



BUSINESS PAPER

Health and Building
Committee Meeting

Council Chambers
19 September 2023
5:30pm

BROKEN HILL

CITY COUNCIL

**AUSTRALIA'S FIRST
HERITAGE LISTED CITY**

MEMBERS OF THE HEALTH & BUILDING COMMITTEE:

Mayor Kennedy, Deputy Mayor Hickey (Chairperson), Councillor Chandler, Councillor Jewitt, Councillor Gallagher and Councillor Turley

Notice is hereby given, in accordance with the provisions of the *Local Government Act 1993*, that the Health and Building Standing Committee of the Broken Hill City Council will be held in the Council Chambers on **Tuesday 19 September, 2023 at 5:30pm** to consider the following business:

AGENDA	
1	Opening the Meeting
2	Apologies
3	Leave of Absence Applications
4	Prayer
5	Acknowledgement of Country
6	Acknowledgement of Broken Hill's Mining History
7	Minutes for Confirmation
8	Disclosure of Interest
9	Reports
10	Confidential Matters
11	Conclusion of the Meeting

STATEMENT OF ETHICAL OBLIGATIONS

All Councillors undertook an Oath or Affirmation at the beginning of their term of office and declared to undertake the duties of the office of Councillor in the best interests of the people of the Broken Hill Local Government Area and the City of Broken Hill; and that they will faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the *Local Government Act 1993* or any other Act to the best of their ability and judgment.

LIVE STREAMING OF COUNCIL MEETINGS

This Council meeting is being streamed live, recorded, and broadcast online via Facebook. To those present in the gallery today, by attending or participating in this public meeting you are consenting to your image, voice and comments being recorded and published. The Mayor and/or General Manager have the authority to pause or terminate the stream if comments or debate are considered defamatory or otherwise inappropriate for publishing. Attendees are advised that they may be subject to legal action if they engage in unlawful behaviour or commentary.

JAY NANKIVELL
GENERAL MANAGER

MINUTES FOR CONFIRMATION

Minutes of the Health and Building Committee of the City of Broken Hill held Tuesday, August 22, 2023.

**MINUTES OF THE HEALTH AND BUILDING COMMITTEE MEETING HELD
TUESDAY, AUGUST 22, 2023 (5.30PM)**

PRESENT:

Councillor T Kennedy (Mayor) Deputy Mayor J Hickey (Chairperson),
Councillors A Chandler, H Jewitt, D Gallagher, D Turley and M Boland.

General Manager, Director Corporate and Community, Director Finance and
Commercial and Executive Assistant.

Media (0), Members of the Public (0)

APOLOGIES:

Nil

LEAVE OF ABSENCE APPLICATIONS:

Nil

PRAYER

Councillor Jewitt delivered the Prayer.

ACKNOWLEDGEMENT OF COUNTRY

Councillor Gallagher delivered the Acknowledgement of Country.

ACKNOWLEDGEMENT OF BROKEN HILL'S MINING HISTORY

Mayor Kennedy delivered the Acknowledgement of Broken Hill's Mining History.

MINUTES FOR CONFIRMATION

Recommendation

Moved Councillor Dave Gallagher, Seconded Councillor Alan Chandler

That the Minutes of the Health and Building Committee meeting held Tuesday July 18, 2023 be confirmed.

CARRIED UNANIMOUSLY

DISCLOSURES OF INTEREST

Nil

1. BROKEN HILL CITY COUNCIL REPORT NO. 148/23 - DATED AUGUST 11, 2023 - MINUTES OF THE FRIENDS OF THE FLORA AND FAUNA OF THE BARRIER RANGES COMMUNITY COMMITTEE MEETING HELD 11 JULY 2023 D23/42721

Recommendation

Moved Councillor Dave Gallagher, Seconded Councillor Darriea Turley

1. That Broken Hill City Council Report No. 148/23 dated August 11, 2023, be received.
2. That the minutes of the Friends of the Flora and Fauna of the Barrier Ranges Community Committee Meeting held 11 July 2023 be received.

CARRIED UNANIMOUSLY

2. BROKEN HILL CITY COUNCIL REPORT NO. 150/23 - DATED AUGUST 11, 2023 - MINUTES OF THE FRIENDS OF THE FLORA AND FAUNA OF THE BARRIER RANGES COMMUNITY COMMITTEE MEETING HELD 08 AUGUST 2023 D23/42780

Recommendation

Moved Councillor Darriea Turley, Seconded Councillor Dave Gallagher

1. That Broken Hill City Council Report No. 150/23 dated August 11, 2023, be received.
2. That the minutes of the Friends of the Flora and Fauna of the Barrier Ranges Community Committee Meeting held 8 August 2023 be received.

