

12 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12.1.1 NOTICE OF MOTION – CHIEF EXECUTIVE OFFICER - DELEGATED AUTHORITY

Attachments:	Appendix 1 Authorised Tenders
Responsible Officer:	Steven Harding Chief Executive Officer
Author:	Joshua Brown Manager Governance, Risk and Procurement
Proposed Meeting Date:	16 December 2022
Location/Address:	N/A
Name of Applicant:	N/A
Author Disclosure of Interest:	Nil

REPORT PURPOSE

In response to a Notice of Motion put forward by Cr Langtree Coppin requesting that the Chief Executive Officer's delegated authority to approve amounts of expenditure up to \$499,999 be revoked and a new amount be discussed and approved.

BACKGROUND

Notice of Motion from Councillor Langtree Coppin for consideration at the 16 December 2022 Ordinary Council Meeting:

Motion:

That Council revokes the CEO's current final delegation of \$499,999 and authorises a new delegation amount of \$ _____ to be discussed and determined by Council on 16 December 2022.

OFFICER RESPONSE

Council authorised the current Delegations and Authorisations Register at its ordinary meeting on 22 July 2022:

That Council adopts the reviewed Shire of East Pilbara Register of Delegations and Authorisations as appendix 1 to the report, amending the value in Delegations 1.2.18 (1) & (9) to \$499,999 (ex GST).

The rationale behind the recommendation to increase the Chief Executive Officer's financial delegation was to improve the efficiency of delivery of infrastructure and services by reducing the time required for the calling of, acceptance or rejection of tenders that would otherwise require Council approval.

In that time, the Chief Executive Officer has exercised the power to approve tenders within the authorised delegation on five (5) occasions. Council has authorised tenders

on eight (8) occasions, including one (1) that was within the Chief Executive Officer's delegation. Details of those tenders are included as **Appendix 1** to this report. Councillors may consider supporting an amendment to Councillor Coppin's motion to impose a further condition on the exercise of the delegation by the Chief Executive Officer, which would require the referral of all plant purchases over the value of \$250,000 (ex GST) to Council for approval:

That Council amends the Chief Executive Officer's existing financial delegation to authorise purchases of up to \$499,999 (ex GST), to include the following conditions:

- (1) all purchases of any plant greater than or equal to \$250,000 (ex GST) be referred to Council's Plant Committee for consultation; and*
- (2) the recommendation of the Plant Committee be referred to Council for decision.*

It is noted that internal procedures have been set to ensure that large plant purchases will be referred to the Plant Committee. If supported by Council, the inclusion of the conditions above would provide Council with the ultimate decision making authority. Should Council impose a reduced financial authority for the Chief Executive Officer, all purchases above that value must be referred to Council for determination.

STATUTORY IMPLICATIONS/REQUIREMENTS

The motion is consistent with section 5.46(2) of the *Local Government Act 1995*, and requires an Absolute Majority.

It is noted that regulation 10(1)(b) of the *Local Government (Administration) Regulations 1996* ("the Regulations") requires the notice of a motion of revocation or which proposes to substantially change a previous decision of Council more than three (3) months after it has been determined, to be given by at least one-third of the offices of the Council – that is by a minimum of four (4) councillors. This notice of this motion has been provided by only one (1) councillor. As no dollar value has been provided by the proposed motion, it is recommended that consideration of Cr Coppin's motion be allowed unless the value nominated in the motion were to substantially change Council's decision of 22 July 2022, in which case, consideration of the motion must lapse.

It is considered that in the event the conditions proposed above were to be placed on the purchase of items of plant, the change to that previous decision would not be considered 'substantial' for the purposes of the regulation, and that the exception provided by Regulations would apply, that is:

- (3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.*

POLICY IMPLICATIONS

The proposed motion amends the current policy position of the Council as it relates to the Chief Executive Officer's financial delegation.

STRATEGIC COMMUNITY PLAN

5: Governance

Demonstrated accountability and corporate governance.

G1 Provide efficient, accountable and ethical governance.

G1.1 Enhance governance capability to deliver sustainable outcomes, roads and buildings

RISK MANAGEMENT CONSIDERATIONS

Compliance – Minor

FINANCIAL IMPLICATIONS

No financial resource impact.

VOTING REQUIREMENTS

Absolute Majority.

As per the Delegations and Authorisations Register 2022/23 - Delegation 1.2.18 (As amended at the OCM held 22nd July 2022) – Council delegated authority to the Chief Executive Officer: to evaluate and decide which Tender is most advantageous (F8), and to accept or reject a Tender up to, and including the value of \$499,999 gst ex (F9).

