



# AGENDA

FOR THE

AUDIT AND RISK COMMITTEE MEETING

**20 FEBRUARY 2024**

# NOTICE OF MEETING

Dear Committee Member,

The next Audit and Risk Committee Meeting will be held on Tuesday, 20 February 2024 in the Committee Meeting Room, Corner Weld and Haas Streets, Broome, commencing at 9.00am.

Regards,



S MASTROLEMBO  
**Chief Executive Officer**

16/02/2024

## Our Mission

*"To deliver affordable and quality Local Government services."*

### DISCLAIMER

The purpose of Council Meetings is to discuss, and where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions in section 5.25 of the *Local Government Act 1995* establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person. The Shire of Broome expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

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**SHIRE OF BROOME**  
**AUDIT AND RISK COMMITTEE MEETING**  
**TUESDAY 20 FEBRUARY 2024**

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**1. OFFICIAL OPENING**

**2. ATTENDANCE AND APOLOGIES**

**3. DECLARATIONS OF FINANCIAL INTEREST / IMPARTIALITY**

**4. CONFIRMATION OF MINUTES**

RECOMMENDATION:

That the Minutes of the Audit and Risk Committee held on 19 December 2023, as published and circulated, be confirmed as a true and accurate record of that meeting.

## 5. REPORT OF OFFICERS

### 5.1 COMPLIANCE AUDIT RETURN 2023

<b>LOCATION/ADDRESS:</b>	Nil
<b>APPLICANT:</b>	Nil
<b>FILE:</b>	LCR02
<b>AUTHOR:</b>	Senior Administration & Governance Officer
<b>CONTRIBUTOR/S:</b>	Nil
<b>RESPONSIBLE OFFICER:</b>	Director Corporate Services
<b>DISCLOSURE OF INTEREST:</b>	Nil

#### SUMMARY:

The purpose of this report is to present to the Audit and Risk Committee (ARC) the 2023 Compliance Audit Return (CAR) for review, and to request that the ARC recommend that Council adopt the 2023 CAR for submission to the Department of Local Government, Sport and Cultural Industries (DLGSC) by 31 March 2024.

## BACKGROUND

### Previous Considerations

Local governments are required to complete a compliance audit for the previous calendar year by the 31 March. The DLGSC provides the questions each year with the compliance audit being an in-house self-audit that is undertaken by the appropriate responsible officer.

In accordance with Regulation 14 of the *Local Government (Audit) Regulations 1996* the ARC is to review the CAR and is to report to Council the results of that review. The CAR is to be:

1. presented to an Ordinary Meeting of Council
2. adopted by Council; and
3. recorded in the minutes of the meeting at which it is adopted.

Following the adoption by Council of the CAR, a certified copy of the return, along with the relevant section of the minutes and any additional information detailing the contents of the return are to be submitted to the DLGSC by 31 March 2024.

The return requires the Shire President and the Chief Executive Officer to certify that the statutory obligations of the Shire of Broome have been complied with.

## COMMENT

The DLGSC continues to focus on high risk areas of compliance and statutory reporting as prescribed in Regulation 13 of the *Local Government (Audit) Regulations 1996*.

The CAR for the period 1 January to 31 December 2023 comprises a total of 94 questions. The questions are the same as the previous year.

The key focus areas covered in the CAR are as follows:

Focus Area	2022 Q's	2023 Q's	Comments
Commercial Enterprises by Local Governments	5	5	No change.
Delegation of Power/Duty	13	13	No change.
Disclosure of Interest	25	25	No change.
Disposal of Property	2	2	No change.
Elections	3	3	No change.
Finance	7	7	No change.
Integrated Planning and Reporting	3	3	No change.
Local Government Employees	5	5	No change.
Official Conduct	4	4	No change.
Optional Questions	9	9	No change.
Tenders for Providing Goods and Services	22	22	No change.
<b>Total</b>	<b>94</b>	<b>94</b>	

During 2023, responsible officers monitored compliance in each of the focus areas through the Shire's cloud-based compliance system, Attain. This has continued to increase the awareness of compliance obligations and allowed the capture of compliance evidence in one central repository throughout the year. This compliance system reduces the risk of non-compliance and streamlines compilation of the annual return.

A compliance rating of 98% has been achieved for 2023 with one minor non compliance identified below.

Focus Area	Question	Comments
Tenders for Providing Goods and Services	Did the local government's procedure for receiving and opening tenders comply with the requirements of Local Government (Functions and General) Regulations 1996, Regulation 15 and 16?	Reg 15 - For the following publicly invited tenders, RFT23/03, RFT23/04, RFT23/05, Statewide Notice was provided in Vendor Panel, The West Australian, Broome Advertiser and Public Noticeboards. However, notice on the Shire Website was overlooked. Non compliance with F&Gr15 (1)(a) Reg 16 - compliant

The CAR result continues the Shire's strong history of compliance with the requirements of the *Local Government Act (1995)*, with minimal non compliances reported over the last 5 years and none of a significant risk nature.

It is important to emphasise that the CAR is limited in scope.

Local Governments are also required to comply with upwards of 200 other pieces of legislation. The use of the Attain compliance system during 2023 provided the ability to continually improve the monitoring and assurance of other significant pieces of legislation on a prioritised basis.

## **CONSULTATION**

Department of Local Government, Sport and Cultural Industries.