CARRIED UNANIMOUSLY

There being no further business to consider, the meeting was declared closed at 5:34pm.

The foregoing minutes were read and confirmed at the Health and Building Committee meeting held on 19 September 2023

Chairperson

REPORTS

1. BROKEN HILL CITY COUNCIL REPORT NO. 168/23 - DATED AUGUST 28, 2023 - RESCISSION OF MINUTE NUMBER 45808 (WARNOCK STREET ACQUISITION) (D23/45763) 7
2. BROKEN HILL CITY COUNCIL REPORT NO. 169/23 - DATED SEPTEMBER 06, 2023 - PROPOSED SECTION 3.22 AMENDMENT OF THE BROKEN HILL LOCAL ENVIRONMENTAL PLAN 2013 - REZONING OF PART LOT 5 DEPOSITED PLAN 1175135 (336A MCCULLOCH STREET) (D23/48261) 9

HEALTH AND BUILDING COMMITTEE

August 28, 2023

ITEM 1**BROKEN HILL CITY COUNCIL REPORT NO. 168/23**

SUBJECT: **RESCISSION OF MINUTE NUMBER 45808 (WARNOCK STREET ACQUISITION)** **D23/45763**

Recommendation

1. That Broken Hill City Council Report No. 168/23 dated August 28, 2023, be received.
2. That Council rescind Minute No. 45808 (of the Council Meeting held 26 April 2018), being the proposed acquisition of Crown Land identified as Lot 7469 in Deposited Plan 1182254.

Executive Summary:

In April 2018, Council resolved to acquire the Crown Land known as Lot 7469 in Deposited Plan 1182254. The purpose of the proposed acquisition was to formalise the use of the land as a road, being part of Warnock and Gossan Streets. The acquisition has not progressed due to the potential costs associated with the acquisition, including a Native Title determination on the site. Should Council be required to progress the acquisition in future, a new resolution will be required. In the meantime, it is recommended that Minute No 45808 be rescinded.

Report:

At the April 2018 Ordinary Meeting of Council, a report was presented to Council regarding the proposed acquisition of Warnock Street. The proposed acquisition was initiated due to a request from Crown Lands at the time, being that Council acquire the Crown Land used as Warnock Street and formalise it as a road.

Council resolved the following:

ITEM 13 - BROKEN HILL CITY COUNCIL REPORT NO. 59/18 - DATED APRIL 06, 2018 - COMPULSORY ACQUISITION OF WARNOCK GOSSAN STREET ROAD RESERVE 11/199

Resolved:

1. That Broken Hill City Council Report No. 59/18 dated April 6, 2018, be received.
2. That Council make an application to the Minister and Governor for approval to acquire the sections of Warnock and Gossan Street traversing Crown Land in Lot 7469 in Deposited Plan 1182254, under Section 177 of the *Roads Act 1993* and Section 186 of the *Local Government Act 1993*.
3. That the acquisition be undertaken in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.
4. That upon acquisition, Council to undertake required actions to open the subject road by registration of a plan in accordance with Section 7 of the *Roads Act 1993*.

RESOLUTIONMinute No. 45805

Councillor C. Adams moved) CARRIED
 Councillor D. Gallagher seconded)

As the land is subject to a Native Title determination, the acquisition did not progress due to the complexities and potential costs associated with the acquisition.

Given the fact that the acquisition has not progressed, it is recommended that Council rescind the resolution to acquire the land. Due to the time elapsed, the resolution is also no longer valid for the purpose of seeking consent from the Minister and Governor. Should the acquisition need to be progressed in future, a further report will be presented to Council.

Community Engagement:

Nil.

Strategic Direction:

Key Direction:	4	Our Leadership
Objective:	4.1	Openness and transparency in decision making
Strategy:	4.1.5	Support the organisation to operate within its legal framework

Relevant Legislation:

Land Acquisition Just Terms Compensation Act 1991

Native Title Act 1993

Roads Act 1993

Financial Implications:

Proceeding with the acquisition would involve significant expenses yet to be determined.

Attachments

There are no attachments for this report.

CODIE HOWARD

DIRECTOR INFRASTRUCTURE AND ENVIRONMENT

JAY NANKIVELL

GENERAL MANAGER

HEALTH AND BUILDING COMMITTEE

September 6, 2023

ITEM 2**BROKEN HILL CITY COUNCIL REPORT NO. 169/23**

SUBJECT: **PROPOSED SECTION 3.22 AMENDMENT OF THE BROKEN HILL LOCAL ENVIRONMENTAL PLAN 2013 - REZONING OF PART LOT 5 DEPOSITED PLAN 1175135 (336A MCCULLOCH STREET)**
D23/48261

Recommendation

1. That Broken Hill City Council Report No. 169/23 dated September 6, 2023, be received.
2. That Council submit a request to the Minister for Planning and Public Spaces under Section 3.22 of the *Environmental Planning & Assessment Act 1979* to amend the *Broken Hill Local Environmental Plan 2013*, rezoning part of 336A McCulloch Street (Lot 5 Deposited Plan 1175135 and associated adjoining road from RE1 Public Recreation to R1 General Residential.
3. That the General Manager be delegated to sign any documents relating to the submission.