Order Number	Posting Year	Order Date	Order Value	Awarded under CEO's Delegated Authority between 22/7/22 - 5/12/22 - \$499,999 gst ex (\$550k gst inc)	Creditor Name	Line Description
50333	22/23	01/11/2022	\$ 530,156.51	Yes - PO approved by Acting CEO. CEO approved via signed Recommendation Report - 24/10/22.	CADD Building Construction and Maintenance Pty Ltd	4 Gunn Place - RFT01 - Housing Capital Works Construction of new patio, concrete works, external painting and entrance works 7 Yalberee - RFT01 - Housing Capital Works Upgrade to bathroom, laundry, toilet, kitchen and storeroom 14 Mullgunbuh - RFT01 - Housing Capital Works Full internal upgrade to dwelling as per Scope of works
50797	22/23	22/11/2022	\$ 485,000.00	Yes - PO approved by CEO CEO approved via signed Recommendation Report - 28/10/22	WESTRAC PTY LTD	Supply Grader as per WEQ 01-2022/23
49383	22/23	02/09/2022	\$ 435,893.65		AHRENS GROUP PTY LTD	1000 m2 x brick paving at NAC
48913	22/23	09/08/2022	\$ 423,363.46		AHRENS GROUP PTY LTD	Newman Aquatic Centre Plant Room Building and Solar
50323	22/23	31/10/2022	\$ 374,000.00	Yes - PO approved by Acting CEO. CEO approved via signed Recommendation Report - 28/10/22	LIGHTBASE PTY LTD	20% Deposit on Lighting System - Placement of Order including Electrical Cables Equipment on Site - remainder of Lighting System Invoice Final Commission of Project - Final Invoice

Total 5

	Gst Ex	Gst Inc
New	\$ 499,999.99	\$ 549,999.99
Previous	\$ 249,999.99	\$ 274,999.99

Order Number	Posting Year	Order Date	Order Value	Awarded Via Council	Name	Line Description
49594	22/23	13/09/2022	\$ 13,200,000.00	Council Resolution - 27/5/22 item 15.1.2 (negotiate with contractors & authorises CEO to finalise an execute Contract)	Atlas Iron Pty Ltd	Construction of Marble Bar Aerodrome Upgrade
48341	22/23	01/07/2022	\$ 1,830,382.22		LGIS - INSURANCE BROKING	LGIS Bushfire Commercial Crime and Cyber Liability Pollution Legal liability Property Management Management Motor Fleet Personal Accident Corporate travel Corporate travel Public Liability Public Liability Work Care
49176	22/23	23/08/2022	\$ 1,509,110.71	Council Resolution - 22/7/22 - item 15.2.1	MSS SECURITY PTY LTD	Provide Security Screeners to operate the passenger and checked baggage at Screening Points and provide Front of House (FOH) Security Officers to operate kerbside and crowd control service at Newman Airport for the period of 1 SEP 2022 to 30 JUN 2023
48484	22/23	12/07/2022	\$ 1,198,161.16	Council Resolution - 22/10/21 - item 13.2.1 & 22/7/22 - item 15.2.1	Regional Airport Management Services PL TA RAMS	Provide Management Services, Airside Operation Services, Airside Maintenance Services, Landside Maintenance Services and Other Services specified as per RFT 03-2021/22 at Shire of East Pilbara owned Airports
49021	22/23	15/08/2022	\$ 1,046,252.00		CLEANAWAY PTY LTD (acct 53963365)	Newman Kerbside Collections 2022/2023 - Cost to Airport Newman Streets Litter Control - Contract Newman Street Litter Control - Variation Newman Recycling
48475	22/23	11/07/2022	\$ 996,235.54	Council Resolution - 2/2/18 - item 9.3.5	CLEANAWAY PTY LTD (acct 53651265)	Newman/Newman Airport Kerbside Refuse and Recycling Collection 2022/2023 Newman Town Litter Control Collection Newman Street/ Car Park Sweeping Newman Storm water pits Newman Pathways
48482	22/23	11/07/2022	\$ 887,816.68	Council Resolution - 28/5/21 - item 14.3.3	Spick and Span Commercial Property Maintenance Pty Ltd	Cleaning Services 22/23
50824	22/23	23/11/2022	\$ 471,080.32	Council Resolution - 28/10/22 - item 15.2.2	Dick Tracey Contracting Pty Ltd	PURCHASE ORDER FOR VEGETATION MAINTENANCE SERVICES AS PER TENDER RFT 02-2022/23