## **STATUTORY ENVIRONMENT**

### ***Local Government (Audit) Regulations 1996***

#### **14. Compliance audits by local governments**

- (1) *A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.*
- (2) *After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.*
- (3A) *The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.*
- (3) *After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —*
  - (a) *presented to the council at a meeting of the council; and*
  - (b) *adopted by the council; and*
  - (c) *recorded in the minutes of the meeting at which it is adopted.*

#### **15. Compliance audit return, certified copy of etc. to be given to Departmental CEO**

- (1) *After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —*
  - (a) *a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and*
  - (b) *any additional information explaining or qualifying the compliance audit,*

*is to be submitted to the Departmental CEO by 31 March next following the period to which the return relates.*

## **POLICY IMPLICATIONS**

Nil.

## **FINANCIAL IMPLICATIONS**

Nil.

## **RISK**

There is a reputational risk with the DLGSC should the CAR not be completed on time or if significant non compliances are reported.

The likelihood of this occurring is rare.

## **STRATEGIC ASPIRATIONS**

**Performance - We will deliver excellent governance, service & value for everyone.**

**Outcome 11 - Effective leadership, advocacy and governance**

**Objective** 11.2 Deliver best practice governance and risk management.

## **VOTING REQUIREMENTS**

*Simple Majority*

REPORT RECOMMENDATION:

*That the Audit and Risk Committee recommends that Council:*

- 1. Adopt the attached 2023 Compliance Audit Return as the official return for the Shire of Broome; and*
- 2. Requests the Chief Executive Officer to submit the certified return and a copy of the minutes relative to this report to the Department of Local Government, Sport and Cultural Industries prior to 31 March 2024.*

## **Attachments**

1. Compliance Audit Return 2023



Department of Local Government, Sport and Cultural Industries - Compliance Audit Return - Broome



Broome – Compliance Audit Return

Commercial Enterprises by Local Governments				
No	Reference	Question	Response	Comments
1	s3.59(2)(a) F&G Regs 7,9,10	Has the local government prepared a business plan for each major trading undertaking that was not exempt in 2023?	N/A	No major trading undertaking considered by Council during 2023. DCS on behalf of Manager Governance, Strategy and Risk (MGRS).
2	s3.59(2)(b) F&G Regs 7,8A, 8, 10	Has the local government prepared a business plan for each major land transaction that was not exempt in 2023?	Yes	Business Plan for the Town Beach Cafe Redevelopment endorsed by Council in November 2023 and subsequently advertised for public submissions through to 2 February 2024
3	s3.59(2)(c) F&G Regs 7,8A, 8,10	Has the local government prepared a business plan before entering into each land transaction that was preparatory to entry into a major land transaction in 2023?	Yes	Business Plan for the Town Beach Cafe Redevelopment endorsed by Council in November 2023 and subsequently advertised for public submissions through to 2 February 2024
4	s3.59(4)	Has the local government complied with public notice and publishing requirements for each proposal to commence a major trading undertaking or enter into a major land transaction or a land transaction that is preparatory to a major land transaction for 2023?	Yes	Business Plan for the Town Beach Cafe Redevelopment advertised in the West 18/11/2023, Broome Advertiser 22/11/2023, Shire website and administration center.
5	s3.59(5)	During 2022, did the council resolve to proceed with each major land transaction or trading undertaking by absolute majority?	Yes	Council did not resolve to proceed with any major land transaction or undertaking in 2023.

Delegation of Power/Duty				
No	Reference	Question	Response	Comments
1	s5.16 (1)	Were all delegations to committees resolved by absolute majority?	Yes	The Behavioural Complaints Committee established in 2021 is the only Committee

Department of Local Government, Sport and Cultural Industries - Compliance Audit Return - Broome



				with delegated authority. This was initially provided by Absolute Majority (Council resolution C/0422/017) and subsequently by Absolute Majority following the 2023 Ordinary Elections at the 16 November 2023 Ordinary Council Meeting (Council resolution C/1123/019).
2	s5.16 (2)	Were all delegations to committees in writing?	Yes	Provided at OMC 16 April 2023 - C/1123/019.
3	s5.17	Were all delegations to committees within the limits specified in section 5.17 of the Local Government Act 1995?	Yes	Behavioural Complaints Committee has delegated authority through delegation 1.1.1 to, under Clause 12 and 13 of the Code of Conduct, deal with and / or dismiss a complaint. SAGO on behalf of MGRS.
4	s5.18	Were all delegations to committees recorded in a register of delegations?	Yes	Behavioural Complaints Committee delegated authority contained within the Shire delegation register maintained in online Attain system. No exercise of delegation in 2023.
5	s5.18	Has council reviewed delegations to its committees in the 2022/2023 financial year?	Yes	Reviewed and approved by Council at the 30 March 2023 OMC - Minute No. C/0323/028 and OMC 16 April 2023 - Minute No. C/1123/019. SAGO on behalf of MGRS.
6	s5.42(1) & s5.43 Admin Reg 18G	Did the powers and duties delegated to the CEO exclude those listed in section 5.43 of the Local Government Act 1995?	Yes	Delegations register aligned to WALGA Delegations register template. No delegations in breach of s5.43 of LGA or s214 of Planning and Development Act 2005 provided. SAGO on behalf of MGRS.
7	s5.42(1)	Were all delegations to the CEO resolved by an absolute majority?	Yes	Reviewed and approved by Council at the 30 March 2023 OMC - Minute No. C/0323/028. SAGO on behalf of MGRS.
8	s5.42(2)	Were all delegations to the CEO in writing?	Yes	Delegation register maintained in the cloud based Attain compliance system which provides electronic delivery of each delegation. SAGO on behalf of MGRS.

