicant:	Not Applicable
Reporting Officer:	Manager City Planning
Business Unit:	City Planning
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#### Definition

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- Information Purposes *includes items provided to Council for information purposes only, that do not require a decision of Council (i.e. - for 'noting').*

### Recommendation

1. That Council **REDUCES** the Verge Bond charge to \$500 for a six month period commencing from the date advertised to the public.
2. That Council **WAIVES** the Verge Permit charge for a six month period commencing from the date advertised to the public.
3. That Council **APPROVES** the release of existing Verge Bond as detailed in the report.

## Report Purpose

To highlight potential a short-term measure that could be enacted to assist small business during the current COVID-19 health crisis that is impacting the ability of many small businesses to operate.

## Relevant Documents

### Attachments

Nil.

### Available for viewing at the meeting

Nil.

## Background

Small Business makes up 97% of the City of Stirling business community. The City is providing the local business community with information on support available from the State and Federal Government. In addition, a 'buy local' campaign is being run to encourage residents to continue to use local businesses during the current health crisis. The City is also promoting various online training being offered through the Stirling Business Association and the Small Business Development Corporation.

This report highlights an opportunity for the City to provide some practical support to businesses by refunding and reducing Verge Bonds and waiving verge permit fees for a six month period.

## Comment

In seeking options to support business, the City's list of fees and charges was reviewed. The Verge and Tree Bonds, along with the verge permit fees, represent an opportunity to assist business and put cash back into the businesses and property owners that have paid these bonds at a time when it is most needed.

The fees and charges that are the subject of this report are set out below:-

<b>Fee or Bond</b>	<b>Amount</b>
Verge Permit	\$200
Verge Bond	\$1,500
Street Tree Bond	\$1,500 to \$8,500

The City introduced the verge permits and verge/tree bonds to control activity during construction by builders on City verges, and to provide a mechanism to charge builders for any damage they cause to verge infrastructure assets and street trees.

Prior to the introduction of the street tree bond in 2016, approximately 100 mostly mature street trees were removed or severely damaged through the development process each year. Street trees were not regularly inspected as part of the development process. Around the same time as the street tree bond was introduced, Council also introduced requirements for barriers to be used to protect street trees during development. The incidence of accidental and careless damage or removal of street trees has reduced significantly in the subsequent five years.

60% of bonds are paid by the business and 40% by the property owner. Over the past 12 months, the City refunded 94% of all bonds in full, indicating that the majority of builders complete works to the satisfaction of the City. None of the money retained from these bonds related to street tree bonds; the City has not retained any street tree bonds.

The combination of verge and tree bonds is currently capped at \$10,000 for any one property. This is a significant amount that the builder or property owner must tie up in order to obtain the relevant approval.

The value of the street trees protected by the tree bond is on average \$6,700 per tree, and up to \$30,000+ for special significant trees of cultural, historic and or arboricultural uniqueness.

Feedback from the Verge and Crossover Team indicates that the amount of bond payable is an issue, especially with small businesses and the impact of this on cashflow. In addition, the team reports that since tree bonds have been enforced and new methods of working have been adopted by builders to protect trees, there have been no instances where a bond has been retained by the City for damage to a tree.

Given this background, there is an opportunity to reduce the charges to allow builders and property owners to retain more of their own funds for cashflow purposes. Reducing verge permit charges would come at a cost of \$96,000 to the City assuming the charge is waived for a period of six months.

Retaining the bonds is required to maintain an effective compliance relationship and the current level of behaviour by builders. The City could, however, reduce Verge Bonds from \$1,500 to \$500 for a six month period. This maintains City control but releases more cash to the local businesses and property owners affected.

Activity over the last six months has been analysed to quantify the potential impact the proposed measure would have on business.

Bond or Permit	Number (last 6 months)	Fee	\$ Value
Verge Bond	480	1,500	720,000
Verge Permit	480	200	96,000
<b>Total</b>			<b>816,000</b>

The table above shows that a significant amount is held by the City in verge bonds at any point in time. The table below indicates the effect of reducing these bond fees assuming that verge bond is set at \$500 (reduction of \$1,000). It is also proposed that verge permits could be waived for a period of six months.

Bond or Permit	Number	Fee	\$ Value
Verge Permit	480	0	0
Verge Bond	480	500	240,000
<b>Total</b>			<b>240,000</b>

This initiative could reduce costs for builders or property owner by \$576,000 over a six month period. Those businesses and property owners would then retain that money towards their own operation, including employing people and normal expenses.

In this scenario, the City would lose \$96,000 (based on the last six months of activity and fees) in revenue over the six month period by not charging the verge permit fee.

The City could also review existing verge bonds being held, and refund businesses or property owners to reflect the new bond structure. This would mean refunding \$1,000 on all verge bonds currently held. It should be noted that there is also an issue with the length of time taken to return bonds once these have been signed off by relevant Officers. This needs to be addressed to make refunds swift, to have any real effect in the current circumstances. The current balance held in verge bonds is \$1,633,251 and in street tree bonds is \$1,253,501, therefore this action could release a substantial sum into the economy.

This report recommends reducing verge bonds and waiving verge permits for a period of six months.

Further work is recommended on the street tree bond to fully understand the costs and benefits of a temporary reduction.

### Consultation/Communication Implications

Nil.

### Policy and Legislative Implications

Under Section 6.19 of the *Local Government Act 1995*, the City is required to advertise the change in fees and notify the public of the date the revised fee will be implemented.

### Financial Implications

By waiving the Verge Permit for six months, the City would lose up to \$96,000 in revenue. The actual amount is dependent upon the level of building activity that takes place during that time.

Existing verge bonds held by the City would need to be refunded at the end of each project in the usual manner. Refunding this money would be at no cost to the City. This would reduce the amount held in existing verge bonds by approximately \$1 million. These funds would then be available to those businesses or property owners to assist with operating costs including employing people and normal expenses. The time taken to refund bonds also needs to be reduced, as it currently takes six weeks for bond monies to be refunded.

## Strategic Implications

**Economic:** Prosperous and vibrant City

**Outcome E2:** Support and facilitate local small business growth

## Sustainability Implications

The following tables outline the applicable sustainability issues for this proposal:-

<b>ENVIRONMENTAL</b>	
<b>Issue</b>	<b>Comment</b>
Vegetation impact	There is potential to examine the reduction in Street Tree bonds, however a cost benefit analysis is required to determine the risk that some street trees may be damaged against the benefits of releasing bond monies at this time.

<b>SOCIAL</b>	
<b>Issue</b>	<b>Comment</b>
Social Wellbeing	Reducing the City's fees will provide some immediate support to the community during the COVID-19 crisis.

<b>ECONOMIC</b>	
<b>Issue</b>	<b>Comment</b>
Dvlpmt of key business sectors	The construction industry is a major employer in the City. This proposed change to Fees and Charges would support the sector during this difficult time and may protect some local jobs.

## Conclusion

The country is experiencing significant health and economic problems at the current time. This report proposes waiving the Verge Permit fee, reducing the cost of Verge Bonds and returning a proportion of existing Verge Bonds to building companies or property owners. Refunding Verge Bonds would put approximately \$1 million back into the economy; and reducing Verge Bonds and removing permit fees would save builders and property owners approximately \$576,000 depending on the level of building activity. This is in line with State and Federal Government assistance being provided at the current time.