8.1 COUNCIL RECESS PERIOD 2024-25 - DELEGATED AUTHORITY TO THE CHIEF EXECUTIVE OFFICER

Attachments: **Nil**

RECOMMENDATION:

1. That Council DELEGATES BY ABSOLUTE MAJORITY, pursuant to section 5.42 of the *Local Government Act 1995,* to the Chief Executive Officer, the power to deal with any items of business that may arise between 11 December 2024 and 3 February 2025, and which are not the subject of delegated authority already granted by Council, subject to:

1.1 Reports being issued to all Council Members for a period of three business days with Council Members notified by phone prior to the delegated decision being made and no requests for 'call-in' of the matter being received from Council Members;

1.2 Reports being displayed on the City's website for a period of three business days prior to the delegated decision being made;

1.3 A report summarising the items of business dealt with under delegated authority being submitted for information to Council at its Ordinary Meeting to be held on 11 February 2025; and

1.4 A Register of Items Approved under this Delegated Authority is being kept and made available for public inspection on the City's website during the period that the delegation applies.

2. DETERMINES for the purpose of section 5.43(b) of the Local Government Act 1995 that the Chief Executive Officer can accept tenders up to a maximum value of $500,000 for the period 10 December 2024 to 4 February 2025 subject to the conditions in recommendation 1.1 to 1.4 above.

PURPOSE OF REPORT:

To obtain Council's approval to deal with some matters not already delegated to the Chief Executive Officer (CEO) arising during the 2024-25 Council recess period.

DELEGATION:

Section 5.42 of the *Local Government Act 1995* provides that an Absolute Majority decision of Council is required to the CEO the exercise of any of its powers or the discharge of any of its duties.

BACKGROUND:

Council will be in recess after the Ordinary Council Meeting on 10 December 2024 until the Council Briefing on 4 February 2025. Arrangements need to be made to enable urgent items of business that arise during this period to be dealt with by the CEO.

DETAILS:

The Council recess period is from 11 December 2023 to 3 February 2025, inclusive. A Council resolution is required to allow the CEO to make a decision on matters which may arise during this period for which no delegated authority currently exists. Matters which require an absolute majority decision are not able to be delegated, and will be considered at the 11 February 2025 Ordinary Meeting of Council.

Reports relating to decisions proposed to be made using the recess period delegations will be issued to all Council Members for review and comment for a period of three business days which would allow Council Members to:

- either comment on the proposed decision, and for those comments to be considered prior to any decision being made, or
- to 'call-in' the matter, thereby preventing the delegation being exercised.

If a matter is called in then it would be referred to the 11 February 2025 Ordinary Meeting of Council.

Council has delegated authority to the CEO to accept tenders up to the value of $250,000. Administration is expecting to be in a position to award the following tender over the recess period, which has a proposed value above this threshold:

Tender No.	Tender Description	Proposed Value
IE360/2024	Asbestos Removal and Encapsulation for BPLC	$500,000

In order for the City to accept these tenders under delegated authority during the Council recess period, it is necessary for Council to delegate to the CEO the power to accept tenders above the value of $250,000. Administration believes that a limit of $500,000 will be sufficient to enable the CEO to deal with these tenders.

CONSULTATION/ADVERTISING:

There is no statutory requirement for consultation with the community or Council Members in respect to items proposed to be decided under delegated authority during the recess period.

Items being processed under delegated authority will be published on the City's website and will be referred to Council Members for comment and 'call-in' for a period of three days prior to the delegated decision being made.

LEGAL/POLICY:

Under Section 5.42 of the *Local Government Act 1995 (*Act*)*, Council may, by absolute majority, delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act, other than those referred to in section 5.43. Section 5.42(2) provides specifically that:

"(2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation*."

Section 5.43 of the Act includes the following:

"5.43 Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties —

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;
d) acquiring or disposing of any property…
e) …"

RISK MANAGEMENT IMPLICATIONS:

Risk Category	Risk Appetite / Tolerance Statement	Descriptor / clarification
A breach in Delegated Authority	The City has a ***very low risk tolerance*** for breach in delegated authority.	The City's Governance Framework (Framework) supports this tolerance level by defining the systems, policies, processes, and a methodology for ensuring accountability and openness in the conduct of City business. The Framework describes the principles and key roles that guide Council in its decision-making and demonstrates to the community the processes which the City uses to achieve its strategic priorities and undertake its service delivery.

Low: granting delegation to the CEO for functions otherwise determine by Council during the recess period is necessary to ensure business continuity for the City.

Elected Members will have the opportunity to "call in" any matters proposed to be determined by Administration pursuant to this recess delegation, which mitigates the risk of any decisions being made contrary to Council's position.

All reports will be published on the City's website and a report will be tabled to Council after the recess period outlining any decisions made under this delegation.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's *Strategic Community Plan 2018-2028*:

Innovative and Accountable

We deliver our services, projects and programs in the most inclusive, efficient, effective and sustainable way possible

Our decision-making process is consistent and transparent, and decisions are aligned to our strategic direction.

SUSTAINABILITY IMPLICATIONS:

This does not contribute to any environmental sustainability outcomes. This action/activity is environmentally neutral.

PUBLIC HEALTH IMPLICATIONS:

This does not contribute to any public health outcomes in the *City's Public Health Plan 2020-2025.*

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Nil.