Department of Local Government, Sport and Cultural Industries - Compliance Audit Return - Broome



9	s5.44(2)	Were all delegations by the CEO to any employee in writing?	Yes	Delegation register maintained in the cloud based Attain compliance system which provides electronic delivery to each officer with delegation. SAGO on behalf of MGSR.
10	s5.16(3)(b) & s5.45(1)(b)	Were all decisions by the Council to amend or revoke a delegation made by absolute majority?	Yes	30 March 2023 OMC - Minute No. C/0323/028 Annual Review. 28 Sept 2023 OMC Minute No. C/0923/005 amendments to various planning regulations following gazettal of Local Planning Scheme No 7. SAGO on behalf of MGSR.
11	s5.46(1)	Has the CEO kept a register of all delegations made under Division 4 of the Act to the CEO and to employees?	Yes	Delegation register maintained in the Attain online compliance system. SAGO on behalf of MGSR.
12	s5.46(2)	Were all delegations made under Division 4 of the Act reviewed by the delegator at least once during the 2022/2023 financial year?	Yes	Reviewed and approved by Council at the 30 March 2023 OMC - Minute No. C/0323/028. SAGO on behalf of MGSR.
13	s5.46(3) Admin Reg 19	Did all persons exercising a delegated power or duty under the Act keep, on all occasions, a written record in accordance with Local Government (Administration) Regulations 1996, regulation 19?	Yes	As far as can be ascertained. All delegations require delegate and/or sub delegate to maintain appropriate records in the Shire's Records Management System or in Attain. SAGO on behalf of MGSR.

Disclosure of Interest				
No	Reference	Question	Response	Comments
1	s5.67	Where a council member disclosed an interest in a matter and did not have participation approval under sections 5.68 or 5.69 of the Local Government Act 1995, did the council member ensure that they did not remain present to participate in discussion or decision making relating to the matter?	Yes	Yes. Recorded in the minutes accordingly.
2	s5.68(2) & s5.69(5) Admin Reg 21A	Were all decisions regarding participation approval, including the extent of participation allowed and, where relevant, the information required by the Local Government (Administration) Regulations 1996 regulation 21A, recorded in the minutes of the relevant council or committee meeting?	N/A	No participation approval required for any decisions.























**5.2 2ND QUARTER FINANCE AND COSTING REVIEW 2023-24**

<b>LOCATION/ADDRESS:</b>	Nil
<b>APPLICANT:</b>	Nil
<b>FILE:</b>	FRE02
<b>AUTHOR:</b>	Manager Financial Services
<b>CONTRIBUTOR/S:</b>	Senior Finance Officer
<b>RESPONSIBLE OFFICER:</b>	Director Corporate Services
<b>DISCLOSURE OF INTEREST:</b>	Nil

**SUMMARY:**

The Audit and Risk Committee is requested to consider results of the 2<sup>nd</sup> Quarter Finance and Costing Review (FACR) of the Shire's budget for the period ended 31 December 2023, including forecast estimates and budget recommendations to 30 June 2024.

**BACKGROUND**Previous Considerations

SMC 11 July 2023	Item 5.4.1
ARC November 2023	Item 5.1

1<sup>st</sup> Quarter Finance and Costing Review

The 1<sup>st</sup> Quarter Finance and Costing Review was approved by Council at the OMC 14 December 2023. The Review contained a comprehensive list of budget amendments; of note, the 1<sup>st</sup> Quarter Review included the following proposed amendments:

- an \$85,000 increase in corporate services consultant expenditure during recruitment for key staff, to deliver the annual financial report, long term financial plan and 2024/25 annual budget, tied to statutory and organisation timeframes;
- a \$20,000 increase in expenditure to continue the Civic Centre Audio Visual renewal. The 5 year project brief was approved in a prior budget but the ongoing renewal was not captured within the current budget;
- a \$121,566 increase in budgeted interest on municipal investments, recognising favourable interest rates received on cash currently held;
- a \$43,594 increase in statutory fees and taxes following a statutory review of superannuation.
- a \$40,000 reduction in Tourism development funding expenditure as the budgeted applicant did not request funding this financial year;
- a net \$22,000 increase in expenditure, after reassigning employee savings through vacancies to relief ranger services in order to maintain service levels during staff recruitment.

The net result of the Quarter 1 FACR estimates was a budget deficit position of \$129,196.

The net result of budget amendments previously endorsed by Council was a budget deficit position of \$17,000 to 30 June 2024. This resulted in a total forecast budget deficit position of \$146,196 to 30 June 2024.

This net result excluded an organisational saving (surplus) of \$52,809.

The overall result indicated a total deficit position to 30 June 2024 of \$93,387, which included the budget amendments already adopted through Council in 2023/24.

### Quarter 2 Finance and Costing Review

The Shire of Broome has carried out its 2<sup>nd</sup> Quarter Finance and Costing Review (FACR) for the 2023/24 financial year. This review of the 2023/24 adopted Annual Budget is based on actuals and commitments for the first six months of the year from 1 July 2023 to 31 December 2023, and forecasts for the remainder of the financial year.

This process aims to highlight over and under expenditure of funds and over and under achievement of income targets for the benefit of Executive and Responsible Officers to ensure good fiscal management of their projects and programs.