Executive Summary:

It is recommended that Council lodge a submission under Section 3.22 of the Environmental Planning & Assessment Act 1979 ('the Act') to amend the Broken Hill Local Environmental Plan 2013 (LEP). The amendment is required due to a mapping discrepancy where a strip of land approximately 5m wide of 336A McCulloch Street is showing as being zoned RE1 Public Recreation, with the remainder of land zoned R1 General Residential.

The entirety of the lot is intended to be zoned R1 General Residential. The rezoning is required to allow for the progression of a residential subdivision at 336A McCulloch Street. Council has received funding for this subdivision through the NSW Regional Housing Fund. Section 3.22 of the Act allows for expedited processing of the rezoning of the site due to the minor nature of the LEP amendment.

Report:

Council has been successful in obtaining funding from the NSW Regional Housing Fund for the subdivision of land at 336A McCulloch Street (5/1175135). Barnson have been engaged to prepare plans for a residential subdivision. As part of this process, it has been identified that there is a discrepancy of the zoning of the site.

Council's internal mapping shows the site as being entirely R1 General Residential under the Broken Hill Local Environmental Plan 2013. However, the NSW Department of Planning & Environment mapping shows the majority of the site as R1 General Residential, but with a small (approx. 5m wide) strip of land on the west of the lot (and the adjoining road reserve) as being zoned RE1 Public Recreation.



Image 1. Aerial view of 336A McCulloch Street (yellow boundary) showing RE1 Public Recreation zoning in green and R1 General Residential zoning in lilac.

Council staff have obtained advice from the Department of Planning & Environment regarding this discrepancy, and the Department have advised that Council will need to submit a request to amend the Broken Hill Local Environmental Plan (LEP) to rezone this portion of the lot.

The proposed amendment would be submitted under Section 3.22 (1)(c) of the *Environmental Planning & Assessment Act 1979*. Section 3.22(1)(c) allows for expedited amendments to environmental planning instruments, should the Minister be satisfied that the amendment would not have any significant adverse impact on the environment or adjoining land.

3.22 Expedited amendments of environmental planning instruments

(1) *An amending environmental planning instrument may be made under this Part without compliance with the provisions of this Act relating to the conditions precedent to the making of the instrument if the instrument, if made, would amend or repeal a provision of a principal instrument in order to do any one or more of the following—*

(a) *correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error,*

(b) *address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature,*

(c) *deal with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land,*

(c1) *deal with matters the NSW Reconstruction Authority considers necessary to give effect to the NSW Reconstruction Authority Act 2022.*

A Council resolution is required to proceed with the LEP amendment. Following a Council resolution, staff will prepare the required documents for the Section 3.22 submission. This is then assessed by the Department of Planning & Environment. Given the proposed

amendment is minor in nature, it is anticipated that the Department will be able to expedite the LEP amendment. The subsequent amendment of the Broken Hill LEP will allow for progression of the proposed residential subdivision.

Community Engagement:**Strategic Direction:**

Key Direction:	1	Our Community
Objective:	1.5	Our built environment supports our quality of life
Strategy:	1.5.8	Investigate and advocate for land expansion opportunities

Relevant Legislation:

Environmental Planning & Assessment Act 1979

Financial Implications:

Nil

Attachments

There are no attachments for this report.

CODIE HOWARD
DIRECTOR INFRASTRUCTURE AND ENVIRONMENT

JAY NANKIVELL
GENERAL MANAGER

CONFIDENTIAL REPORTS

1. BROKEN HILL CITY COUNCIL REPORT NO. 170/23 - DATED AUGUST 29, 2023 - PROPOSED LICENCE OF 100 SULPHIDE STREET (PART RESERVE 1003026) TO BCH FITNESS - CONFIDENTIAL

(General Manager's Note: This report considers a licence and is deemed confidential under Section 10A(2) (c) of the Local Government Act, 1993 which provides for information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).

2. BROKEN HILL CITY COUNCIL REPORT NO. 171/23 - DATED SEPTEMBER 05, 2023 - PROPOSED LICENCE TO CARSCONNECTION PTY LTD - CONFIDENTIAL

(General Manager's Note: This report considers a licence and is deemed confidential under Section 10A(2) (c) of the Local Government Act, 1993 which provides for information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).



CITY COUNCIL

www.brokenhill.nsw.gov.au