Once this process is completed, a report is compiled identifying budgets requiring amendments to be adopted by Council. Additionally, a summary provides the financial impact of all proposed budget amendments to the Shire of Broome's adopted end-of-year forecast, to assist Council to make an informed decision.

It should be noted that the 2023/24 Annual Budget was adopted at the Special Meeting of Council (SMC) on 11 July 2023 as a balanced budget.

## **COMMENT**

### **Council Approved budget amendments**

The 1<sup>st</sup> Quarter FACR was reviewed and approved by the Audit and Risk Committee, and Council in November 2023, and also noted the budget amendments approved by Council since the adoption of the 2023/24 annual budget.

In instances where it is not practical to wait for the next quarterly FACR to seek Council approval, including time constraints, awarding contracts and new projects, budget amendments may be presented as stand-alone items to Council. For transparency, the following budget amendments have been approved by Council since the 1<sup>st</sup> Quarter FACR:

### **OMC 14 December 2023 Item 9.1.1 – Sister City Relationship and Taiji Delegation 2023**

The Council resolution from the 14 December 2023 Ordinary Meeting of Council (OMC) is captured below. The resolution resulted in a \$5,000 deficit.

#### **COUNCIL RESOLUTION:**

**(REPORT RECOMMENDATION)**

**Minute No. C/1223/001**

**Moved: Cr D Male**

**Seconded: Cr P Taylor**

**That Council:**

- 1. Approves a Council delegation to travel to Broome's Sister City of Taiji, Japan in April 2024 for the purposes of cultural, historical, social and educational exchange.**
- 2. Nominates the following Councillors to undertake the trip on behalf of Council:**
  - a. Councillor Male**
  - b. Councillor Virgo**
  - c. Councillor P Matsumoto**

- 3. Requests the Chief Executive Officer advise the Town of Taiji that a Broome Shire Council delegation will visit to coincide with the visit by St Mary’s College, Broome, in April 2024.**
- 4. Approves a budget amendment to increase GL 100222900 Sister City Relations from \$17,800 to \$22,800, noting this will have a \$5,000 deficit impact on the annual budget.**

**For:** Shire President C Mitchell, Cr D Male, Cr P Matsumoto, Cr P Taylor and Cr M Virgo.  
**Against:** Cr E Smith, Cr J Mamid and Cr J Lewis.

**CARRIED BY ABSOLUTE MAJORITY 5/3**

**OMC 14 December 2023 Item 9.4.4 – 2024 Extraordinary Election**

The Council resolution from the 14 December 2023 Ordinary Meeting of Council (OMC) is captured below. The resolution resulted in a \$31,909 deficit (excluding GST).

**COUNCIL RESOLUTION:**

**(REPORT RECOMMENDATION)**

**Minute No. C/1223/002**

**Moved: Shire President C Mitchell**

**Seconded: Cr D Male**

**That Council:**

- 1. Declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 23 March 2024 extraordinary election;**
- 2. Decide, in accordance with section 4.61(2) of the Local Government Act 1995, that the method of conducting the 23 March 2024 extraordinary election will be as an in-person election; and**
- 3. Approve a budget amendment of \$35,100 including GST to expense account 100240400 Election Expenses Op Exp – Members, noting this will result in a deficit position given the 2023/24 Annual Budget was adopted as a balanced budget.**

**For:** Shire President C Mitchell, Cr D Male, Cr J Lewis, Cr J Mamid, Cr P Matsumoto, Cr E Smith, Cr M Virgo, Cr P Taylor

**CARRIED UNANIMOUSLY BY ABSOLUTE MAJORITY 8/0**

**OMC 14 December 2023 Item 9.2.3 – Regional Resource Recovery Park (RRRP) - Service Arrangements**

The net impact on municipal funds in 2023/24 is \$0, as the budget amendments offset each other (\$770,000 income and \$770,000 expenditure). An agenda item was presented to full Council, outside of the FACR process, to permit officers to commence procurement and works, as the project transitions from the Design Phase to Project Delivery Phase. Council resolved the following:

**COUNCIL RESOLUTION:**

**(REPORT RECOMMENDATION)**

**Minute No. C/1223/003**

**Moved: Cr M Virgo**

**Seconded: Cr E Smith**

**That Council:**

- 1. Authorises the Chief Executive Officer to undertake tender exempt procurement of power infrastructure for connection of the Regional Resource Recovery Park to Horizon Powers electrical network up to a maximum value of \$670,000.**
- 2. Approves a budget amendment of \$770,000 to expense account 101897, funded through a transfer from the RRRP Reserve account 100010020 of \$770,000.**



**For: Shire President C Mitchell, Cr D Male, Cr J Lewis, Cr J Mamid, Cr P Matsumoto,  
Cr E Smith, Cr M Virgo, Cr P Taylor**

**CARRIED UNANIMOUSLY BY ABSOLUTE MAJORITY 8/0**

**SMC 21 December 2023 Item 5.4.1 – Audit And Risk Committee Minutes - 19 December 2023**

The 2022/23 audited Annual Financial Report presented the audited opening position for the 2023/24 annual budget, allocation of untied funds as specified in the resolution, and budget adjustments necessary to carry forward the remainder of funds required to support ongoing projects. Due to the timing of receiving the audited Annual Financial Report, an SMC was held. The Council resolution from the 21 December SMC is referenced below:

**COUNCIL RESOLUTION:**

**(REPORT RECOMMENDATION)**

**Minute No. C/1223/004**

**Moved: Cr D Male**

**Seconded: Cr P Taylor**

**That Council:**

- 1. Receive the Chief Executive Officer's report relating to the audit.**
- 2. Receive the:**
  - (a) Audited Annual Financial Report as per Attachment 1 of the Audit and Risk Committee minutes from the 19 December 2023 meeting;**
  - (b) Audit Opinion Letter as per Attachment 2 of the Audit and Risk Committee minutes from the 19 December 2023 meeting;**
  - (c) Audit Management Report as per Confidential Attachment 3 of the Confidential Audit and Risk Committee minutes from the 19 December 2023 meeting; and**
  - (d) Management Representation Letter as per Attachment 4 of the Audit and Risk Committee minutes from the 19 December 2023 meeting.**
- 3. Adopt the Audited Annual Financial Report dated 14 December 2023 and the Audit Management Report for the year ended 30 June 2023 as per Attachment 1 and 4 of the Audit and Risk Committee minutes from the 19 December 2023 meeting.**
- 4. Confirms the allocation of the net surplus from the 2022/23 financial year as per Attachment 1 – Carry Over Projects to 2023/24, with the balance of \$1,280,646.**
- 5. Approves an allocation of \$397,211 of net 2022/23 surplus to the Public Open Space Reserve, allocated to the Cable Beach Foreshore Redevelopment project, to offset reductions arising from 2022 Annual Financial Report closing position Public Open Space Reserve adjustments.**
- 6. Approves the allocation of the remaining \$883,435 of net 2022/23 surplus to reduce planned 2023/24 borrowings required for the Cable Beach Foreshore Redevelopment project.**

**For: Shire President C Mitchell, Cr D Male, Cr J Lewis, Cr J Mamid, Cr P Matsumoto,  
Cr E Smith, Cr M Virgo, Cr P Taylor**

**CARRIED UNANIMOUSLY BY ABSOLUTE MAJORITY 8/0**

**SMC 21 December 2023 Item 6.1 – RFT 23/12 Cable Beach Foreshore Redevelopment Stage B1 and 1A**

The net impact on municipal funds in 2023/24 is \$0, as the budget amendments offset each other (\$3,146,491 income and \$3,146,491 expenditure). An agenda item was presented to full Council, outside of the FACR process, to accept the tender. Council resolved the following:

**COUNCIL RESOLUTION:****(REPORT RECOMMENDATION)****Minute No. C/1223/005****Moved: Cr P Taylor****Seconded: Cr D Male****That Council:**

1. **Note the recommendation in the Evaluation Report for RFT 23/12 Cable Beach Foreshore Redevelopment Stage B1 as presented in Attachment 1;**
2. **Accepts the Tender provided by CMA Contracting Pty Ltd as the most advantageous Respondent from which to form a Contract for both Stage B1 and 1A, after final contract negotiations for RFT23/12 Cable Beach Foreshore Redevelopment.**
3. **Authorises the Chief Executive Officer to negotiate and sign the contract documentation for Stage B1 and 1A, following final contract negotiations and the appropriate financial due diligence, and to negotiate minor contract variations required during the contract period, if necessary;**
4. **If a Contract cannot be executed or grant funding reallocations are not authorised for Stage B1 and 1A, authorises the Chief Executive Officer to negotiate and sign the contract documentation for Stage B1, following final contract negotiations and the appropriate financial due diligence, and negotiate minor contract variations required during the contract period, if necessary;**
5. **Approve a budget amendment of \$80,000 Ex GST to Income Account CB101 to reflect the Road Project Grant increase for 2023/24;**
6. **Approve a budget amendment of \$80,000 Ex GST to Expense Account CB01 to reflect the Road Project Grant increase for 2023/24;**
7. **Approve a budget amendment of \$2,100,000 Ex GST to Income Account CB103 to reflect the additional Preparing Australian Communities Grant drawn down;**
8. **Approve a budget amendment of \$2,100,000 Ex GST to Expense Account CB03 to reflect the additional Preparing Australian Communities Grant drawn down;**
9. **Approve a budget amendment of \$966,491 Ex GST to Income Account CB110 to reflect the Phase 4 Local Roads and Community Infrastructure Grant allocation;**
10. **Approve a budget amendment of \$966,491 Ex GST to Expense Account CB10 to reflect the Phase 4 Local Roads and Community Infrastructure Grant allocation.**

**For: Shire President C Mitchell, Cr D Male, Cr P Matsumoto, Cr P Taylor, Cr M Virgo, Cr E Smith and Cr J Mamid.**

**Against the Motion: Cr J Lewis.**

**CARRIED BY ABSOLUTE MAJORITY 7/1**

### **1 July 2023 Opening Position & FAG's Overpayment**

The Shire receives a significant allocation of untied funds each year through an annual Financial Assistance Grant (FAG). FAG's is untied grant funding, meaning it can be used for any purpose that supports the operations of the Shire of Broome. FAG's is split into allocations for general purpose and roads rather than a specific project or purpose.

The budgeted allocations for each financial year, and any advance payments received, are estimates based on prior years. Historically 50% of FAG's is paid in advance by the Commonwealth, and subsequently the State through the WA Grants Commission. The remaining 50% is typically received in the following financial year.

The announcement of the Federal Budget in May 2023 highlighted that there would be no advance payments of the 2023/24 grant allocation. Based on this announcement, the Shire's 2023/24 annual budget accounted for receipt of the full grant allocation within the 2023/24 financial year.

Advice on the final FAG's allocation for each local government is provided in August each year, and requires a budget amendment to reflect the actual amount to be received that financial year. Advance payments are typically captured within the closing position of the prior year, and it is the responsibility of each individual local government to manage the cashflow implications of the grant at the time it is received.

Despite previously advising that no advance payment of FAG's would occur, the Commonwealth made a late decision to allocate advance payments following pressure from lobbying organisations nationwide (Attachments 3 and 4). Consequently the Shire received a significant advance FAG's payment of \$2,643,234 of the 2023/24 allocation (\$2,781,315) on 30 June 2023. This has resulted in a surplus within the 2023/24 opening position.

It should be noted that the budget for 2023/24 was based on the prior year's allocation of \$2,496,613.

Despite paying \$2,643,234 in advance the Commission advised that the Shire of Broome's 2023/24 FAG's allocation has been overpaid by \$341,946 (Attachment 5).

Budget adjustments are therefore necessary to balance out the variances in both the value of the allocation, the timing of receipt of the funding and the overpayment of the 2023/24 allocation. These amendments are summarised in the tables below. It is noted that this is purely to capture the budget impact of receipting this income source.

	General	Roads	Total allocation
<b>Advance payment in 2022/23</b>	1,967,904	675,330	2,643,234
<b>Remaining grant to receive in 2023/24 (A)</b>	82,975	55,106	138,081
<b>Total 2023/24 Grant Allocation</b>	<b>2,050,879</b>	<b>730,436</b>	<b>2,781,315</b>
<b>2023/24 Budget (B)</b>	1,859,543	637,070	2,496,613
<b>Budget amendment required (A-B)</b>	- 1,776,568	- 581,964	- 2,358,532

The 2023/24 FAG's allocations were based on the grant recommendations for the 2022/23 financial year with indexation in line with the increase in overall grant allocation to the State of Western Australia. This was an unexpected and unprecedented upfront payment amount. The Grants Commission is legislatively obligated to pay the full advance to local governments.

As the Commonwealth Government's allocations vary to that of the WA Grants Commission this created over and under payments to local governments. The Grants Commission is required to follow legislative requirements to distribute the Financial Assistance Grant and does not have legislative authority to recoup from the subsequent quarterly payments throughout 2023/24. Nor would there have been enough in the pool to allow for this.

To effect a recoup, local governments that were overpaid in 2023/24 will have their 2024/25 Financial Assistance Grant reduced by the 2023/24 overpayment amount. Conversely, local governments that were underpaid will have their 2024/25 Financial Assistance Grant increased by the underpayment amount.

As the Shire has received an overpayment in 2023/24 the Commission has advised that the 2024/25 FAG's allocation will be reduced by the overpayment amount (\$341,946).

Historic allocations of FAG's (smoothing out the effects of advance payments) show the Shire of Broome receives a smaller allocation every financial year, despite advice that the funding pool is increasing through indexation, and against the rising costs of all expenses required to maintain operations. Excluding the effect of the overpayment, the 2023/24

allocation was \$57,244 less than the 2022/23 allocation, and the 2024/25 allocation is expected to follow a similar trend.

Considering the declining value of annual FAG's allocations officers suggest the overpayment of 2023/24 be quarantined in the Restricted Cash Reserve to support the 2024/25 operating budget as intended. The alternative is to offset current budget requirements, which will adversely impact the capacity for service delivery in the 2024/25 budget.

An unintentional effect in the closing position for 2022/23 was the \$138,081 overstatement of the FAG's advance payment; the advanced funding was stated as \$2,781,315 in the closing position however this figure represents the entire 2023/24 FAG allocation. The advance payment was \$2,643,234 with \$138,081 to be received in 2023/24. The remaining \$138,081 to be received in 2023/24 offsets the \$57,244 decrease to the budgeted FAG allocation. This is due to the estimate of FAG's to be received in 2023/24 being less than the amount received in 2022/23. The \$80,837 variance can be considered "untied" surplus. Officers recommend that this surplus is used to offset the current deficit.

<b>"Tied" surplus (FAG's)</b>	2,781,315
<b>Advance Payment 30 June 2023</b>	-2,643,234
<b>"Untied" portion of opening surplus 1 July 2023</b>	138,081
<b>FAG's grant allocation less than budgeted 2023/24</b>	-57,244
<b>Remaining surplus available for redistribution</b>	<b>80,837</b>

Grant funding received from the Department of Planning Lands and Heritage (DPLH) for the McMahan Estate project (\$200,000) was budgeted for 2023/24, but received in 2022/23. The advance payment of this grant was accounted for in the final closing position for 2022/23, and a budget amendment is now required, as we no longer anticipate receipt of this grant within 2023/24.

The impact of these budget adjustments against the current budget surplus, is presented in the table below. Noting that the current surplus is the result of the advance payment of FAG's and the McMahan Estate Grant. Officers recommend that the untied surplus mentioned in the previous table is used to offset the current budget deficit of \$398,632.

<b>Audited Opening Position at 1 July 2023 (increase)</b>	<b>2,138,370</b>
Adjustments to Carry Over budgets	2,123,591
Net surplus available - transfer to POS Reserve	(397,211)
Net surplus available - reduction of Cable Beach proposed borrowings	(883,435)
<b>Surplus remaining, including \$200,00 McMahan Estate grant received in advance and \$2,781,315 FAG's received in advance</b>	<b>2,981,315</b>
<b>Council approved budget amendments total \$130,296 deficit</b>	
Net effect of FACR Quarter 1 budget amendments	(76,387)
BRAC Inflatable	(17,000)
Sister City Relationship and Taiji Delegation 2023	(5,000)
2024 Extraordinary Election	(31,909)
<b>Council approved budget amendments reduced the closing position to:</b>	<b>2,851,019</b>
<b>Proposed budget amendments</b>	
FAG's budget amendment (\$80,837 less than captured in closing position)	(2,358,532)
Transfer of FAG's overpayment to Restricted Cash Reserve	(341,946)
McMahan Estate - Grant received in advance	(200,000)
<b>Total</b>	<b>\$2,900,478</b>
<b>Current closing position \$2,851,019 after accounting for grants, the deficit of \$130,296 is reduced to:</b>	<b>(49,459)</b>
Net effect of FACR Quarter 2 budget amendments	(268,336)
<b>Forecast closing position 30 June 2024</b>	<b>(317,795)</b>

## **Quarter 2 Finance and Costing Review**

Responsible officers completed their individual reviews with Director consultation on 2 February 2024. FACR workshops were conducted the following week with Responsible officers and the Executive Management Group discussing the proposed budget amendments. The results from this process were reviewed through the Executive Management Group, and indicate a deficit forecast financial position of **\$268,336** should Council approve the Quarter 2 proposed budget amendments. The overall result, including the proposed amendments in the above table and amendments already endorsed through Council, indicates a net deficit position to 30 June 2024 of **\$317,795**. This figure represents a budget forecast should all expenditure and income occur as expected.

While officers make every effort to ensure the net impact of each FACR is minimal, and offset savings and expenditure within their assigned budgets and directorates, this is not always achievable. The second quarter review has balanced the impact of the proposed variances within the full budget, including the following proposed amendments:

- a new fully-funded grant program - the Remote Chance Project has received \$70,000 from the Kimberley Development Commission;
- a \$43,000 increase in expenditure to finalise the Playground Strategy; timing of a change in the responsible officer for the project, a budget carry over was not requested, and the original budget estimate from 2021 was not adequate to cover the scope of the project;
- savings within the Community Sponsorship program, including \$40,000 budgeted for Magabala Books (agreement has ended), and realignment of the Community Development Fund so that the timing of Stream 1 and 2 payments will be made from July 2024 (\$62,100 saving);
- a \$16,460 increase in statutory fees and taxes following a statutory review of superannuation;
- a \$50,000 increase in budgeted interest on municipal investments, recognising favourable interest rates received on cash currently held;
- a \$25,098 increase in insurance reimbursements (not offset by expenditure associated with claims) as credit for the finalisation of the 2022/23 wages declaration;
- a \$65,000 increase in network expenditure, including CCTV repairs, bringing forward a 2024/25 project to investigate the future strategy and design for the management and maintenance of the CCTV network, and installation of security access control to the Shire's server room;
- a net \$237,303 decrease in commercial and residential property income resulting from commercial actuals tracking less than estimated, key staff vacancies and supplying housing for short-term contractor engagements.

A comprehensive list of accounts (refer to Attachment 2) has been included for perusal by the committee, presented by Directorate.

A summary of the results is as follows:

<b>SHIRE OF BROOME SUMMARY REPORT</b>					
<b>BUDGET IMPACT</b>					
	<b>2023/24 Adopted Budget (Income)/ Expense</b>	<b>YTD Adopted Budget Amendments (Income)/ Expense</b>	<b>Grants received in advance (required Budget Amendments)</b>	<b>FACR Q2 Overall (Inc) / Exp</b>	<b>YTD Overall Position</b>
<b>Office of the CEO</b>	\$0	\$7,000	\$0	\$27,226	\$34,226
<b>Corporate Services</b>	\$0	\$37,028	\$0	\$13,688	\$50,716
<b>Development Services</b>	\$0	-\$8,000	\$0	\$8,883	\$883
<b>Infrastructure Services</b>	\$0	\$40,359	\$0	\$218,539	\$258,898
<b>Council approved budget amendments</b>	\$0	\$53,909	\$0	\$0	\$53,909
<b><i>Budget Amendments Sub-total</i></b>	<b><i>\$0</i></b>	<b><i>\$130,296</i></b>	<b><i>\$0</i></b>	<b><i>\$268,336</i></b>	<b><i>\$398,632</i></b>
<b>FAG's Grant received in advance</b>	\$0	-\$2,781,315	\$2,700,478	\$0	-\$80,837
<b>McMahon Estate Grant received in advance</b>	\$0	-\$200,000	\$200,000	\$0	\$0
	<b>0,000*</b>	<b>-\$2,851,019</b>	<b>\$2,900,478</b>	<b>\$268,336</b>	<b>\$317,795</b>

\*Council adopted the annual budget with a predicted end-of-year balanced budget, which included previous year carried forward surplus.

**CONSULTATION**

All amendments have been proposed after consultation with Executive and Responsible Officers at the Shire.

**STATUTORY ENVIRONMENT**

**Local Government (Financial Management) Regulation 1996**

**r33A. Review of Budget**

- (1) *Between 1 January and the last day of February in each financial year a local government is to carry out a review of its annual budget for that year.*
- (2A) *The review of an annual budget for a financial year must —*
  - (a) *consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and*
  - (b) *consider the local government's financial position as at the date of the review; and*
  - (c) *review the outcomes for the end of that financial year that are forecast in the budget; and*
  - (d) *include the following —*
    - (i) *the annual budget adopted by the local government;*
    - (ii) *an update of each of the estimates included in the annual budget;*

- (iii) the actual amounts of expenditure, revenue and income as at the date of the review;
  - (iv) adjacent to each item in the annual budget adopted by the local government that states an amount, the estimated end-of-year amount for the item.
- (2) The review of an annual budget for a financial year must be submitted to the council on or before 31 March in that financial year.
- (3) A council is to consider a review submitted to it and is to determine\* whether or not to adopt the review, any parts of the review or any recommendations made in the review.
- \*Absolute majority required.
- (4) Within 14 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.

[Regulation 33A inserted: Gazette 31 Mar 2005 p. 1048-9; amended: Gazette 20 Jun 2008 p. 2723-4; SL 2023/106 r. 18.]

## **Local Government Act 1995**

### **6.8. Expenditure from municipal fund not included in annual budget**

- 1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
- (a) is incurred in a financial year before the adoption of the annual budget by the local government;
  - (b) is authorised in advance by resolution\*; or
  - (c) is authorised in advance by the mayor or president in an emergency.
- (1a) In subsection (1) —

“additional purpose” means a purpose for which no expenditure estimate is included in the local government’s annual budget.

## **POLICY IMPLICATIONS**

Nil.

It should be noted that according to the materiality threshold set at the budget adoption, should a deficit achieve 1% of Shire’s operating revenue (\$441,595) the Shire must formulate an action plan to remedy the over expenditure.

## **FINANCIAL IMPLICATIONS**

The result of the Quarter 2 FACR estimates is a budget deficit of **\$268,336**.

The **net result** of budget amendments previously endorsed by Council (including Quarter 1 FACR and carry over adjustments) is a budget deficit position of **\$130,296**. Council’s approval of the Quarter 2 FACR will have an overall closing position deficit of **\$398,632** to 30 June 2024.

After budget adjustments to recognise the early receipt of the FAG's and McMahon Estate Grants, and transferring the FAG's overpayment to Restricted Cash Reserve to support the 2024/25 annual budget, there is a saving of \$80,837.

Applying the saving of \$80,837, the overall result indicates a total deficit position to 30 June 2024 of **\$317,795**. This figure represents a budget forecast should all expenditure and income occur as expected.

## **RISK**

The Finance and Costing Review (FACR) seeks to provide a best estimate of the end-of-year position for the Shire of Broome at 30 June 2024. Contained within the report are recommendations of amendments to budgets which have financial implications on the estimate of the end-of-year position.

The review does not, however, seek to make amendments below the materiality threshold unless strictly necessary. The materiality thresholds are set at \$10,000 for operating budgets and \$20,000 for capital budgets. Should a number of accounts exceed their budget within these thresholds, it poses a risk that the predicted final end-of-year position may be understated.

In order to mitigate this risk, the CEO enacted the FACRs to run quarterly and Executive examine each job and account to ensure compliance. In addition, the monthly report provides variance reporting highlighting any discrepancies against budget.

It should also be noted that should Council decide not to adopt the recommendations, it could lead to some initiatives being delayed or cancelled in order to offset the additional expenditure associated with running the Shire's operations.

## **STRATEGIC ASPIRATIONS**

**Performance – We will deliver excellent governance, service and value, for everyone.**

**Outcome Eleven – Effective leadership, advocacy and governance:**

11.2 Deliver best practice governance and risk management.

**Outcome Thirteen - Value for money from rates and long term financial sustainability:**

13.1 Plan effectively for short and long term financial sustainability.

## **VOTING REQUIREMENTS**

*Absolute Majority*



**REPORT RECOMMENDATION:**

*That the Audit and Risk Committee recommends that Council:*

1. *Receives the Quarter 2 Finance and Costing Review Report for the period ended 31 December 2023;*
2. *Adopts the operating and capital budget amendment recommendations for the year ended 30 June 2024 as attached (Attachment 2);*
3. *Approve the following budget amendments:*
  - (a) *Decrease Account 100222180 McMahon Estate Grant Income by \$200,000, noting that the funding was received in June 2023 and is contained within the 1 July 2023 opening position;*
  - (b) *Decrease Account 100303010 Financial Assistance Grant (general) by \$1,776,568 and Account 101203050 Financial Assistance Grant (roads) by \$581,964 (total \$2,358,532 reduction), noting that the funding was received June 2023 and is contained within the 1 July 2023 opening position;*
4. *Recognise the overpayment of Financial Assistance Grant allocations in 2023/24 and transfer \$341,946 to Account 100236960 Transfer to Restricted Cash Reserve.*
5. *Note that Financial Assistance Grant allocations in 2024/25 will be reduced by \$341,946. \$341,946 will be drawn from the Restricted Cash reserve in the 2024/25 annual budget.*
6. *Notes a forecast net end-of-year deficit position to 30 June 2024 of **\$317,795** including previously adopted budget amendments and the budget amendments in recommendation 3;*
7. *Endorses the Report as the 2023/24 statutory mid-year budget review.*

**Attachments**

1. 2023-24 Statutory Budget Review
2. Quarter 2 Finance and Costing Review
3. Letter - lobbying for FAGs prepayment
4. Advice of FAGs Prepayment
5. Letter - Confirmation of 23-24 FAGs allocation and overpayment















































**6. MEETING CLOSURE**

These minutes were confirmed at a meeting held (DD Month Year),  
and signed below by the Presiding Person, at the meeting these minutes were  
confirmed.

Signed: .....